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CODE OF CONDUCT

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5300.00 WHY DO WE HAVE A CODE OF CONDUCT?

1. Students need to be supported and engaged in school in order to promote strong character and appropriate conduct. It is also essential that students are able to take age-appropriate responsibility for their own behavior. Student engagement is developed when students are provided with multiple opportunities to participate in a wide range of positive social activities while interacting with caring, supportive adults. This helps to ensure that students are better able to:
 - recognize and manage emotions
 - develop caring and concern for others
 - establish positive relationships
 - make responsible decisions, and
 - handle challenging situations constructively and ethically
2. Effective and engaging instruction and positive behavioral supports are the foundations of a positive school climate. School teachers, administrators, and other staff are encouraged to set high expectations for student success, build positive relationships with students, as well as teach and model appropriate behaviors for success. Modeling respectful, positive behavior is especially critical during disciplinary interventions.
3. All adults—teachers, principals, administrators, school staff, parents, and the larger community—have an obligation to help students become good citizens and lead productive lives by modeling desired behaviors and cultivating those behaviors in students.
4. Appropriate conduct and strong character are reflected in a civil, respectful, healthy and caring environment. Student discipline and support policies and practices shall be implemented in a manner which is caring and equitable, respectful and based on trust among administration, staff, students, and families and holds all individuals accountable, but is restorative and solutions oriented, rather than punitive. This will help students:
 - learn from their mistakes
 - understand why their behavior was unacceptable

- acknowledge the harm they caused or the negative impact of their actions
 - understand what they could have done differently
 - take responsibility for their actions
 - learn pro-social strategies and skills to use in the future, and
 - understand that further consequences and/or interventions shall be implemented if their unacceptable behavior persists
5. BOCES shall continuously monitor results in an effort to determine strategies for improvement.

5300.05 INTRODUCTION

The Board is committed to providing a safe and orderly school environment where students may receive and BOCES personnel may deliver quality educational services without disruption or interference. The BOCES is committed to:

- ensuring each student is healthy, safe, engaged, supported, and challenged
- helping students develop self-discipline and social and emotional growth, and
- guiding students in improvement and corrections of inappropriate, unacceptable and unsafe behaviors

Responsible behavior by students, teachers, other BOCES personnel, parents and other visitors is expected, as it is essential to achieving this goal.

For this to happen, everyone in the BOCES community must demonstrate and offer respect to others.

With the recognition that all children make mistakes and that this is part of growing up, BOCES must help all students learn to grow from their mistakes. BOCES discipline policies should support students and teachers and ensure that everyone is treated with dignity and respect.

Student engagement is also integral to creating a positive school climate and culture that effectively fosters students' academic achievement and social/emotional growth. Providing student with multiple opportunities to participate in a wide range of pro-social activities and at the same time to develop a bond with caring, supportive adults reduces negative behavior. Examples can include: providing students with meaningful opportunities to share ideas and concerns and participate in BOCES-wide initiatives; student leadership development; periodic recognition of student's achievements in a range of academic and co-curricular areas; using corrective feedback; and developing BOCES-wide positive behavior systems.

BOCES has a long-standing set of expectations for conduct on BOCES property and at BOCES functions. These expectations are based on the principles of civility, mutual respect, citizenship, character, inclusivity honesty and integrity.

The Board recognizes the need to clearly define these expectations for acceptable conduct on BOCES property, identify the possible developmentally appropriate, graduated consequences of unacceptable conduct, and to ensure that discipline, when necessary, is administered promptly and fairly, keeping in mind the goal is not to penalize, but to teach students there are consequences to actions and choices. To this end, the Board adopts this code of conduct ("code"), which is based upon education laws, regulations, and Board policies.

Unless otherwise indicated, this code applies to all students, BOCES personnel, parents and other visitors when on BOCES property or attending a BOCES function.

5300.10 DEFINITIONS

For purposes of this code, the following definitions apply.

- “Behavior” is the way in which one acts or conducts oneself, especially towards others. It is expected that students, staff, and visitors shall conduct themselves in such a way that is in line with this Code of Conduct.
- "Disruptive student" means an elementary or secondary student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.
- “Gender” means actual or perceived sex and shall include a person’s gender identity or expression.
- “Gender expression” is the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyle, activities, voice or mannerisms.
- “Gender identity” is one’s self-conception as being male or female, as distinguished from actual biological sex or sex assigned at birth.
- "Parent" means parent, guardian or person in parental relation to a student.
- “Relationships” are the way in which two or more people regard and behave toward each other.
- “Respect” is an act of treating everyone in the BOCES community with dignity. This is demonstrated by: treating others with kindness and care, being polite and using manners, expressing thoughts and opinions in ways that are polite and courteous, using a polite tone of voice and body language, listening to others who are speaking to you, keeping one’s hands to one’s self and not violating others’ personal space.
- “Responsibility” is an obligation to behave in accordance with social norms and being held accountable for one’s actions.
- “Restorative Practices” create a culture where student actions that violate the dignity, safety, or well-being of others connect the person responsible for the harm with those who have been harmed, in order to reach a resolution that guides, and assists the person responsible for the harm in accepting responsibility, apologizing for the harm and improving the relationship between parties.

- "BOCES property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school.
- "BOCES function" means any BOCES-sponsored extra-curricular event or activity.
- "Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.
- "Violent student" means a student under the age of 21 who:
 1. Commits an act of violence (see section 5300.30) upon a BOCES employee.
 2. Commits, while on BOCES property or at a BOCES function, an act of violence upon another student or any other person lawfully on BOCES property or at the BOCES function.
 3. Possess, while on BOCES property or at a BOCES function, a weapon such as a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death.
 4. Displays, while on BOCES property or at a BOCES function, what appears to be a weapon.
 5. Threatens, while on BOCES property or at a BOCES function, to use a weapon.
 6. Knowingly and intentionally damages or destroys the personal property of any BOCES employee or any person lawfully on BOCES property or at a BOCES function.
 7. Knowingly and intentionally damages or destroys BOCES property.
- "Weapon" means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutters, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

5300.15 STUDENT RIGHTS AND RESPONSIBILITIES

A. Student Rights

BOCES is committed to safeguarding the rights given to all students under federal and state law and BOCES policy. In addition, to promote a safe, healthy, orderly and supportive BOCES environment, all BOCES students have the right to:

1. Take part in all BOCES activities on an equal basis regardless of actual or perceived race, weight, color, creed, national origin, ethnic group, religion, religious practice, gender (including gender identity and expression) or sexual orientation or disability.

