**GUILDERLAND**

**5300.40**

**CODE OF CONDUCT**

**DISCIPLINARY PENALTIES, PROCEDURES AND REFERRALS**

Historically, the discipline of students in schools has focused mainly on handing out punishments based on specific actions. These punishments include reprimands, loss of privileges, office referrals, detentions and suspensions.

However, understanding discipline as a “teachable moment” is fundamental to a positive approach to discipline with the ultimate goal of teaching pro-social behavior. Therefore, the Board authorizes restorative justice practices to be employed where appropriate, use conflict resolution, restitution to those harmed, and group, classroom, community and re-entry circles to address misbehaviors with the ultimate goal of teaching pro-social behavior. This approach seeks concurrent accountability and behavioral change.

The main principles of restorative justice are valuing and restoring relationships, repairing the harm done to affected parties, respecting others’ opinions, and reintegrating into the school community.

Essential to the implementation of restorative justice practices is helping students who have engaged in unacceptable behavior to:

* Understand why the behavior is unacceptable and the harm it caused;
* Understand what could have been done differently in the same situation;
* Take responsibility for their actions;
* Make reparations and or restitution to repair the harm done;
* Be given the opportunity to learn pro-social strategies/skills to use in the future; and
* Understand the progression of more increasingly punitive consequences may be imposed if the behavior reoccurs.

While there may be more traditional punishments in conjunction with teaching behavior expectations and treating disciplinary matters as teachable moments, this is can be a more effective approach than merely reacting to specific events unless student behaviors pose an immediate or ongoing threat to the safety of other students and staff.

The Board authorizes staff and administration to utilize restorative justice practices where appropriate in addressing student disciplinary issues.

In the application of restorative principles, the process is always voluntary for the students. Any parent/guardian (or student over the age of 18) can request to go to the traditional disciplinary route and not participate in the restorative process. This may happen at any time during the process, or if a student is unwilling to accept responsibility for their actions and is not demonstrating willingness to make amends.

Consequences, and if needed discipline, are most effective when they deal directly with the problem at the time and place it occurs, and in a way that students view as fair, impartial, and consistent. School personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' ability to grow in self-discipline.

Consequences and disciplinary action, when necessary, will be firm, fair and consistent so as to be most effective in changing student behavior. In determining the appropriate disciplinary consequence, school personnel authorized to impose disciplinary consequences will consider the following:

1. The student's age.
2. The nature of the offense and the circumstances which led to the offense.
3. The student's prior disciplinary record.
4. The effectiveness of other forms of discipline.
5. Information from parents/guardians, teachers and/or others, as appropriate.
6. Other extenuating circumstances.

As a general rule, discipline will be progressive.  This means that a student's first violation will usually merit a lighter consequence than subsequent violations. However, district staff are empowered to utilize the consequence most reasonably calculated to ensure the student learns from their behavior and engages in more pro-social behavior in the future.

If the conduct of a student is related to a disability or suspected disability, discipline, if warranted, will be administered consistent with the separate requirements of this code of conduct for disciplining students with a disability.

1. *Consequences*

Practices which allow educators to address disciplinary matters as opportunities for learning instead of punishment are encouraged by the Board rather than a reliance on increasing punitive measures. When choosing interventions and consequences of student’s behavior, teachers, administrators, and staff must balance the district’s dual goals of eliminating school disruptions and maximizing student instruction time.

Students who are found to have demonstrated inappropriate behavior may be subject to the following interventions and consequences, either alone or in combination. The school personnel identified after each consequence are authorized to assign that consequence, consistent with the student's right to due process.

In conjunction with the list below, administration (with supports from counselors) can employ conflict resolution meetings, restitution to those harmed, and group, classroom, classroom, community, and/or re-entry circle.

The list below will be utilized to determine consequences.

