

**POLICY****DATED: July 27, 2011**

---

CONDUCT/DISCIPLINE

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

The board of education expects students to conduct themselves in keeping with their level of maturity, with a proper regard for the rights and welfare of other students, for school personnel, for the educational purpose underlying all school activities, and for the care of school facilities and equipment. Students are required to conform to reasonable standards of socially acceptable behavior; respect the person, property and rights of others; obey constituted authority and respond to those who hold that authority.

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

Board policy requires each student of this district to adhere to the rules and regulations established by the administration and to submit to such disciplinary measures as are appropriately assigned for infraction of those rules. The chief school administrator shall provide to students and their parents/guardians the rules of this district regarding student conduct and the sanctions that may be imposed for breach of those rules. Provisions shall be made for informing parents/guardians whose primary language is other than English.

The chief school administrator shall establish the degree of order necessary to the educational program in which students are engaged.

Code of Conduct

The chief school administrator shall oversee the development of and the board shall approve a code of student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on a school bus or at school sponsored functions. The code of conduct shall be based on parent/guardian, student and community involvement, and locally determined core ethical values. The chief school administrator has the right and authority to impose a consequence on a student for conduct away from school grounds that is consistent with the board's approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.6.

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

The district code of conduct shall contain:

- A. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance;

- B. A description of behaviors that will result in suspension or expulsion;
- C. A description of the students' rights to:
  - 1. Advance notice of behaviors that will result in suspensions or expulsions;
  - 2. Education that supports student development into productive citizens;
  - 3. Attendance in safe and secure school environment;
  - 4. Attendance in school irrespective of marriage, pregnancy, or parenthood;
  - 5. Due process and appeal procedures in accordance with law and board policy;
  - 6. Parent notifications consistent with board policy and law for law enforcement interviews (5145.11 Questioning and Apprehension), short-term and long-term suspension (5114 Suspension and Expulsion), due process and appeal procedures, and attendance (5113 Attendance, Absences and Excuses);
  - 7. Records and privacy protections (5125 Student Records).
- D. A description of behavioral supports that promote positive student development and assist each student in fulfilling the district behavioral expectations established including intervention and referral services, remediation, and intervention and supports services for students with disabilities;
- E. A description of graded responses to violations of the code of conduct that includes remediation, is consistent with law concerning corporal punishment, and is consistent with laws and board policies concerning violence/vandalism (5131.5) and, weapons and dangerous instruments (5131.7);
- F. Cover the board attendance policy (5113) and the harassment, intimidation and bullying policy (5131.1);
- G. Lists community-based health and social service providers, and local legal resources.

#### Student Behavioral Infractions

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

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

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

#### Substance Abuse

In accordance with statute and code, penalties shall be assigned for use, possession and distribution of proscribed substances and drug paraphernalia. The penalties shall be graded according to the severity of the offense in accordance with policy 5131.6 Substance Abuse. Infractions shall be reported to the local law enforcement agency in accordance with the district's memorandum of agreement. Confidentiality shall be protected in accordance with federal and state law.

Weapons Offenses

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

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

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

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

**Harassment, Intimidation or Bullying**

The board expects all students to treat each other with civility and respect and not to engage in behavior that is disruptive or violent. This type of behavior interferes with a student's ability to learn and a school's ability to educate its students in a safe environment. Therefore, the school district will not tolerate acts of harassment, intimidation or bullying.

The board prohibits acts of harassment, intimidation or bullying against any student in accordance with board policy 5131.1 Harassment, Intimidation and Bullying, and law.

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

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

"Electronic communication" means a communication that is transmitted by means of an electronic

device, including, but not limited to a telephone, cellular phone, computer, or pager, that takes place on school grounds, at any school-sponsored function or on a school bus.

#### Students with Disabilities

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

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

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

#### Policy and Procedure Development, Review and Dissemination

The standards and procedures developed to implement this policy shall be aligned with the board approved code of student conduct and accepted board approved core ethical values. Policies, standards and procedures shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community, in accordance with N.J.A.C. 6A:16-7.1.

This policy shall be reviewed annually and updated along with the code of student conduct. This process shall include:

- A. Parent, student and community involvement which represents, where possible, the composition of the schools and community;
- B. Consideration of the findings of the annual reports of student conduct, suspensions and expulsions; and incidences reported under the Electronic Violence and Vandalism Reporting System.