2. To be respected as an individual and treated fairly and with dignity by other students and BOCES staff.
3. To express one's opinions, either verbally or in writing, as long as it is done so in a respectful manner.
4. Present their version of the relevant events to BOCES personnel authorized to impose consequences.
5. Access BOCES policies, regulations and rules and, when necessary, receive an explanation of those rules from BOCES personnel.
6. To be provided with clear expectations regarding:
 - a. Course objectives, requirements and state standards
 - b. Grading criteria and procedures
 - c. Assignment requirements and deadlines, and
 - d. BOCES and classroom rules and expectations regarding behavior

B. Student Responsibilities

All BOCES students have the responsibility to:

1. Contribute to maintaining a safe, supportive and orderly BOCES environment that is conducive to learning and to show respect to other persons and to property.
2. Help make BOCES a community free of violence, intimidation, bullying, harassment, and discrimination.
3. Be familiar with and abide by BOCES policies, rules and regulations dealing with student conduct.
4. Attend BOCES every day unless they are legally excused and be in class on time and prepared to learn.
5. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
6. React to direction given by teachers, administrators and other BOCES personnel in a respectful, positive manner.
7. Use a polite tone of voice and appropriate body language, listening when others are speaking to you.
8. To be truthful when speaking with BOCES officials regarding Code of Conduct violations.
9. Respect personal space.
10. Work to develop skills to manage their emotions and reactions and resolve conflict with others.
11. Ask questions when they do not understand.
12. Seek help in solving problems.

13. Dress appropriately for BOCES and BOCES functions.
14. Accept responsibility for their actions.
15. Conduct themselves as representatives of the BOCES when participating in or attending BOCES-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.

5300.20 ESSENTIAL PARTNERS

All members of our learning community – including students, staff, parents and engaged service providers – must assume responsible role in promoting behavior that enhances academic and social success. Courteous, respectful, and responsible behavior fosters a positive climate in the learning community.

Those responsibilities include but are not limited to the following:

A. Parents

The Code of Conduct is a guide for understanding the personal, social, and academic behaviors which are expected from your child while at BOCES and BOCES functions. This Code also guides how BOCES staff shall work with you and your child to help demonstrate positive behaviors and enjoy academic success.

To achieve this goal, parents shall be encouraged to promote participation in restorative practices to resolve incidents and conflict and to support their child in receiving the maximum benefit from a restorative practice approach.

To achieve this goal, all parents are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the parents and the BOCES community and collaborate with the BOCES to optimize their child's educational opportunities.
2. Send their children to BOCES ready to participate and learn.
3. Ensure their children attend BOCES regularly and on time.
4. Ensure absences are excused.
5. Ensure their children are dressed and groomed in a manner consistent with the student dress code.
6. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
7. Know BOCES rules and help their children understand them so that their children can help create a safe, respectful, supportive BOCES environment.
8. Convey to their children a supportive attitude toward education and the BOCES.
9. Build positive, constructive relationships with teachers, other parents and their children's friends.
10. Tell BOCES officials about any concerns or complaints in a respectful and timely manner.

11. Help their children deal effectively with peer pressure.
12. Inform BOCES officials of changes in the home situation that may affect student conduct or performance.
13. Provide a place for study and ensure homework assignments are completed.
14. Be respectful and courteous to staff, other parents/guardians and students while on BOCES premises.

B. Staff

The Code of Conduct is a guide for supporting positive student behavior at BOCES. It is intended to help staff prevent student misconduct through the use of effective strategies and systems. It will provide guidance for intervening effectively and appropriately if students don't meet expected standards of behavior or violate the BOCES rules and policies. Concerns about safety and BOCES climate should be brought to the BOCES principal so staff can work together to maintain a safe and orderly learning and work environment.

All staff are expected to understand that students may come to BOCES having experienced trauma in their lives, which can impact their behavior in BOCES (e.g., anger, outbursts, withdrawal, self-injury).

1. Teachers

To achieve this goal, all BOCES teachers are expected to:

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race (including traits historically associated with race, such as hair texture and protective hairstyles like braids, locs and twists), color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex, which will strengthen students' self-worth and promote confidence to learn.
- b. Be prepared to teach.
- c. Demonstrate interest in teaching and concern for students and student achievement.
- d. Know BOCES policies and rules, and enforce them in a fair, timely, and consistent manner.
- e. Maintain confidentiality in conformity with federal and state law.
- f. Communicate to students and parents:
 - i. Course objectives and requirements
 - ii. Marking/grading procedures
 - iii. Assignment deadlines
 - iv. Expectations for students
 - v. Classroom behavior and consequences plan.

- g. Communicate regularly with students, parents and other teachers concerning growth and achievement.
- h. Participate in BOCES-wide efforts to provide adequate supervision in all BOCES spaces, in conformity with the Taylor Law.
- a. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee or any person who is lawfully on BOCES property or at a BOCES function.
- j. Address personal biases that may prevent equal treatment of all students in the BOCES or classroom setting.
- k. Be open to active participation in resolving conflicts through a restorative process.

2. BOCES Counselors

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.
- b. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
- c. Initiate teacher/student/counselor conferences and parent/teacher/student/counselor conferences, as necessary, as a way to resolve problems.
- d. Regularly review with students their educational progress and career plans.
- e. Maintain confidentiality in accordance with federal and state law.
- f. Provide information to assist students with career planning.
- g. Encourage students to benefit from the curriculum and extracurricular programs.
- h. Make known to students and families the resources in the community that are available to meet their needs.
- a. Participate in BOCES-wide efforts to provide adequate supervision in all BOCES spaces.
- j. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- k. Address personal biases that may prevent equal treatment of all students.
- l. Promote a trauma-responsive approach to addressing student behavior by supporting professional development, providing safe work environments, forming trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence
- m. Be open to active participation in resolving conflicts through a restorative process.

3. Other BOCES Personnel

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.
- b. Maintain confidentiality in accordance with federal and state law.
- c. Be familiar with the code of conduct.
- d. Help children understand the BOCES's expectations for maintaining a safe, orderly environment.
- e. Participate in BOCES-wide efforts to provide adequate supervision in all BOCES spaces.
- f. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- g. Address personal biases that may prevent equal treatment of all students.
- h. Be open to active participation in resolving conflicts through a restorative process.

4. Principals/Administrators

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, (including gender identity and expression) or sex.
- b. Ensure that students and staff have the opportunity to communicate regularly with the principal/administrators and have access to the principal/administrators for redress of grievances.
- c. Maintain confidentiality in accordance with federal and state law.
- d. Evaluate on a regular basis all instructional programs to ensure infusion of civility education in the curriculum.
- e. Support the development of and student participation in appropriate extracurricular activities.
- f. Provide support in the development of the code of conduct, when called upon. Disseminate the code of conduct and anti-harassment policies.
- g. Be responsible for enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.
- h. Participate in BOCES-wide efforts to provide adequate supervision in all BOCES spaces.
- a. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- j. Address personal biases that may prevent equal treatment of all students and staff.

- k. Promote a trauma-responsive approach to addressing student behavior by supporting professional development, providing safe work environments, forming trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence.

xx. Be open to active participation in resolving conflicts through a restorative process.

5. The Dignity Act Coordinator(s) are as follows:

Special Education

- Principal, Airline Drive Academy (518) 464-6330
- Alternate - Assistant Principal, Airline Drive Academy
- Principal, Maywood School (518) 464-6363
- Alternate - Assistant Principal, Maywood School
- Principal, all district Summer School locations (518) 464-6310
- Alternate - Special Education Director (518) 464-6310

Career and Technical Education

- Principal, Schoharie (518) 295-3000
- Alternate - Guidance Counselor
- Principal, Albany (518) 862-4800
- Alternate - Assistant Principal, Albany

CVLA Program (518) 862-5461

- Principal
- Alternate – Guidance Counselor

Tech Valley High School (518) 862-4960

- Principal
- Alternate – Guidance Counselor

The duties of the Dignity Act Coordinator are as follows:

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.
- b. Oversee and coordinate the work of the BOCES-wide and building-level bullying prevention committees.