1. Oral warning, teacher/student conference, parent/guardian contact, in-class time out, brief time out of class, loss of classroom privileges – any member of the district staff
2. Written warning – bus drivers, hall and lunch monitors, coaches, school counselors, teachers, Principal, Superintendent
3. Written notification to parent/guardian – bus driver, hall and lunch monitors, coaches, school counselors, teachers, Principal, Superintendent
4. Detention – teachers, Principal, Superintendent
5. Suspension from transportation – Director of Transportation, Principal, Superintendent
6. Suspension from athletic participation – coaches, Athletic Director, Principal, Superintendent
7. Suspension from social or extracurricular activities – Principal, Superintendent
8. Suspension of other privileges – Principal, Superintendent
9. In-school suspension – Principal, Superintendent
10. Removal from classroom by teacher – teachers, Principal
11. Short-term (five days or less) suspension from school – Principal, Superintendent
12. Long-term (more than five days) suspension from school –Superintendent
13. Permanent suspension from school – Superintendent

*B. Procedures*

School personnel authorized to impose the consequence must inform the student of the alleged inappropriate behavior and must investigate, to the extent necessary, the facts surrounding the alleged misbehavior. All students will have an opportunity to present their version of the facts to the school personnel imposing the disciplinary consequence in connection with the imposition of the consequence.

Students who are to be given consequences other than an oral warning, written warning or written notification to their parents/guardians are entitled to additional rights before the consequence is imposed. These additional rights are explained below.

1.  Detention

Teachers, Principals and the Superintendent may use after school detention as a consequence for student misbehavior. Detention will be imposed as a consequence only after the student's parent/guardian has been notified and the student has appropriate transportation home following detention.

2. Suspension from transportation

If students do not conduct themselves properly on a bus, the bus driver is expected to bring such misbehavior to the Principal's attention. Students who become a serious disciplinary problem may have their riding privileges suspended by the Principal or the Superintendent or their designees.

In such cases, the student's parent/guardian will become responsible for seeing that their child gets to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the district will make appropriate arrangements to provide for the student's education.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214.  However, the student and the student's parent/guardian will be provided with a reasonable opportunity for an informal conference with the Principal or the Principal’s designee to discuss the conduct and the consequence involved.

3. Suspension from athletic participation, extra-curricular activities and other privileges

A student subjected to a suspension from athletic participation, extra-curricular activities or other privileges is not entitled to a full hearing pursuant to Education Law §3214.  However, the student and the student's parent/guardian will be provided with a reasonable opportunity for an informal conference with the district official imposing the suspension to discuss the conduct and the consequence involved. A student who is suspended from school (in-school or out-of-school) is prohibited from participating in athletics and extracurricular activities.

4.  In-school Suspension/Detention

The Board recognizes the school must balance the need of students to attend school and the need for order in the classroom to establish an environment conducive to learning. As such, the Board authorizes Principals and the Superintendent to place students who would otherwise be suspended from school as the result of a code of conduct violation in "in-school suspension."

A student subjected to an in-school suspension/detention is not entitled to a full hearing pursuant to Education Law §3214.  However, the student and the student's parent/guardian will be provided with a reasonable opportunity for an informal conference with the district official imposing the in-school suspension/detention to discuss the conduct and the consequence involved.

5. Teacher Disciplinary Removal of Disruptive Students

A student's behavior can affect a teacher's ability to teach and can make it difficult for other students in the classroom to learn. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include practices that involve the teacher directing a student to briefly leave the classroom to give the student an opportunity to regain composure and self-control in an alternative setting. Such practices may include, but are not limited to: (1) short-term "time out" in an elementary classroom or in an administrator's office; (2) sending a student into the hallway briefly; (3) sending a student to the Principal's office for the remainder of the class time only; or (4) sending a student to a guidance counselor or other district staff member for counseling. Time-honored classroom management techniques such as these do not constitute disciplinary removals for purposes of this code.

Teachers will first use interventions aimed at teaching appropriate and responsible behaviors so students can learn and demonstrate safe and respectful academic, social and emotional behavior. Examples of these include using affective statements, using affective questions, establishing relationships with students, giving positive directives that state expectations, and giving positive and specific feedback etc.