The chief school administrator shall annually:

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

#### Implementation

The chief school administrator shall ensure that the rules for this policy are applied consistently with the district's code of student conduct (N.J.A.C. 6A:16-7) and all applicable laws and regulations and that all disciplinary sanctions are carried out with necessary due process.

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

Date: November 22, 2010

Updated: July 27, 2011

Legal References: Use legal reference sheet.

Cross References: List your appropriate policies. See legal reference sheet for possibilities.

Key Words

Conduct, Discipline, Student Conduct, Weapons, Vandalism, Harassment, Intimidation, Bullying

X   Monitored  X   Mandated  X   Other Reasons**Legal References**CONDUCT/DISCIPLINE**OSAC Monitored:**

Section 3: Governance

**Mandated:**

N.J.S.A. 18A:37-14 defines electronic communication as “a communication transmitted by means of an electronic device, including, but not limited to , a telephone, cellular phone, computer, or pager” and includes “electronic communication” in the definition of harassment, intimidation and bullying.

N.J.S.A. 18A:37-15.1 requires that the mandated school district policy on harassment, intimidation and bullying to be amended to include “electronic communication”.

N.J.S.A. 18A:37-15 requires policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus.

N.J.S.A. 18A:37-15.2 requires that districts make the policy prohibiting harassment, intimidation or bullying available on the district’s website, and notify students and parents that the policy is available on the district’s website.(P.L. 2007, C. 303)

N.J.S.A. 18A:40A-10 requires policy statement providing for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers.

N.J.S.A. 18A:40A-11 requires policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances on school property or at school functions.

N.J.A.C. 6A:16-1.4(a)10 and 13 through –15 require policies on the removal of students for weapons offenses and assaults, prohibition of remotely activated paging devices, cooperation with law enforcement and substance abuse prevention, intervention and treatment referral.

N.J.A.C. 6A:16-1.4(a)16 requires policies that provide for the development and implementation of a code of student conduct. Required elements of the code are listed at N.J.A.C. 6A:16-7.1

N.J.A.C. 6A:16-4.1 requires policies and procedures for the assessment, evaluation, intervention and referral to treatment and discipline of pupils who possess, consume or on reasonable grounds are suspected of being under the influence of substances defined by law; must include sanctions graded according to severity of offense. Other required components are listed at N.J.A.C. 6A:16-4.1(a)(b)(c).

N.J.A.C. 6A:16-6.1 requires adoption of policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters pertaining to unlawful possession, distribution and disposition of controlled dangerous substances, drug paraphernalia, alcohol, firearms and other deadly weapons. Required elements of these policies and procedures are included at N.J.A.C. 6A:16-6.2(a)(b).

N.J.A.C. 6A:16-7.1(a-d) requires district boards of to develop and implement a code of student conduct, and sets forth the purposes of the code, the minimum standards to be included in the code, and requires due process procedures and policy for students and their families in accordance with N.J.A.C. 6A:16-7.2 through 7.6.

N.J.A.C. 6A:16-7.6 governs district authority for student conduct away from school grounds.

N.J.A.C. 6A:16-7.9 governs harassment, intimidation, and bullying policy requirements.

**Other Reasons:**

Districts are reminded that they must develop a Code of Student Conduct in accordance with N.J.A.C. 6A:16-7.1. This policy shall be aligned with and not replace the district's Code of Student Conduct.

The weight of court and commissioner decisions, added to the possibly damaging consequences to the district of a lack of clear policy, makes it a critical policy topic for behavior other than substance abuse or weapons possession.

N.J.S.A. 2A:4A-60 allows the principal to request information from law enforcement authorities on a juvenile charged with an offense, including the identity of the juvenile, the offense charged and the adjudication and disposition of the case. Law enforcement or the prosecuting agency must inform the principal under all circumstances enumerated in the statute. N.J.A.C. 6A:16-1.4(a)19 and N.J.A.C. 6A:16-5.4 requires policy on maintaining confidentiality during these proceedings.