- c. Identify curricular resources that support infusing civility in classroom instruction and classroom management; and provide guidance to staff as to how to access and implement those resources.
- d. Coordinate, with the Professional Development Committee, training in support of the bullying prevention committee.
- e. Be responsible for monitoring and reporting on the effectiveness of the BOCES's bullying prevention policy.
- f. Address and investigate issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- g. Address personal biases that may prevent equal treatment of all students and staff.

6. District Superintendent

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.
- b. Inform the Board about educational trends relating to student discipline
- c. Review with BOCES administrators the policies of the Board and state and federal laws relating to BOCES operations and management.
- d. Maintain confidentiality in accordance with federal and state law.
- e. Work to create instructional programs that minimize incidents of inappropriate behavior and are sensitive to student and teacher needs.
- f. Work with BOCES administrators in encouraging a positive school climate, enforcing the code of conduct and ensuring that all cases are resolved promptly and equitably.
- g. Participate in BOCES-wide efforts to provide adequate supervision in all BOCES spaces.
- h. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- a. Address personal biases that may prevent equal treatment of all students and staff.
- j. Promote a trauma-responsive approach to addressing student behavior by supporting professional development and appropriate staffing.

7. BOCES Board

- a. Promote a safe, orderly and stimulating BOCES environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

- b. Maintain confidentiality in accordance with federal and state law.
- c. Develop and recommend a budget that provides programs and activities that support achievement of the goals of the code of conduct.
- d. Collaborate with student, teacher, administrator, and parent organizations, BOCES safety personnel and other BOCES personnel to develop a code of conduct that clearly defines expectations for the conduct of students, BOCES personnel and visitors on BOCES property and at BOCES functions.
- e. Adopt and review at least annually the BOCES's code of conduct to evaluate the code's effectiveness and the fairness and consistency of its implementation.
- f. Lead by example by conducting Board meetings in a professional, respectful, courteous manner.
- g. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, BOCES employee, or any person who is lawfully on BOCES property or at a BOCES function.
- h. Address personal biases that may prevent equal treatment of all students and staff.
- i. The Board shall promote a trauma-informed approach to addressing student behavior by supporting professional development, providing a safe BOCES environment, encouraging the forming of trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence.
- j. Be open to active participation in resolving conflicts through a restorative process.

5300.25 STUDENT DRESS CODE

All students are expected to give proper attention to personal cleanliness and to dress appropriately for BOCES and BOCES functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. Teachers and all other BOCES personnel should exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the BOCES setting.

A student's dress, grooming and appearance, including jewelry, make-up, and nails, shall:

1. Be safe, appropriate and not disrupt or interfere with the educational process.
2. Recognize that extremely brief garments such as tube tops, net tops, halter tops, spaghetti straps, plunging necklines (front and/or back) and see-through garments are not appropriate.
3. Ensure that underwear is completely covered with outer clothing.
4. Include footwear at all times. Footwear that is a safety hazard will not be allowed.
5. Not include items that are vulgar, obscene, libelous, or denigrate others on account of race, color, religion, creed, national origin, gender, sexual orientation or disability.
6. Not promote and/or endorse the use of alcohol, tobacco or illegal drugs and/or encourage other illegal or violent activities.

Nothing in this policy shall be construed to limit the ability of students to wear clothing that allows them to express their gender identity, or to discipline students for doing so.

Each Building Principal or his/her designee shall be responsible for informing all students and their parents of the student dress code at the beginning of the school year and any revisions to the dress code made during the school year.

Students who violate the student dress code shall be required to modify their appearance by covering or removing the offending item, and if necessary or practical, replacing it with an acceptable item. Any student who refuses to do so shall be subject to discipline, up to and including in-school suspension for the day. Any student who repeatedly fails to comply with the dress code shall be subject to further discipline, up to and including out of school suspension if after restorative practice principles have been implemented the student continues to refuse to cooperate.

5300.30 PROHIBITED STUDENT CONDUCT

The Board expects all students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, BOCES personnel and other members of the BOCES community, and for the care of BOCES facilities and equipment with the goal of making BOCES a community free of violence intimidation, bullying, harassment, and discrimination. Exclusion from the BOCES environment and suspension shall only be used when necessary to protect the safety of students and staff or when all other measures have been exhausted.

The best discipline is self-imposed, and students must learn to assume and accept responsibility for their own behavior, as well as the consequences of their mistakes or misbehavior. BOCES personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on educating students so that they may learn from their behavior and grow in self-discipline.

The Board recognizes the need to make its expectations for student behavior while on BOCES property or engaged in a BOCES function specific and clear. The rules of conduct listed below are intended to do that and focus on safety and respect for the rights and property of others. Students who will not accept responsibility for their own behavior and who violate these BOCES rules shall be required to accept the consequences for their behavior.

Students may be subject to disciplinary action, up to and including, in extreme or repeated occurrences, suspension from BOCES, when they:

A. Engage in conduct that is disorderly or prevents others from being able to learn, focus or be engaged in their work. Examples of this type of behavior include, but are not limited to:

1. Running or otherwise unsafe behavior in hallways.
2. Making unreasonable noise.
3. Using language or gestures that are profane, lewd, vulgar or abusive.

4. Obstructing vehicular or pedestrian traffic.
5. Engaging in any willful act which disrupts the normal operation of the classroom or BOCES community.
6. Trespassing. Students are not permitted in any BOCES building, other than the one they regularly attend, without permission from the administrator in charge of the building.
7. Computer/electronic device misuse, including any unauthorized use of computers, tablets, mobile phones, software, or internet/intranet account; accessing inappropriate websites; or any violation of the BOCES's acceptable use policy.
8. Using internet-enabled, personal electronic devices, prohibited by Board Policy 5350.

B. Engage in conduct that deliberately goes against what a student has been asked to do or where they are supposed to be at any given time. This behavior is considered insubordinate. Examples of this type of behavior include, but are not limited to:

1. Failing to comply with the reasonable directions of teachers, BOCES administrators or other BOCES employees in charge of students or otherwise demonstrating belligerence or disrespect.
2. Lateness for, missing or leaving BOCES property without permission.
3. Refusing directives to comply with the internet-enabled device policy.

C. Engage in conduct that is violent. Examples of this type of behavior include, but are not limited to:

1. Committing an act of violence (such as fighting, hitting, kicking, punching, assaulting, scratching, biting, etc.) upon a teacher, administrator, other BOCES employee, another student or any other person lawfully on BOCES property.
2. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on BOCES property or at a BOCES function.
3. Displaying what appears to be a weapon.
4. Threatening to use any weapon.
5. Intentionally damaging or destroying the personal property of a student, teacher, administrator, other BOCES employee or any person lawfully on BOCES property, including graffiti or arson.
6. Intentionally damaging or destroying BOCES property.

D. Engage in any conduct that endangers the safety, physical or mental health or welfare of others. Examples of this type of behavior include, but are not limited to:

1. Attempting to engage in or perform an act of violence noted in Section D.

2. Subjecting other students, BOCES personnel or any other person lawfully on BOCES property or attending a BOCES function to danger by recklessly engaging in conduct which creates a substantial risk of physical injury.
 3. Stealing or attempting to steal the property of other students, BOCES personnel or any other person lawfully on BOCES property or attending a BOCES function.
 4. Defamation, which includes making false statements or representations about an individual or identifiable group of individuals that harm the reputation of the person or the identifiable group.
 5. Discrimination, which includes using race, color, creed, national origin, ethnic group, religion, religious practice, sex, gender (identity and expression), sexual orientation, weight or disability to deny rights, equitable treatment or access to facilities available to others.
 6. Harassment (or Bullying), is the creation of a hostile environment by conduct or threats, intimidation or abuse. (See policy, 0115, Student Harassment and Bullying Prevention and Intervention for a more complete definition.)
 7. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily or emotional harm.
 8. Hazing, which includes an induction, initiation or membership process involving harassment (see policy 0115 for a more complete definition).
 9. Selling, using, distributing or possessing obscene material.
 10. Smoking a cigarette, cigar, pipe, electronic cigarette, or using chewing or smokeless tobacco.
 11. Possessing, consuming, selling, offering, manufacturing, distributing or exchanging alcoholic beverages or illegal substances, or being under the influence of either. "Illegal substances" include, but are not limited to, inhalants, marijuana/cannabis products, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, and any synthetic version thereof, whether specifically illegal or not, commonly referred to as "designer drugs" which are substances designed and synthesized to mimic the intended effects and usages of, which are chemically substantially similar to, illegal drugs, which may or may not be labeled for human consumption.
 12. Inappropriately using or sharing prescription and over-the-counter drugs.
 13. Gambling.
 14. Indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
 15. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
- E. Engage in any form of academic misbehavior. Examples of academic misbehavior include, but are not limited to:

1. Plagiarism.
2. Cheating.
3. Copying.
4. Altering records.
5. Assisting another student in any of the above actions.

F. Engage in off-campus misbehavior that interferes with or can reasonably be expected to substantially disrupt the educational process in the BOCES or a BOCES function. Such misbehavior includes, but is not limited to, threatening or harassing students or BOCES personnel through any means off-campus, including cyberbullying (for a complete definition of harassment, bullying and cyberbullying refer to policy 0115, Student Harassment and Bullying Prevention and Intervention) or making general threats of violence to the BOCES, its staff or students.

5300.35 REPORTING VIOLATIONS

Because the BOCES's goal is for making BOCES a community free of violence, intimidation, bullying, harassment, and discrimination, all students are expected to promptly report violations of the code of conduct to a teacher, guidance counselor, the Building Principal or his or her designee. Any student observing a student possessing a weapon, alcohol or illegal substance on BOCES property or at a BOCES function shall report this information immediately to a teacher, the Principal, the Principal's designee or the BOCES District Superintendent.

All BOCES staff who are authorized to impose disciplinary consequences are expected to do so in a prompt, fair and lawful manner. BOCES staff who are not authorized to impose disciplinary consequences are expected to promptly report violations of the code of conduct to their supervisor, who shall in turn impose an appropriate disciplinary consequences if so authorized, or refer the matter to a staff member who is authorized to impose an appropriate consequences.

Any weapon, alcohol or illegal substance found shall be confiscated immediately, if possible, followed by notification to the parent of the student involved and the appropriate disciplinary consequences, which may include permanent suspension and referral for prosecution.

The Principal or his/her designee must notify the appropriate local law enforcement agency of those code violations that constitute a crime and substantially affect the order or security of a school as soon as practical, but in no event later than the close of business the day the Principal or his/her designee learns of the violation. The notification may be made by telephone, followed by a letter mailed on same day as the telephone call is made. The notification must identify the student and explain the conduct that violated the code of conduct and constituted a crime.

5300.40 DISCIPLINARY PENALTIES, PROCEDURES AND REFERRALS

Historically, the discipline of students in BOCES has focused mainly on handing out punishments based on specific actions. These punishments include reprimands, loss of privileges, office referrals, 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. The restorative approach introduces a culture of care in school characterized by relationships where adults and students feel a sense of belonging and connectedness, have a culturally safe space for their voices to be heard, and are able to be self-determining. Therefore, the board authorizes restorative practices to be employed where appropriate.

Accountability and positive change is accomplished through conflict resolution utilizing community, classroom, restorative and reentry circles.

The main principles of restorative practices are valuing and restoring relationships, repairing the harm done to affected parties, respecting others’ opinions, and reintegrating into the BOCES community. Under this model we ask affected parties to reflect upon what harm has occurred, take responsibility for actions, consider what actions need to be employed to repair any harm, and ultimately create a plan that ensures harm does not happen again.

Essential to the implementation of restorative 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
- * Be given the opportunity to learn pro-social strategies/skills to use in the future, and
- * Understand their actions may warrant further disciplinary interventions

While there may be more traditional punishments used in conjunction with teaching behavior expectations and treating disciplinary matters as teachable moments, this is 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 directs staff and administration to utilize restorative practices where appropriate in addressing student disciplinary issues.

In the application of restorative principles, the process is always voluntary for the students. Any parent (or student over the age of 18) can request to go through 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 and impartial. BOCES 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, BOCES 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, teachers and/or others, as appropriate.
6. Other extenuating circumstances.

As a general rule, discipline shall be progressive. This means that a student's first violation shall usually merit a lighter consequence than subsequent violations. However, BOCES 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, the student shall be referred to the student's home district Committee on Special Education and discipline, if warranted, shall be administered consistently with the separate requirements of this code of conduct for disciplining students with a disability or presumed to have a disability. A student identified as having a disability shall not be disciplined for behavior directly related to his/her disability, unless the discipline is consistent with the student's individualized education plan (IEP).

A. Consequences

Practices which allow educators to address disciplinary matters as opportunities for learning instead of punishment are expected by the Board rather than a reliance on increasing punitive measures. When choosing interventions and consequences of student's behavior, teacher, administrators, and staff must balance BOCES dual goals of eliminating 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 BOCES 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. Except in limited circumstances, restorative practices shall always be considered first in dealing with disciplinary issues.

Should a parent or student over the age of 18 opt out of participating in the restorative practices or if restorative practices have not been effective with the student in question, the list below shall be utilized to determine consequences.

1. Oral warning, teacher/student conference, parent contact, in-class time out, brief time out of class, loss of classroom privileges – any member of the BOCES staff

2. Written warning –hall and lunch monitors, guidance counselors, teachers, Assistant Principal, Principal
3. Written notification to parent –hall and lunch monitors, guidance counselors, teachers, Assistant Principal, Principal
4. Suspension from social or extracurricular activities – activity director, Principal, Superintendent of the student’s home district
5. Suspension of other privileges – Principal, Superintendent of student’s home district
6. In-school suspension – Principal, Assistant Principal,
7. Removal from classroom– teachers, Principal
8. Short-term (five days or less) suspension from BOCES – Principal, District Superintendent
9. Long term (more than five days) suspension from BOCES or the home district for a hearing.

B. Procedures

The amount of due process a student is entitled to receive before a consequence is imposed depends on the consequence being imposed. In all cases, regardless of the consequence imposed, the BOCES 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 BOCES 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 are entitled to additional rights before the consequence is imposed. These additional rights are explained below.

1. In-school Suspension

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

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

2. 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 his or her composure and self-control in an alternative setting. Such practices may include, but are not limited to: (1) short-term break 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 BOCES staff member for counseling. Time-honored classroom management techniques such as these do not constitute disciplinary removals for purposes of this code.

Teachers shall first use strategies 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 relationship with students, giving positive directives that state expectations, and giving positive and specific feedback etc.

3. Suspension from BOCES

Suspensions shall be limited to students who pose an immediate or ongoing threat to oneself or others or are repeatedly substantially disruptive or for whom restorative practices have not been effective.

Suspension from BOCES 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 shall be used to the minimum degree necessary to promote improved student behavior and maximize student attendance.

The Board in the student's home district retains its authority to suspend students, but places primary responsibility for the suspension of students with the BOCES Principal and/or the Superintendent and the Principals of the student's home district.

Any staff member may recommend to the District 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 District Superintendent for a violation of the code of conduct. All recommendations and referrals shall 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 District Superintendent or Principal, upon receiving a recommendation or referral for suspension or when processing a case for suspension, shall gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

Students who participate in restorative practices ending in restorative conference and written agreement may be permitted to return to BOCES sooner than those who do not. Early return is entirely at the discretion of BOCES.

a. Short term (five days or less) Suspension from BOCES

When the Principal proposes to suspend a student charged with misconduct for five days or less pursuant to Education Law §3214(3), the Principal must immediately notify the student

orally. If the student denies the misconduct the suspending authority must provide an explanation of the basis for the proposed suspension. Prior to implementing a proposed suspension for up to five (5) days, the student and parents must receive written notice of the proposed suspension prior to implementation of that suspension (generally interpreted to mean within 24 hours of the proposed implementation of the suspension). Notice must be delivered by personal messenger, express mail or another method calculated to assure receipt within 24 hours of the decision to propose suspension. If parents have agreed to receive communication by electronic mail, such means may also be used. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number for the purpose of contacting parents 8 N.Y.C.R.R. § 100.2(l)(4).

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

The notice and opportunity for an informal conference shall take place before the student is suspended unless the student's presence in BOCES 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 shall take place as soon after the suspension as is reasonably practicable.

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

b. Long term (more than five days) Suspension issued by the Superintendent of Student's Home School

If the District Superintendent determines that a suspension from the BOCES of more than five (5) days may be warranted, he or she may refer the student to the Superintendent of the student's home district or may, him or herself, provide reasonable notice to the student's parent of the right for the student to have a fair hearing with the right to the same due process as set forth below for suspension from a student's home district.

When the Superintendent in the student's home district determines that a suspension for more than five days may be warranted, he or she shall give reasonable notice to the student and the student's parents of their right to a fair hearing. At the hearing the student shall have the right

to be represented by counsel, the right to question witnesses against him or her and the right to present witnesses and other evidence on his or her behalf.

The Superintendent in the student's home district may personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him or her. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record. BOCES staff and administration shall cooperate and provide information, testimony and evidence related to allegations of misconduct occurring while the student was at the BOCES program. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the Superintendent. The report of the hearing officer shall be advisory only, and the Superintendent may accept all or any part thereof. The Superintendent of the student's home district may direct suspension from both the BOCES program and any attendance at the home district.

An appeal of the decision of the Superintendent in the student's home district may be made pursuant to the procedures set forth in the home district's Code of Conduct or other applicable policies.

c. 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, BOCES personnel or any other person lawfully on BOCES property or attending a BOCES function.

d. Procedure After Suspension

The District Superintendent may condition a student's early return from a suspension from the BOCES on the student's voluntary participation in restorative conference, reentry circles, counseling or specialized classes, such as anger management or dispute resolution. The student's home district retains discretion in offering this opportunity with regards to suspension from home district attendance. If and when the student and/or parent/guardian agrees to this option, the terms and conditions shall 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 BOCES property

Any student found guilty of bringing a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death onto BOCES property will be subject to suspension from BOCES for at least one calendar year, provided that the suspending authority may reduce such period on a case-by-case basis consistent with state or federal law.

2. Students who commit violent acts other than bringing or possessing certain weapons on BOCES property

Any student 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 BOCES property, shall be subject to suspension from BOCES for at least one-day. If the proposed consequence is the minimum one-day suspension, the student and the student's parent/guardian shall 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 shall be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The District Superintendent or Superintendent in the student's home district has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence the District Superintendent or designee 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 who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom shall be suspended from BOCES 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 quarter. If the proposed consequence is the minimum one-day suspension, the student and the student's parent shall 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 shall be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The District Superintendent or the Superintendent in the student's home district has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence, the District Superintendent or Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

D. Referrals

1. Counseling

The Guidance Office shall handle all referrals of students to counseling.

2. 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 District Superintendent and the Superintendent in the student's home district are 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).
- b. 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).

5300.45 ALTERNATIVE INSTRUCTION

When a student of any age is removed from class by a teacher or a student of compulsory attendance age is suspended from BOCES pursuant to Education Law §3214, the student's home district shall take immediate steps to provide alternative means of instruction for the student. The Board expects students, administrators, teachers and parents to make every effort to maintain student academic progress in the event of removal or suspension, and support student re-entry to the classroom at the conclusion of the disciplinary action.

5300.50 DISCIPLINE OF STUDENTS WITH DISABILITIES

The Board recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities who violate the BOCES student code of conduct, and/or to temporarily remove a student with disabilities from his or her current placement because maintaining the student in that placement is substantially likely to result in injury to the student or to others. The Board expects that this will be a sparingly used option and staff shall employ other means of addressing student behavior such as programming through special education and related services, behavioral intervention supports and strategies, as well as alternative options such as conflict resolution meetings, restitution to those harmed, and group, classroom, or community circles as appropriate for a particular student. Restorative practices shall be the considered first in dealing with disciplinary issues, as long as the student with disabilities is able to meaningfully participate in the process and such practices would be consistent with the student's IEP.

The Board also recognizes that students with disabilities deemed eligible for special education services under the IDEA and Article 89 of New York's Education Law enjoy certain procedural protections that BOCES authorities must observe when they decide to suspend or remove them. Under certain conditions those protections extend, as well, to students not currently deemed to be a student with a disability but determined to be a student presumed to have a disability for discipline purposes.

Therefore, the Board is committed to ensuring that BOCES follows suspension and removal procedures that are consistent with those additional protections for students with disabilities. The code of conduct for students is intended to afford students with disabilities and students presumed to have a disability for discipline purposes the express rights they enjoy under applicable law and regulations, in addition to those rights afforded to all students pursuant to Education Law 3214.

Definitions

For purposes of this portion of the code of conduct, and consistent with applicable law and regulations, the following definitions shall apply:

1. *Behavioral intervention plan* (BIP) means a plan that is based on the results of a functional behavioral assessment and that, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.
2. *Controlled substance* means a drug or other substance abuse identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC § 812(c)).
3. *Disciplinary change in placement* means a suspension or removal from a student's current educational placement that is either:
 - a. For more than 10 consecutive school days; or
 - b. For a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of such additional factors as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another.
4. *Illegal drug* means a controlled substance, but does not include a controlled substance legally possessed or used under the supervision of a licensed health-care professional, or a substance that is otherwise legally possessed or used under the authority of the Controlled Substances Act or under any other provision of federal law.
5. *Interim alternative educational setting* (IAES) means a temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. An IAES must allow a student to continue to receive educational services that enable him or her to continue to participate in the general curriculum and progress toward meeting the goals set out in the student's individualized education program; as well as to receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.
6. *Manifestation determination review* means a review of the relationship between the student's disability and the behavior subject to disciplinary action required when the disciplinary action results in a disciplinary change of placement, and conducted in accordance with requirements set forth later in this policy. The manifestation review must be conducted by the student's home district manifestation review team.
7. *Manifestation team* is composed of a student's home district representative knowledgeable about the student and the interpretation of information about child

behavior, the parent, and relevant members of the committee on special education as determined by the parent and the district.

8. Removal means a removal of a student with a disability for disciplinary reasons from his or her current educational placement, other than a suspension; and a change in the placement of a student with a disability to an IAES.
9. School day means any day, including a partial day, that students are in attendance at school for instructional purposes.
10. Serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.
11. Student presumed to have a disability for discipline purposes means a student who, under the conditions set forth later in this policy, the student's home district is deemed to have had knowledge was a student with a disability before the behavior that precipitated the disciplinary action.
12. Suspension means a suspension pursuant to §3214 of New York's Education Law.
13. Weapon means the same as the term "dangerous weapon" under 18 USC §930(g)(2) which includes a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except a pocket knife with a blade of less than two and one-half inches in length.

Authority of BOCES or School Personnel to Suspend or Remove Students with Disabilities

The Board, District Superintendent, Superintendent of Schools or a Building Principal with authority to suspend students under the Education Law may order the placement of a student with a disability into an IAES, another setting or suspension for a period not to exceed five consecutive school days, consistent with Education Law §3214.

The Superintendent in the student's home district may, directly or upon the recommendation of a designated hearing officer, order the placement of a student with a disability into an IAES, another setting or suspension for a period not to exceed ten consecutive school days inclusive of any period in which the student has been suspended or removed for the same behavior pursuant to the above paragraph, if the Superintendent in the student's home district determines that the student's behavior warrants the suspension. The Superintendent in the student's home district also may order additional suspensions of not more than ten consecutive school days in the same school year for separate incidents of misconduct, as long as the suspensions do not constitute a disciplinary change of placement.

In addition, the Superintendent in the student's home district may order the placement of a student with a disability into an IAES, another setting or suspension for a period in excess of ten consecutive school days if the manifestation team determines that the student's behavior was not a manifestation of the student's disability. In such an instance, the Superintendent in the student's home district may discipline the student in the same manner and for the same duration as a non-disabled student.

Furthermore, the Superintendent in the student's home district may, directly or upon the recommendation of a designated hearing officer, order the placement of a student with a disability to an IAES to be determined by the committee on special education for a period of up to 45 school-days if the student either:

1. Carries or possesses a weapon to or at BOCES, on BOCES premises or to a BOCES function, or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at BOCES, on BOCES premises or at a BOCES function under BOCES jurisdiction, or
3. Has inflicted serious bodily injury upon another person while at BOCES, on BOCES premises or at a BOCES function under the BOCES jurisdiction.

The Superintendent of the student's home district may order the placement of a student with a disability to an IAES under such circumstances, whether or not the student's behavior is a manifestation of the student's disability. However, the committee on special education in the student's home school district shall determine the IAES.

Procedures for the Suspension or Removal of Students with Disabilities by School Personnel in the student's home district

1. In cases involving the suspension or removal of a student with a disability for a period of five consecutive school days or less, the student's parents to the student shall be notified of the suspension and given an opportunity for an informal conference in accordance with the same procedures that apply to such short term suspensions of non-disabled students.
2. The suspension of students with disabilities for a period in excess of five school days shall be subject to the same due process procedures applicable to non-disabled students, except that the student disciplinary hearing conducted by the Superintendent in the student's home district or a designated hearing officer shall be bifurcated into a guilt phase and a penalty phase. Upon a finding of guilt, the Superintendent in the student's home district or the designated hearing officer shall await notification of the determination by the manifestation team in the student's home district as to whether the student's behavior was a manifestation of his or her disability. The penalty phase of the hearing may proceed after receipt of that notification. If the manifestation team in the student's home district determined that the behavior was not a manifestation of the student's disability, the student may be disciplined in the same manner as a non-disabled student, except that he or she shall continue to receive services as set forth below. However, if the behavior was deemed a manifestation of the student's disability, the hearing shall be dismissed, unless the behavior involved concerned weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury, in which case the student may still be placed in an IAES.

Limitation on Authority of BOCES or School Personnel to Suspend or Remove Students with Disabilities

The imposition of a suspension or removal by authorized school personnel may not result in a disciplinary change of placement of a student with a disability that is based on a pattern of suspensions or removals as set forth above in the Definitions section of this policy, unless:

1. The manifestation team in the student's home district determines that the student's behavior was not a manifestation of the student's disability, or
2. The student is removed to an IAES for behavior involving weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury as set forth above.

BOCES personnel shall consider any unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates BOCES code of conduct.

In addition, BOCES personnel may not suspend or remove a student with a disability in excess of the amount of time that a non-disabled student would be suspended for the same behavior.

Parental Notification of a Disciplinary Change of Placement

BOCES shall provide the parents of a student with a disability notice of any decision to make a removal that constitutes a disciplinary change of placement because of a violation of the student code of conduct consistent of Education law Section 3214. The student's home district will provide supplemental notice as required consistent with state and federal law and regulation.

Authority of an Impartial Hearing Officer to Remove a Student with a Disability

An impartial hearing officer may order the placement of a student with a disability to an IAES for up to 45 school days at a time if he or she determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others. This authority applies whether or not the student's behavior is a manifestation of the student's disability.

Manifestation Review

A review of the relationship between a student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the student's disability shall be conducted by the home school district's CSE consistent with state and federal law and regulation made by the manifestation team in the student's home district.

Services for Students with Disabilities during Periods of Suspension or Removal

Students with disabilities who are suspended or removed from their current educational setting in accordance with the provisions of this policy and applicable law and regulation shall continue to receive services as follows:

1. During suspensions or removals of up to 10 school days in a school year that do not constitute a disciplinary change in placement, the student's home district is responsible

to provide alternative instruction to students with disabilities of compulsory attendance age on the same basis as non-disabled students.

2. During subsequent suspensions or removals of up to 10 school days that in the aggregate total more than 10 school days in a school year but do not constitute a disciplinary change in placement, the student's home district shall provide students with disabilities services necessary to enable them to continue to participate in the general education curriculum and to progress toward meeting the goals set out in their respective individualized education program. School personnel in the student's home district, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed to comply with this requirement.
3. In addition, during such periods of suspension or removal the student's home district will also provide students with disabilities services necessary for them to receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.
4. During suspensions or removals in excess of 10 school days in a school year that constitute a disciplinary change in placement, including placement in an IAES for behavior involving weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury, the student's home district shall provide students with disabilities services necessary to enable them to continue to participate in the general curriculum, to progress toward meeting the goals set out in their respective individualized education program, and to receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so it does not recur.
5. In such an instance, the committee on special education in the student's home district shall determine the appropriate services to be provided.

Students Presumed to Have a Disability for Discipline Purposes

The parent of a student who is facing disciplinary action but who was not identified as a student with a disability at the time of misbehaviors has the right to invoke any of the protections set forth in this policy in accordance with applicable law and regulations, if the student's home district is deemed to have had knowledge that the student was a student with a disability before the behavior precipitating disciplinary action occurred and the student is therefore a student presumed to have a disability for discipline purposes.

If it is claimed that the student's home district had such knowledge, it shall be the responsibility of the Superintendent in the student's home district, Building Principal or other authorized school official imposing the suspension or removal in question for determining whether the student is a student presumed to have a disability for discipline purposes.

5300.60 STUDENT SEARCHES AND QUESTIONING

STUDENT QUESTIONING AND SEARCHES

The Board endeavors to provide an atmosphere on BOCES property and at BOCES functions that is safe and orderly. To achieve this kind of environment, any BOCES official authorized to

impose a disciplinary penalty on a student may question a student about an alleged violation of law or the BOCES/ district code of conduct. Students are not entitled to any sort of "Miranda"-type warning before being questioned by BOCES officials, nor are BOCES officials required to contact a student's parent before questioning the student. However, BOCES officials shall tell all students why they are being questioned.

The Board authorizes administrators to conduct searches of students and their belongings if the authorized BOCES official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the BOCES/district code of conduct.

An authorized BOCES administrator may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the BOCES official has a legitimate reason for the very limited search.

The rules in this code regarding searches of students and their personal belongings do not apply to student lockers, desks, and other BOCES storage places which are BOCES property. Students have no reasonable expectation of privacy with respect to these places and BOCES officials retain complete control over them. BOCES property may be searched at any time by BOCES officials, without prior notice to students and without their consent.

With the approval of the Board, BOCES facilities may be equipped with walk-through metal detectors, and/or hand-held "wand" metal detectors. BOCES may obtain portable walk-through units or hand-held "wand" units that are available for use in the BOCES facilities or other buildings. BOCES may utilize metal detectors or hand-held "wands" to search students' book bags, purses and other personal belongings in appropriate circumstances.

For purposes of this policy, a "metal-detector screening" means the use of metal detectors (walk-through units or hand-held "wand" units) on the students entering a BOCES facility or their belongings on a given date.

The District Superintendent, or designee, is authorized to implement the following types of metal-detector screenings:

Unscheduled Random Screenings: Random metal-detector screenings are an effective and necessary means of detecting and deterring the possession of weapons, and preventing its consequences, principally student violence, from occurring on BOCES premises. Random screenings are screenings that are not conducted on a regularly scheduled basis, and are not necessitated by particularized safety concerns or special events.

As Needed Screenings: Metal-detector screenings on days chosen to address particular safety concerns (such as recent violence in the neighborhood, or recent violence in the news), or on days on which special events are held, using BOCES personnel to operate the metal detectors available to BOCES (any combination of walk-through units or hand-held units).

Daily Random Screenings: Daily metal-detector screenings, using BOCES personnel to operate the metal-detectors available at the BOCES facility (any combination of walk-

through units or hand-held wands). Daily random searches shall involve searches of a randomly selected segment of the entire student body attending a particular BOCES facility or facilities.

Metal detector activation by anyone subject to a search under this section may constitute reasonable suspicion to justify a more intrusive individualized search pursuant to this policy.

If metal detector activation results in the discovery of contraband, such activation and discovery shall be timely documented in accordance with this policy as well as applicable state laws and regulations.

Documentation of Searches:

The authorized BOCES official conducting the search shall be responsible for promptly recording the following information about each search:

1. Name, age, and grade of student searched;
2. Reason for the search;
3. Name of any informant(s);
4. Purpose of search (that is, what item(s) was/were being sought);
5. Type and scope of search;
6. Persons conducting searches and their titles and positions;
7. Witnesses, if any, to the search;
8. Time and location of search;
9. Results of search (that is, what item(s) was/were found);
10. Disposition of items found;
11. Time, manner, and results of parental notification.

The Building Principal shall be responsible for the custody, control, and disposition of any illegal or dangerous item taken from a student. The Principal shall clearly label each item taken from the student and retain control of the item(s), until the item(s) is turned over to the police. The principal shall be responsible for personally delivering dangerous or illegal items to police.

Child Protective Services Investigations

Consistent with the BOCES commitment to keep students safe from harm and the obligation of BOCES officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, BOCES shall provide data and assistance to local child protective services workers, or members of a multi-disciplinary team accompanying such workers, who are responding to allegations of suspected child abuse, and/or neglect, or custody investigations. Such data and assistance include access to records

relevant to the investigation, as well as interviews with any child named as a victim in a report, or a sibling of that child, or a child residing in the same home as the victim.

All requests by child protective services to interview a student on BOCES property shall be made directly to Principal or his or her designee. Child protective service workers and any associated multi-disciplinary team members must comply with the BOCES's procedures for visitors, provide identification, and identify the child(ren) to be interviewed.

The Principal or designee shall decide if it is necessary and appropriate for a BOCES staff member, including but not limited to an administrator or BOCES nurse, to observe the interview either from inside or outside the interview room.

A child protective services worker may not remove a student from BOCES property without a court order, unless the worker reasonably believes that the student would be subject to danger of abuse if not he or she were not removed from BOCES before a court order can reasonably be obtained. If the worker believes the student would be subject to danger of abuse, the worker may remove the student without a court order and without the parent's consent.

5300.65 VISITORS TO THE BOCES

The Board recognizes that the success of the BOCES program depends, in part, on support by the larger community. The Board wishes to foster a positive climate where members of the community have the opportunity to observe the hard work and accomplishments of the students, teachers and other staff. Since BOCESs are a place of work and learning, however, certain limits must be set for such visits. The Principal or his or her designee is responsible for all persons in the building and on the grounds. For these reasons, the following expectations apply to visitors to the BOCES:

1. Anyone who is not a regular staff member or student of BOCES shall be considered a visitor.
2. All visitors to BOCES must enter through the designated single point of entry and report to the office of the Principal upon arrival at BOCES. There they will present photo identification, sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in BOCES or on BOCES grounds. The visitor must return the badge to the main entry point before leaving the building.
3. Visitors attending BOCES functions that are open to the public after regular BOCES hours, such as parent-teacher organization meetings or public gatherings, are not required to sign-in.
4. Parents or citizens who wish to observe a classroom or BOCES activity while school is in session must arrange such visits in advance with the classroom teacher(s) and Building Principal.
5. Teachers are expected to teach and will not always be able to take class time to discuss individual matters with visitors.

6. Any unauthorized person on BOCES property will be reported to the Principal or his or her designee. Unauthorized persons shall be asked to leave. The police may be called if the situation warrants.
7. All visitors are expected to meet the expectations for public conduct on BOCES property contained in this code of conduct.

Ref: Education Law §§1708; 2801

5300.70 PUBLIC CONDUCT ON BOCES PROPERTY

BOCES is committed to providing a welcoming, engaging, respectful, orderly environment that is conducive to learning. BOCES invites the members of the public to join them in the educational process, competitive and artistic events, and other BOCES functions. In order to the public must also adhere to the expectations of the BOCES. For purposes of this section of the code, "public" shall mean all persons when on BOCES property or attending a BOCES function including students, teachers and BOCES personnel.

The expectations for the public's conduct on BOCES property and at BOCES functions are not intended to limit freedom of speech or peaceful assembly, but to support the conducive learning environment, and maintain order, and prevent infringement on of the rights of others.

All persons on BOCES property or attending a BOCES function shall conduct themselves in a respectful and orderly manner. In addition, all persons on BOCES property or attending a BOCES function are expected to be properly attired for the purpose they are on BOCES property.

A. Prohibited Conduct

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten to do so.
2. Intentionally damage or destroy BOCES property or the personal property of a teacher, administrator, other BOCES employee or any person lawfully on BOCES property, including graffiti or arson.
3. Disrupt the orderly conduct of classes, BOCES programs or other BOCES activities.
4. Distribute or wear materials on BOCES grounds or at BOCES functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the BOCES program.
5. Intimidate, harass or discriminate against any person on the basis of actual or perceived race, creed, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).
6. Enter any portion of the BOCES premises without authorization or remain in any building or facility after it is normally closed.
7. Obstruct the free movement of any person in any place to which this code applies.
8. Violate the traffic laws, parking regulations or other restrictions on vehicles.

9. Possess, consume, sell, offer, manufacture, distribute or exchange alcoholic beverages, controlled or illegal substances or any synthetic versions (whether or not specifically illegal or labeled for human consumption), or be under the influence of either on BOCES property or at a BOCES function.
10. Possess or use weapons in or on BOCES property or at a BOCES function, except in the case of law enforcement officers or except as specifically authorized by the BOCES.
11. Loiter on or about BOCES property.
12. Gamble on BOCES property or at BOCES functions.
13. Refuse to comply with any reasonable order of identifiable BOCES officials performing their duties.
14. Willfully incite others to commit any of the acts prohibited by this code.
15. Violate any federal or state statute, local ordinance or Board policy while on BOCES property or while at a BOCES function.
16. Smoke a cigarette, cigar, pipe, electronic cigarette, or use chewing or smokeless tobacco.

B. Consequences

Persons who violate this code shall be subject to the following consequence :

1. Visitors. Their authorization, if any, to remain on BOCES grounds or at the BOCES function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to ejection.
2. Students. They shall be subject to disciplinary action as the facts may warrant, in accordance with the due process requirements.
3. Tenured faculty members. They shall be subject to disciplinary action as the facts may warrant in accordance with Education Law § 3020-a or any other legal rights that they may have.
4. Staff members in the classified service of the civil service entitled to the protection of Civil Service Law § 75. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant in accordance with Civil Service Law § 75 or any other legal rights that they may have.
5. Staff members other than those described in subdivisions 3 and 4. They shall be subject to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

C. Enforcement

The Principal or his/her designee shall be responsible for enforcing the conduct required by this code.

When the Principal or his or her designee sees an individual engaged in actions not conducive to achieving the goal of making BOCES a community free of violence intimidation, bullying,

harassment, and discrimination , misconduct or otherwise not allowed behaviors, which in his or her judgment does not pose any immediate threat of injury to persons or property, the Principal or designee shall tell the individual that the behavior is not allowed and attempt to persuade the individual to stop. The Principal or designee shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the undesired behaviors, or if the person's actions pose an immediate threat of injury to persons or property, the Principal or designee shall have the individual removed immediately from BOCES property or the BOCES function. If necessary, local law enforcement authorities shall be contacted to assist in removing the person.

BOCES shall initiate disciplinary action against any student or staff member, as appropriate, with the "Consequences" section above. In addition, BOCES reserves its right to pursue a civil or criminal legal action against any person violating the code.

5300.75 DISSEMINATION AND REVIEW

A. Dissemination of Code of Conduct

The Board shall work to ensure that the community is aware of this code of conduct by:

1. Providing copies of an age-appropriate, written in plain language, summary of the code to all students at an assembly to be held at the beginning of each school year.
2. Providing a plain language summary to all parents at the beginning of the school year, and thereafter on request.
3. Posting the complete code of conduct on the BOCES's website.
4. Providing all current teachers and other staff members with a copy of the code and a copy of any amendments to the code as soon as practicable after adoption.
5. Providing all new employees with a copy of the current code of conduct when they are first hired.
6. Making copies of the complete code available for review by students, parents and other community members.

The Board shall sponsor an in-service education program for all BOCES staff members to ensure the effective implementation of the code of conduct and other trainings to contribute to its success as needed. The Superintendent may solicit the recommendations of the BOCES staff, particularly teachers and administrators, regarding in-service programs pertaining to the management and discipline of students. On-going professional development shall be included in BOCES professional development plan, as needed.

B. Review of Code of Conduct

The Board shall review this code of conduct every year and update it as necessary. In conducting the review, the Board shall consider how effective the code's provisions have been and whether the code has been applied fairly and consistently.

The Board may appoint an advisory committee to assist in reviewing the code and the BOCES's response to code of conduct violations. The committee shall be made up of representatives of

student, teacher, administrator, and parent organizations, BOCES safety personnel and other BOCES personnel.

Before adopting any revisions to the code, the Board shall hold at least one public hearing at which BOCES personnel, parents, students and any other interested party may participate.

The code of conduct and any amendments to it shall be filed with the Commissioner of Education, in a manner prescribed by the Commissioner, no later than 30 days after adoption.

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)

Ref: 8 NYCRR §100.2(l)(3)

Rules of the Board of Regents §19.5

Cross-ref: 5530, Internet Enabled Devices

Ref: Safford Unified School District #1 et al. v. Redding, 129 S. Ct. 2633 (2009)

Vassallo v. Lando, 591 F.Supp.2d 172 (E.D.N.Y. (2008)

Phaneuf v. Fraikin 448 F.3rd 591 (2006)
New Jersey v. TLO, 469 U.S. 325 (1985)
In re Gregory, 82 N.Y.2d 588 (1993)
People v. Scott D., 34 N.Y.2d 483 (1974)
People v. Singletary, 37 N.Y.2d 310 (1975))
People v. Overton, 20 N.Y.2d 360 (1969)
M.M. v. Anker, 607 F.2d 588 (2d Cir. 1979)
Opinion of Counsel, 1 EDR 800 (1959)

Ref: Education Law §§1708; 2801, 2803

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