On occasion, a student's behavior may become more disruptive than a teacher can manage.  For purposes of this code of conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom. A substantial disruption of the educational process or substantial interference with a teacher's authority occurs when a student demonstrates a persistent unwillingness to comply with the teacher's instructions or repeatedly violates the teacher's classroom behavior rules.

A classroom teacher may remove a disruptive student from class for up to two days. The removal from class applies to the class of the removing teacher only.

If the disruptive student does not pose a danger or ongoing threat of disruption to the academic process, the teacher must provide the student with an explanation for why they are being removed and an opportunity to explain their version of the relevant events before the student is removed. Only after the informal discussion may a teacher remove a student from class.

If the student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately.  The teacher must, however, explain to the student why they were removed from the classroom and give the student a chance to present their version of the relevant events within 24-hours.

The teacher must complete a district-established disciplinary removal form and meet with the Principal or designee as soon as possible, but no later than the end of the school day, to explain the circumstances of the removal and to present the removal form.  If the Principal or designee is not available by the end of the same school day, the teacher must leave the form with the secretary and meet with the Principal or designee prior to the beginning of classes on the next school day.

Within 24 hours after the student's removal, the Principal or another district administrator designated by the Principal must notify the student's parent/guardian, in writing, that the student has been removed from class and why. The notice must also inform the parent/guardian that they have the right, upon request, to meet informally with the Principal or the Principal's designee to discuss the reasons for the removal.

The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the student's removal at the last known address for the parent/guardian. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents/guardians.

The Principal may require the teacher who ordered the removal to attend the informal conference.

If at the informal meeting the student denies the charges, the Principal or the Principal's designee must explain why the student was removed and give the student and the student's parents/guardians a chance to present the student's version of the relevant events. The informal meeting must be held within 48 hours of the student's removal.  The timing of the informal meeting may be extended by mutual agreement of the parent/guardian and Principal.

The Principal or the Principal's designee may overturn the removal of the student from class if the Principal finds any one of the following:

1. The charges against the student are not supported by substantial evidence.
2. The student's removal is otherwise in violation of law, including the district’s code of conduct.
3. The conduct warrants suspension from school pursuant to Education Law §3214 and a suspension will be imposed.

The Principal or designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the Principal makes a final determination, or the period of removal expires, whichever is less.

Any disruptive student removed from the classroom by the classroom teacher will be offered continued educational programming and activities until they are permitted to return to the classroom.

Each teacher must keep a complete log (on a district provided form) for all cases of removal of students from their class. The Principal must keep a log of all removals of students from class.

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement. Accordingly, no teacher may remove a student with a disability from class until they have verified with the Principal or the chairperson of the Committee on Special Education that the removal will not violate the student's rights under state or federal law or regulation.

6. Suspension from School

Suspensions will be limited to students who pose an immediate or ongoing threat to oneself or others or are repeatedly substantially disruptive.

Suspension from school is a severe consequence, which may be imposed only upon students who are severely insubordinate, disorderly, violent, or severely disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

Suspensions will be used to the minimum degree necessary to promote improve student behavior and maximize student attendance.

Any staff member may recommend to the Superintendent or the Principal that a student be suspended. All staff members must immediately report and refer a violent student to the Principal or the Superintendent for a violation of the code of conduct. All recommendations and referrals will be made in writing unless the conditions underlying the recommendation or referral warrant immediate attention.  In such cases a written report is to be prepared as soon as possible by the staff member recommending the suspension. The Superintendent or Principal, upon receiving a recommendation or referral for suspension or when processing a case for suspension, will gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

1. Short term (five days or less) Suspension from School

When the Superintendent or Principal (referred to as the "suspending authority") proposes to suspend a student charged with misbehavior for five days or less pursuant to Education Law §3214(3), the suspending authority must immediately notify the student orally.  If the student denies the misbehavior the suspending authority must provide an explanation of the basis for the proposed suspension.  The suspending authority must also notify the student's parents/guardians in writing that the student may be suspended from school. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the decision to propose suspension at the last known address for the parents/guardians. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting the parents/guardians.