No Child Left Behind requires the state to establish statewide policy requiring that a student who is attending a "persistently dangerous" elementary or secondary school or who becomes a "victim of a violent criminal offense" be allowed to attend a "safe" school within the district, including a charter school. The SDOE is coordinating efforts to establish such a policy that would include definitions of pertinent terms.

**Recommendation:**

A policy that:

- A. Addresses general standards of student conduct;
- B. Addresses general standards of disciplinary action;
- C. Addresses the code of conduct;
- D. Addresses special concerns in disciplining the educationally disabled;
- E. Requires appropriate levels of due process and graded sanctions appropriate to the seriousness of the offense;
- F. Requires staff effort to identify disruptive and disaffected pupils and to provide appropriate educational programs and services for them;
- G. Disciplinary sanctions for substance abuse should be addressed at 5131.6 as well as here. Weapons and dangerous instruments are addressed at 5131.7. Policy on vandalism, violence and threats is at 5131.5;
- H. Prohibits harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus.

In developing policy, districts should review the Department of Education's model policy and guidance for prohibiting harassment, intimidation and bullying (<http://www.state.nj.us/education>).

<b><u>Legal References:</u></b>	<u>N.J.S.A. 2A:4A-60</u> et al.	Disclosure of juvenile information; penalties for disclosure
	<u>N.J.S.A. 2C:12-1</u>	Definition of assault
	<u>N.J.S.A. 2C:33-19</u>	Paging devices, possession by students
	<u>N.J.S.A. 2C:39-5</u>	Unlawful possession of weapons
	<u>N.J.S.A. 18A:6-1</u>	Corporal punishment of pupils
	<u>N.J.S.A. 18A:11-1</u>	General mandatory powers and duties
	<u>N.J.S.A. 18A:25-2</u>	Authority over pupils

<u>N.J.S.A.</u> 18A: 36-19a	Newly enrolled students; records and identification
<u>N.J.S.A.</u> 18A: 37-1 <u>et seq.</u> <u>See particularly:</u>	Discipline of Pupils
<u>N.J.S.A.</u> 18A: 37-15	Harassment, intimidation, and bullying
<u>N.J.S.A.</u> 18A: 40A-1 <u>et seq.</u>	Substance Abuse
<u>N.J.S.A.</u> 18A: 54-20	Powers of board (county vocational schools)
<u>N.J.A.C.</u> 6A: 14-2.8	Discipline/suspension/expulsions
<u>N.J.A.C.</u> 6A: 16-1.1 <u>et seq.</u> <u>See particularly:</u>	Programs to Support Student Development
<u>N.J.A.C.</u> 6A: 16-1.4, -2.4, -4.1, -5.1, -6.1, -6.2, -7.1, -7.6, -7.9	
<u>N.J.A.C.</u> 6A: 32-12.1	Reporting requirements
<u>N.J.A.C.</u> 6A: 32-12.2	School-level planning

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

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

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

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

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

See also Commissioners' Decisions indexed under "Pupils – Punishment of" in Index to N.J. School Law Decisions

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

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

A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials

### **Possible**

#### **Cross References:**

*1220	<u>Ad hoc</u> advisory committees
*1410	Local units
3517	Security
*3541.33	Transportation safety
*4131/ 4131.1	Staff development; inservice education/visitation conferences
4148	Employee protection
*4231/ 4231.1	Staff development; inservice education/visitation conferences
4248	Employee protection
5000	Concepts and roles in pupil personnel

- 5010 Personal goals and objectives for pupils
- \*5020 Role of parents/guardians
- \*5113 Absences and excuses
- \*5114 Suspension and expulsion
- \*5124 Reporting to parents/guardians
- \*5127 Commencement activities
- \*5131.5 Vandalism/violence
- \*5131.6 Drugs, alcohol, tobacco (substance abuse)
- \*5131.7 Weapons and dangerous instruments
- 5132 Dress and grooming
- 5145 Rights
- 5145.2 Freedom of speech/expression
- \*5145.4 Equal educational opportunity
- \*5145.6 Pupil grievance procedure
- \*5145.1 Questioning and apprehension
- \*5145.1 Search and seizure
- \*6145 Extracurricular activities
- \*6164.4 Child study team
- \*6171.4 Special education
- \*6172 Alternative educational programs

\*Indicates policy is included in the Critical Policy Reference Manual.