The notice will provide a description of the charges against the student and the incident for which suspension is proposed and will inform the parents/guardians of the right to request an immediate informal conference with the Principal.  Every effort will be made to provide both the notice and informal conference will be in the dominant language or mode of communication used by the parents/guardians.  At the conference, the parents/guardians will be permitted to ask questions of complaining witnesses under such procedures as the Principal may establish.

The notice and opportunity for an informal conference will take place before the student is suspended unless the student's presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process.  If the student's presence does pose such a danger or threat of disruption, the notice and opportunity for an informal conference will take place as soon after the suspension as is reasonably practicable.

After the conference, the Principal will promptly advise the parents/guardians in writing of the decision. The Principal will advise the parents/guardians that if they are not satisfied with the decision and wish to pursue the matter, they must file a written appeal to the Superintendent within ten (10) business days, unless they can show extraordinary circumstances precluding them from doing so.  The Superintendent will issue a written decision regarding the appeal within 10 business days of receiving the appeal.  If the parents/guardians are not satisfied with the Superintendent’s decision, they must file a written appeal to the Board of education with the District Clerk within 10 business days of the date of the Superintendent's decision, unless they can show extraordinary circumstances precluding them from doing so.  Only final decisions of the Board may be appealed to the Commissioner of Education within 30 days of the decision.

1. Long term (more than five days) Suspension from School

When the Superintendent determines that a suspension for more than five days may be warranted, they must give reasonable notice to the student and the student's parents/guardians of their right to a fair hearing.  At the hearing the student will have the right to be represented by counsel, the right to question witnesses against them and the right to present witnesses and other evidence on their behalf.

The Superintendent will personally hear and determine the proceeding or may, in their discretion, designate a hearing officer to conduct the hearing.  The hearing officer will be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before them.  A record of the hearing will be maintained, but no stenographic transcript will be required. A tape recording will be deemed a satisfactory record. The hearing officer will make findings of fact and recommendations as to the appropriate measure of discipline to the Superintendent. The report of the hearing officer will be advisory only, and the Superintendent may accept all or any part thereof.

An appeal of the decision of the Superintendent may be made to the Board, which will make its decision based solely upon the record before it.  All appeals to the Board must be in writing and submitted to the district clerk within thirty (30)days of the date of the Superintendent's decision, unless the parents/guardians can show that extraordinary circumstances precluded them from doing so. The Board may adopt in whole or in part the decision of the Superintendent. Final decisions of the Board may be appealed to the Commissioner of Education within 30 days of the decision.

1. Permanent suspension

Permanent suspension is reserved for extraordinary circumstances such as where a student's conduct poses a life-threatening danger to the safety and well-being of other students, school personnel or any other person lawfully on school property or attending a school function.

1. Procedure After Suspension

The Superintendent may condition a student’s early return from a suspension on the student’s voluntary participation in restorative conference, reentry circles, counseling or specialized classes, such as anger management or dispute resolution.  The Superintendent retains discretion in offering this opportunity. If and when the student and/or parent/guardian agrees to this option, the terms and conditions will be specified in writing. However, if the student violates the agreed-upon terms and conditions within a certain time period, the unserved portion of the suspension may be re-imposed.

*C. Minimum Periods of Suspension*

1. Students who bring or possess certain weapons on school property

Any student, other than a student with a disability, found guilty of bringing a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death onto school property will be subject to suspension from school for at least one calendar year.  Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The Superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the consequence, the Superintendent may consider the following:

a. The student's age.

b. The student's grade in school.

c. The student's prior disciplinary record.

d. The Superintendent's belief that other forms of discipline may be more effective.

e. Input from parents/guardians, teachers and/or others.

f. Other extenuating circumstances.

A student with a disability may be suspended in accordance with the requirements of state and federal law.

2. Students who commit violent acts other than bringing or possessing certain

weapons on school property

Any student, other than a student with a disability, who is found to have committed a violent act, other than bringing gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death onto school property, will be subject to suspension from school for at least one day. If the proposed consequence is the minimum one-day suspension, the student and the student's parent/guardian will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed consequence exceeds five-day suspension, the student and the student's parent/guardian will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

3. Students who are repeatedly substantially disruptive of the educational process or repeatedly substantially interferes with the teacher's authority over the classroom

Any student, other than a student with a disability, who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher’s authority over the classroom will be suspended from school for at least one day. For purposes of this code of conduct, “repeatedly is substantially disruptive” means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law § 3214 (3-a) and this code on four or more occasions during a semester. If the proposed consequence is the minimum one-day suspension, the student and the student's parent/guardian will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed consequence exceeds a five-day suspension, the student and the student's parent/guardian will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

*D. Referrals*

1. Counseling

The Counseling Center will handle all referrals of students to counseling.

2. PINS Petitions

The district may file a PINS (person in need of supervision) petition in Family Court on any student under the age of 18 who demonstrates that they require supervision and treatment by:

a. Being habitually truant and not attending school as required by part one of Article 65 of the Education Law.

b. Being ungovernable, or habitually disobedient and beyond the lawful control of the school.

c. Engaging in prostitution in violation of Penal Law §230.00 (engaging or agreeing or offering to engage in sexual conduct with another person in return for a fee); or

d. Appearing to be a sexually exploited child under Social Services Law §447- a(1)(a), (c), or (d), but the student must consent to filing the PINS petition.

For items ‘a’ and ‘b’ above, when filing the petition, the district must describe the diversion efforts it has undertaken or services provided to the student, and the grounds for concluding the allegations cannot be resolved without the petition.

3. Juvenile Delinquents and Juvenile Offenders

For students found to have brought either a weapon (defined in 18 USC §930(g)(2) or firearm (defined in 18 USC §921), the Superintendent is required to make the following referrals:

a. To the County Attorney for a juvenile delinquency proceeding before the Family Court:

All students under age 16, except student age 14 or 15 who qualify for juvenile offender status under the Criminal Procedure Law 1.20(42).

1. To the appropriate law enforcement authorities:

All students age 16 or older, and all student age 14 or 15 who qualify for juvenile offender status under Criminal Procedure Law 1.20(42).

As a reminder, a dangerous weapon under 18 USC §930(g)(2) is: any weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except for a pocket knife with a blade less than 2½ inches long.  A firearm under 18 USC §921 is: any weapon which will, or is designed to, or may readily be converted to expel a projectile by an explosive; or the frame or receiver of such weapon, or any firearm muffler or silencer; or any destructive device (e.g., bomb, grenade, rocket missile, mine, etc.); however, this does not include antique firearms (e.g., those from 1898 or prior, or certain replicas).

The district may take other actions to assist students in managing their behavior, including referrals to or partnerships with community resources.

Ref: Education Law §3214

8 NYCRR §100.2(l)

*Matter of O’Conner v. Bd. of Ed*., 65 Misc. 2d 40, 43 (due process)

*Appeal of Reeves,* Dec. No. 13,857 (1998) (involuntary transfer)

*Appeal of Alexander,* 36 EDR 160 (1996) (counseling)

*Matter of Troy R*., 29 EDR 424 (1990) (automatic penalties)

*Appeal of Ward*, 27 EDR 217 (1988) (indefinite suspension)

*Appeal of Wood*, 27 EDR 92 (1987) (suspension beyond school year)

*Matter of Clark*, 21 EDR 542 (1982) (extracurricular activities)

*Matter of Caskey*, 21 EDR 138 (1981) (reduction in grade)

*Matter of MacWhinnie*, 20 EDR 145 (1980) (reduction in grade)

*Matter of Labriola*, 20 EDR 74 (1980) (excessive penalty)

*Matter of Roach*, 19 EDR 377 (1980) (transportation; contingent suspensions)

*Matter of Caulfield*, 18 EDR 574 (1979) (suspension from classes)

*Matter of Wright*, 18 EDR 432 (1978) (formal due process)

*Matter of Macheski*, 13 EDR 112 (1973) (suspension by a principal)

*Matter of DeVore*, 11 EDR 296 (1972) (insufficient basis for discipline)

*Matter of Port*, 9 EDR 107 (1970) (informal due process)

Adopted: