

# PIONEER CENTRAL SCHOOL DISTRICT

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## Code of Conduct

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Pioneer School District  
Code of Conduct

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## I. Introduction

The board of education (“board”) is committed to providing a safe and orderly school environment where violence against people or property in the schools or at school activities is prevented, lawlessness is not condoned, and where students may receive and district personnel may deliver quality educational services without disruption or interference. Responsible behavior by students, teachers, other district personnel, parents and other visitors is essential to achieving this goal. Additionally, safety is an integral part of the district’s instructional program.

The district has a long-standing set of expectations for conduct on school property and at school functions. These expectations are based on the principles of mutual respect, self-discipline, civility, citizenship, character, tolerance, honesty and integrity.

Special emphasis is placed on mutual respect. All people involved with the school community are required to demonstrate respect for other persons and their property. All persons are expected to display self-discipline and to assume responsibility for the communication and interpersonal relations essential to promote positive behavior. When a person’s rights are violated, appropriate disciplinary procedures will be followed. The ultimate purpose of discipline must always be to teach and encourage self-discipline.

The board recognizes the need to clearly define the above expectations for acceptable conduct on school property, to identify the possible consequences of unacceptable conduct, and to ensure that discipline when necessary is administered promptly and fairly. To this end, the board adopts this code of conduct (“code”).

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

## II. Definitions

For purposes of this code, the following definitions apply.

**“Disruptive student”** means an elementary or secondary student under the age of 21 who is substantially disruptive of the educational process or substantially interferes with the teacher’s authority over the classroom.

**“Parent”** means parent, guardian or person in parental relation to a student.

**“School day”** means any day of required pupil attendance. Unless preceded by the word “calendar,” “day” means a school day.

**“School property”** means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, or in or on a school bus, as defined in Vehicle and Traffic Law §142, or other transportation vehicle adopted by or for the district.

**“School function”** means any school-sponsored extra-curricular event or activity, whether conducted at home or away sites.

**“Violent student”** means a student under the age of 21 whom:

- ✓ Commits an act of violence upon a school employee, or attempts to do so.
- ✓ Commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function, or attempts to do so.
- ✓ Possesses, while on school property or at a school function, a weapon.
- ✓ Displays, while on school property or at a school function, what appears to be a weapon.
- ✓ Threatens, while on school property or at a school function, to use a weapon.
- ✓ Knowingly and intentionally damages or destroys the personal property of any school employee or any person lawfully on school property or at a school function.
- ✓ Knowingly and intentionally damages or destroys school district property.

**“Weapon”** means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. Specifically this is 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. Pocketknives with a blade of less than two-and-one-half inches in length are excluded from the definition.

**“Plagiarism”** is the use or close imitation of the language and ideas of another author and representation of them as one’s own original work. This includes copying from electronic sources (from World Wide Web), even with minor alterations.

**“Harassment”** is any action against any student, by employees or students on school property or at a school function, that creates a hostile environment by conduct, with or without physical contact and/or by verbal threats, intimidation or abuse, of such a severe nature that: has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety. Such conduct shall include, but is not limited to, threats, intimidation, or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex.

**“Discrimination”** is any action against any student, by employees or students on school property or at a school function that uses a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law §11(6), or sex as a basis for treating them in a negative manner.

### III. Student Rights and Responsibilities

**A. Student Rights** - The district is committed to safeguarding the rights given to all students under state and federal law. In addition, to promote a safe, healthy, orderly and civil school environment, all district students have the right to:

1. Expect a safe, supportive and “bully-free” school environment that is conducive to learning.
2. Be treated respectfully by those in the school community.
3. Take part in all district activities on an equal basis regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, gender or sexual orientation.
4. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty in connection with the imposition of the penalty.
5. Access school rules and, when necessary, receive an explanation of those rules from school personnel.

**B. Student Responsibilities** - All district students have the responsibility to:

1. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. Be familiar with and abide by all district policies as well as school and bus rules and regulations dealing with student conduct.
3. Attend school every day unless they are legally excused and be in class, on time, and prepared to learn.
4. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
5. Respond in a respectful, positive manner to directions given by teachers, administrators and other school personnel.
6. Work to control their anger.
7. Ask questions when they do not understand directions, directives or intentions of those in positions of authority.
8. Seek help in solving problems that might lead to disciplinary action.
9. Dress in a manner consistent with the student dress code for school and school functions.
10. Accept responsibility for their actions.
11. Conduct themselves as representatives of the district when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.

**C. Student Safety Pledge** - All district students, with their parents/guardians as witness, will be strongly encouraged to sign a school safety pledge at the beginning of each school year. The pledge for those in grades 5-12 will include the following:

I pledge to share with a teacher, counselor, or administrator any information that could result in someone being injured or harmed;

I pledge to recognize that every student has the right to a safe environment where everyone is treated with respect;  
I pledge to understand that I have an essential role in school safety and violence prevention;  
I pledge to immediately report any threats of violence, suicide, presence of weapons or explosives to a school administrator, counselor, or teacher, to allow them to investigate and determine the seriousness of the report;  
I pledge to report and do all I can to stop the harassment of others;  
I pledge to promote the acceptance of individual differences, recognizing that diversity contributes to the strength of the school.

NOTE: A simplified version of this pledge will be provided for students in grades K-4.

#### **IV. Essential Partners**

All identified essential partners are expected to comply with and carry out their designated roles and responsibilities within this code of conduct.

##### **A. Parents**

All parents are expected to:

1. Recognize that the education of their child (ren) is the joint responsibility of the parents, students and the school community.
2. Send their children to school ready to participate and learn.
3. Ensure their children attend school regularly and on time.
4. Ensure absences are excused.
5. Insist their children be 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 school rules, including this code of conduct, and help their children understand them.
8. Be aware of the consequences for violation of these rules, and accept legal responsibility for their child's actions.
9. Convey to their children a supportive attitude toward education and the district.
10. Build good relationships with teachers, other parents and their children's friends.
11. Help their children deal effectively with peer pressure.
12. Inform school 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 and turned in.
14. Provide and regularly update accurate family information for district communications.
15. Promote and encourage sensitivity to bullying and harassment.

16. Immediately report actual or perceived details of bullying and harassment to building administrators.

**B. Teachers**

All district teachers are expected to:

1. Maintain a climate of mutual respect and dignity, which will strengthen students' self-concept and promote confidence to learn.
2. Promote a safe, orderly learning environment.
3. Promote and encourage sensitivity to bullying and harassment.
4. Immediately report actual or perceived details of bullying and harassment to building administrators
5. Know school policies and rules, and enforce them in a fair and consistent manner.
6. Communicate to students and for parents:
  - a. Course objectives and requirements
  - b. Marking/grading procedures
  - c. Assignment deadlines
  - d. Expectations for students
  - e. Classroom discipline plan.
7. Communicate regularly with students, parents and other teachers concerning growth, achievement and behavior.
8. Maintain confidentiality about all personal information and education records regarding students and their families.

**C. Counselors**

1. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
2. Initiate teacher/student/counselor conferences and parent/teacher/student/counselor conferences, as necessary, as a way to resolve problems.
3. Regularly review with students their educational progress and career plans.
4. Provide information to assist students with career planning.
5. Encourage students to benefit from the curriculum and extracurricular programs.
6. Immediately report actual or perceived details of bullying and harassment to building administrators.
7. Assist and plan meetings with victims of harassment and bullying.

**D. Principals**

1. Shall assume the role of Dignity Act Coordinator or choose a designee for their building.
2. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
3. Ensure that students and staff have the opportunity to communicate regularly with the principal and approach the principal for redress of grievances.

4. Support the development of and student participation in appropriate extracurricular activities.
5. Be responsible for enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

**E. Superintendent**

1. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. Review with district administrators the policies of the board of education and state and federal laws relating to school operations and management.
3. Inform the board about educational trends relating to student discipline.
4. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.
5. Work with district administrators in enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

**F. Board of Education**

1. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a code of conduct that clearly defines expectations for the conduct of students, district personnel and visitors on school property and at school functions.
2. Adopt and review at least annually the district's code of conduct to evaluate the code's effectiveness and the fairness and consistency of its implementation.
3. Lead by example by conducting board meetings in a professional, respectful, courteous manner.
4. Annually appoint the "Dignity Act Coordinator".

NOTE: Policy #8461 on chaperones and their responsibilities provides additional information relative to chaperones' expected behavior and student supervision of school sponsored functions.

**V. Student Civility And Dress Code**

All students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. However, students will be required to wear appropriate protective gear and clothing in certain classes (e.g. science labs or physical education). Students shall not wear attire which interferes with the operation of the school, disrupts the educational process, or which negatively affects the general safety, morals, health and welfare of the district's students or employees. Teachers and all other district personnel should exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the school setting.

**A. A student's dress, grooming and appearance shall:**

1. Recognize that extremely brief or revealing garments such as tube tops, net tops, halter tops, spaghetti straps, plunging necklines (front and/or back) and see-through garments are not appropriate. Modest tank tops are appropriate as long as the chest area is covered from the top of the armpit down. Midriffs are to be covered. Exposure of skin or undergarments between the bottom of the shirt and the top of the pants is prohibited.
2. Not include skirts or shorts that are shorter than fingertip length when arms are straight down at your sides.
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 the wearing of hats or headgear of any kind (with the exception of hair bands and apparel for religious observance or medically necessary apparel) while in the school building. This includes other items that obstruct the view of a student's face, such as masks or sunglasses.
6. Not include items or insignia that are associated with gang violence and/or are vulgar, obscene, and libelous or denigrates others on account of race, color, religion, creed, national origin, gender, sexual orientation or disability.
7. Not promote and/or endorse the use of alcohol, tobacco or illegal drugs and/or encourage other illegal or violent activities.
8. Not include sleepwear, which includes but is not limited to pajamas, pajama pants, bathrobes, and slippers. Likewise, it is not permissible for students to carry or wear blankets around the building.
9. Only include purses or small, drawstring-style bags which can assist students' organization during the school day. Larger backpacks can be used to bring items to and from home.

Each building principal or his or 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.

The building principal is authorized to take action in instances where individual dress is deemed inappropriate according to the above guidelines and will require a student to change his or her attire. 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 fails or refuses to comply with the dress code shall be subject to discipline up to and including out of school suspension.

**B. Student Use of Electronic Communication Devices**

Students are prohibited from using or having on or in an operational mode any paging device, mobile telephone, cellular telephone, laser pointer or pen or any other type of telecommunications or imaging device during instructional time, except as expressly permitted in connection with authorized use. While students are permitted to possess such devices during the school day, they are prohibited from using them in any manner which invades the privacy of students, employees, volunteers or visitors. If a student violates this prohibition, then he/she is subject to discipline under this provision and/or any other provision in the District *Code of Conduct* that may be applicable to the circumstances involved. Any electronic device that is permitted on school property is encouraged to be kept on the person and in a concealed manner.

Teachers and all other District personnel should exemplify and reinforce acceptable student dress and behavior (including possession/use of electronic devices) and help students develop an understanding of appropriate appearance and conduct in the school setting.

**VI. Prohibited Student Conduct**

The board of education expects all students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, district personnel and other members of the school community, and for the care of school facilities and equipment.

The best discipline is self-discipline, and students must learn to assume and accept responsibility for their own behavior, as well as the consequences of their misbehavior. District personnel who interact with students are expected to place emphasis on the students' ability to grow in self-discipline.

The board recognizes the need to make its expectations for student conduct while on school property or engaged in a school function specific, clear and legally enforceable while recognizing that each school may adopt additional procedures to implement the board's expectations. The prohibited student conduct described below is intended for safety, prevention of violence against people and property in the schools and respect for the rights and property of others. Students who will not accept responsibility for their own behavior and who violate these school rules will be required to accept the penalties for their conduct.

Students may be subject to disciplinary action, up to and including suspension from school, when they:

**A. Engage in conduct that is disorderly. Examples of disorderly conduct include:**

1. Running in hallways.
2. Making inappropriate or 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 school community. Students are responsible for having their lunches with them in school. In rare instances, that a student forgets lunch, a parent may bring it in; however, food deliveries for an individual or for a group of students disrupt the normal operation of the school community. Requests for food deliveries to accommodate a group must be approved in advance by the principal, i.e., classroom activities, birthdays, etc.
6. Trespassing. Students are not permitted in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building. Nor, without such permission, are they permitted to enter any school building before it is normally opened or to remain in any school building after it is normally closed.
7. Computer/electronic communications misuse, including any unauthorized use of computers, software, or internet/intranet account; inappropriate use of social media (for example tweeting); accessing inappropriate websites; allowing another individual to access your computer accounts; or any other violation of the district's acceptable use policy.
8. Loitering on school premises.
9. Unauthorized use of personal electronic devices/equipment (i.e., cell phones, MP3 devices, and other personal electronic devices deemed inappropriate by the administration).
10. Unauthorized use of computer, laptop and/or other computerized information resources through the Erie 1 District computer system is prohibited.

**B. Engage in conduct that is insubordinate. Examples of insubordinate conduct include:**

1. Failing to comply with the reasonable directions of teachers, school administrators or other school employees in charge of students or otherwise demonstrating disrespect.
2. Lateness for, missing or leaving school property or a school function without permission.
3. Skipping an assigned class or detention.

**C. Engage in conduct that is violent. Examples of violent conduct include:**

1. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon a teacher, administrator or other school employee or attempting to do so.
2. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon another student or any other person lawfully on school property or attempting to do so.
3. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on school property or at a school function.
4. Displaying what appears to be a weapon.
5. Threatening to use any weapon.

6. Intentionally damaging or destroying (or threatening to damage or destroy) school district property or the personal property of a student, teacher, administrator, other district employee or any person lawfully on school property, including vandalism, graffiti or arson.
7. Fighting and/or using physical force against another person.

**D. Engage in any conduct that endangers the safety, morals, health or welfare of others.**

Examples of such conduct include:

1. Lying to school personnel.
2. Stealing the property of other students, school personnel or any other person lawfully on school property or attending a school function.
3. 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 by demeaning them. This can include posting or publishing video, audio recordings or pictures (written material, cell phones, Internet, YouTube, etc.).
4. Discrimination, which includes the use of a person's actual or perceived race, color, weight, creed, national origin, ethnic group, religion, religious practices, gender, sexual orientation, sex or disability as a basis for treating another in a negative manner.
5. Harassment, which includes actions, statements or a persistent, pervasive pattern of actions directed at an identifiable individual or group which are intended to be or which a reasonable person would perceive as ridiculing or demeaning – including but not limited to all forms of harassment prohibited by the district's adopted policy on harassment.
6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm and/or emotional discomfort.
7. "Internet bullying" (also referred to as "cyberbullying") including the use of instant messaging, email, Web sites, chat rooms, and text messaging, when such use interferes with the operation of the school; or infringes upon the general health, safety and welfare of students or employees. This includes allowing another individual to access your computer accounts.
8. Sexual harassment, which includes unwelcome sexual advances, requests for sexual favors, taking, sending or receiving sexually explicit videos, pictures or auditory recordings and other verbal or physical conduct or communication of a sexual nature.
9. Hazing, which includes any intentional or reckless act directed against another for the purpose of initiation into, affiliating with or maintaining membership in any school sponsored activity, organization, club or team.
10. Selling, using or possessing obscene material.
11. Using vulgar or abusive hand gestures or language, cursing or swearing.
12. Possessing or smoking a cigarette, e-cigarette, cigar, pipe or using chewing or smokeless tobacco.

13. Possession of matches, cigarette lighters or other incendiary devices.
14. Possessing, consuming, selling, 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, synthetic cannabinoids, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, and any substances commonly referred to as "designer drugs."
15. Possessing, or attempting to buy and possess drug paraphernalia.
16. Inappropriately using or sharing prescription and over-the-counter drugs.
17. Gambling.
18. Inappropriate touching and/or revealing private parts of the body.
19. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, discharging a fire extinguisher, or tampering with emergency equipment.
20. Actions that create an intentional breach in building security. This includes, but is not limited to, propping exterior doors open, leaving windows open, admitting individuals into the building through any means besides the designated front entrance, and not following sign-in/sign-out procedures upon entering or exiting the premises.

NOTE: More information about these prohibitions and the district's program to address them is referenced in Policy #7430 on alcohol, drugs, and other substances.

- E. Engage in violations of the District Code of Conduct including bullying and/or harassing while on a school bus.** It is crucial for students to behave appropriately while riding on district buses to ensure their safety and that of other passengers and to avoid distracting the bus driver. Students are required to conduct themselves on the bus in a manner consistent with established standards for classroom behavior. Excessive noise, pushing, shoving and fighting will not be tolerated.

NOTE: More information about this prohibition and the responsibilities associated with it can be found in Policy #7450 on bus rules and regulations.

- F. Engage in any form of academic misconduct. Examples of academic misconduct include:**

1. Plagiarism. Plagiarism is defined as taking someone else's ideas or published work as your own without giving credit to the author(s) using citations.
2. Cheating.
3. Copying.
4. Altering records.
5. Assisting another student in any of the above actions.

- G. Instigate or encourage another person to violate this code of conduct.**

## **VII. Reporting Violations**

All students are encouraged to sign the district safety pledge (see Section IIIC). They are expected to promptly report violations of the code of conduct to a teacher, guidance counselor, the building principal or his or her designee or the dignity act coordinator. Any student observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall report this information immediately to a teacher, the building principal, the principal's designee or the superintendent.

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

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 sanction if warranted, which may include permanent suspension and referral for prosecution.

The building principal or his or her designee must promptly 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.

Building principals will report vandalism, malicious mischief, property damage, stolen goods and other losses exceeding \$100 in value to the Board of Education on forms provided. Every effort will be made by the building principal and central office administration to recover losses through law enforcement agencies, insurance officials and other means.

## **VIII. Disciplinary Penalties, Procedures and Referrals**

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

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

- ✓ The student's age.

- ✓ The nature of the offense, including its impact on others, and the circumstances which led to the offense.
- ✓ The student's prior disciplinary record, including the dates, number and types of offenses involved.
- ✓ The effectiveness of other forms of discipline.
- ✓ Information from parents, teachers and/or others, as appropriate.
- ✓ Other extenuating circumstances.

Generally, discipline will be progressive. This means that a student's first violation will usually merit a lighter penalty than subsequent violations. This general rule may be reversed by the particular circumstances of a violation, which, even as a first violation, could warrant severe disciplinary action.

Each violation will be treated as an opportunity to take preventive measures or address underlying causes by such means as counseling, conflict resolution, adult mentoring, parental conferencing, and other communication supportive of team planning to improve student behavior.

If the conduct of a student is related to a disability or suspected disability, the student shall be referred to the Committee on Special Education and discipline, if warranted, shall be administered consistent with the separate requirements of this code of conduct for disciplining students with a disability or presumed to have a disability.

#### **A. Penalties**

Students who are found to have violated the district's code of conduct may be subject to the following penalties, either alone or in combination. The sequence in which these penalties are listed below does not necessarily indicate their order of implementation. The school personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

1. Oral warning – any member of the district staff
2. Written warning – bus drivers, hall and lunch monitors, counselors, teachers, principal, superintendent
3. Written notification to parent – coaches, counselors, teachers, principal, superintendent
4. Detention – teachers, principal, superintendent
5. Suspension from transportation – principal, superintendent
6. Suspension from athletic participation – athletic director, coaches, principal, superintendent
7. Suspension from social or extracurricular activities – athletic director, principal, superintendent
8. Suspension of other privileges – principal, superintendent, counselors
9. Removal from classroom – teachers, principal
10. In-school suspension – principal, superintendent
11. Short-term (five days or less) suspension from school – principal, superintendent, board of education

12. Long-term (more than five days) suspension from school – superintendent, board of education
13. Permanent suspension from school – superintendent, board of education.
14. Possible referral to Youth Court

NOTE: Principals or the superintendent, as appropriate, may delegate authority to impose penalties 1 through 9 to others who serve in administrative capacities.

## **B. Procedures**

The amount of due process a student is entitled to receive before a penalty is imposed depends on the penalty being imposed. In all cases, regardless of the penalty imposed, the school personnel authorized to impose the penalty must inform the student of the alleged misconduct and must investigate, to the extent necessary, the facts surrounding the alleged misconduct. All students will have an opportunity to present their version of the facts to the school personnel imposing the disciplinary penalty in connection with the imposition of the penalty. It is the student's or the student's parent's obligation to make such request in writing.

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

### **1. Detention**

Teachers, principals (or designees) and the superintendent (or designee) may use after- school detention as a penalty for student misconduct in situations where removal from the classroom or suspension would be inappropriate. Detention will be imposed as a penalty only after the student's parent has confirmed that there is no parental objection to the penalty and that the student has appropriate transportation home following detention. Failure to attend detention could result in removal from participation in school activities or in-school suspension.

### **2. Suspension from transportation**

If a student does not conduct himself/herself properly on a bus, the bus driver is expected to bring such misconduct to the building principal's attention by means of a bus conduct report. Students who become a serious disciplinary problem may have their riding privileges suspended by the building principal or the superintendent or their designees. In such cases, the student's parent will become responsible for arranging transportation for his or her child to get to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the district will make appropriate arrangements to provide for the student's education in accordance with procedures required by Section 3214 of Education Law.

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

NOTE: More policy-related information about student behavior on busses and the responsibilities entailed may be found in Policy #7450 on bus rules and regulations.

3. Suspension from athletic participation, extracurricular activities and other privileges

A student subjected to a suspension from athletic participation, extra-curricular activities or other privileges is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the district official imposing the suspension to discuss the conduct and the penalty involved.

4. In-school suspension

The board recognizes the school must balance the need of students to attend school and the need for order in the classroom to establish an environment conducive to learning. As such, the board authorizes building principals and the superintendent to place students who would otherwise be suspended from school as the result of a code of conduct violation in "in-school suspension." The in-school suspension teacher will be a certified teaching assistant.

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 will be provided with a reasonable opportunity for an informal conference with the district official imposing the in-school suspension to discuss the conduct and the penalty involved.

5. Teacher disciplinary removal of disruptive students

A student's behavior can affect a teacher's ability to teach and can make it difficult for other students in the classroom to learn. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include time-honored classroom management practices that involve directing a student to briefly leave the immediate setting to create an opportunity for the student to regain his or her composure and self-control. Such practices may include but are not limited to short-term "time out" in a classroom or an administrator's office. This is not considered a disciplinary removal under the code of conduct.

On occasion, a student's behavior may become disruptive. For purposes of this code of conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom. A substantial disruption of the educational process or substantial interference with a teacher's authority occurs when a student demonstrates a

persistent unwillingness to comply with the teacher's instructions or repeatedly violates the teacher's classroom behavior rules.

A classroom teacher may remove a disruptive student from his/her class for one class period or the equivalent in each of two consecutive school days in accordance with Project Save.

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement. Accordingly, no teacher may remove a student with a disability from his or her class until he or she has verified with the principal or the Director of Special Education that the removal will not violate the student's rights under state or federal law or regulation (See appendix A).

The following procedural alternatives and steps apply when a teacher considers a student's behavior disruptive:

- a. If the disruptive student does not pose a danger or ongoing threat of disruption to the academic process, the teacher must provide the student with an explanation for why he or she is being removed and an opportunity to explain his or her version of the relevant events before the student is removed. Only after the informal discussion may a teacher remove a student from class.
- b. If the student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24-hours.
- c. The teacher must complete a disciplinary referral form and meet with the principal or his or her designee by the end of the first school day of removal to explain the circumstances of the removal and to present the written reasons for it.
- d. Within 24-hours after the student's removal, the principal or designee must notify the student's parents, in writing, that the student has been removed from class and why. The notice must also inform the parent that he or she has the right, upon request, to meet informally with the principal or the principal's designee to discuss the reasons for the removal.
- e. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the student's removal at the last known address for the parents. Where possible, notice should also be provided by telephone.
- f. The principal may require the teacher who ordered the removal to attend the informal conference.
- g. If at the informal meeting the student denies the charges, the principal or the principal's designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. The informal meeting must be held within 48 hours of the

student's removal. The timing of the informal meeting may be extended by mutual agreement of the parent and principal.

- h. The principal or the principal's designee may overturn the removal of the student from class if the principal finds any one of the following: (1) charges against the student are not supported by substantial evidence; (2) student's removal is otherwise in violation of law, including the district's code of conduct; (3) conduct warrants suspension from school pursuant to Education Law Section 3214 and a suspension will be imposed.
  - i. The principal or his or her designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference, if a conference is requested. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the principal makes a final determination, or the period of removal expires, whichever is less.
  - j. Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he or she is permitted to return to the classroom.
  - k. Each teacher must document all cases of removal of students from his or her class. The principal must keep a standardized record in the district's electronic information system for all removals of students from class.
6. Suspension from school

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

The board retains its authority to suspend students, but places primary responsibility for the suspension of students with the superintendent and the building principals.

Any staff member may recommend to the superintendent or the principal that a student be suspended. All staff members must immediately report and refer a violent student to the principal or the superintendent for a violation of the code of conduct. All recommendations and referrals 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 superintendent or principal, upon receiving a recommendation, 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.

- a. Short-term (5 days or less) suspension from school
  - 1) When the superintendent or principal proposes to suspend a student charged with misconduct for five days or less pursuant to Education Law §3214(3), the suspending authority must immediately notify the student

orally. If the student denies the misconduct, the suspending authority must provide an explanation of the basis for the proposed suspension. The suspending authority must also notify the student's parents in writing that the student may be suspended from school. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the decision to propose suspension at the last known address for the parents. Where possible, notice should also be provided by telephone.

- 2) The written notice shall provide a description of the charges against the student and 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 established.
  - 3) The notice and opportunity for an informal conference shall take place before the student is suspended unless the student's presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process. If the student's presence does pose such a danger or threat of disruption, the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.
  - 4) 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 superintendent within five business days, unless they can show extraordinary circumstances precluding them from doing so. The 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 board of education with the district clerk within 10 business days of the date of the superintendents' decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board may be appealed to the Commissioner within 30 days of the decision.
- b. Long-term (more than 5 days) suspension from school
- 1) When the superintendent or building principal 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.

- 2) The superintendent shall 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. 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, reject, or modify all or any part thereof.
  - 3) An appeal of the decision of the superintendent may be made to the board that will make its decision based solely upon the record before it. All appeals to the board must be in writing and submitted to the district clerk within 10 business days of the date of the superintendent's decision, unless the parents can show that extraordinary circumstances precluded them from doing so. The board may adopt in whole or in part the decision of the superintendent. Final decisions of the board may be appealed to the Commissioner within 30 days of the decision.
- c. Permanent suspension.
- 1) Permanent suspension is reserved for extraordinary circumstances such as where a student's conduct poses a life-threatening danger to the safety and well-being of other students, school personnel or any other person lawfully on school property or attending a school function.

### **C. Minimum Periods of Suspension**

1. Any student found guilty of bringing a weapon onto school property will be subject to suspension from school for at least one calendar year. Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the following:
  - a. The student's age.
  - b. The student's prior disciplinary record, including the dates, number and types of offenses involved.
  - c. The effectiveness of other forms of discipline.
  - d. Information from parents, teachers and/or others, as appropriate
  - e. Other extenuating circumstances
2. Any student who is found to have committed a violent act, other than bringing a weapon onto school property, shall be subject to suspension from school for at least five days. If the proposed penalty is the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for an informal conference given to all students subject to a short-term

suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. In deciding whether to modify the penalty, the superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

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

#### **D. Referrals to Legal Authorities or Agencies**

The superintendent, building principals or other designated administrators are responsible for all referrals to family court, child protective services, or any other external human service agencies as needed to implement the provisions of this code.

##### **1. PINS Petitions**

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

- a. Being habitually truant (not attending school) as required by part one of Article 65 of the Education Law.
- b. Engaging in an ongoing or continual course of conduct which makes the student ungovernable or habitually disobedient and beyond the lawful control of the school.
- c. Knowingly and unlawfully possesses marijuana in violation of Penal Law § 221.05. A single violation of § 221.05 will be a sufficient basis for filing a PINS petition.

##### **2. Juvenile Delinquents and Juvenile Offenders**

The superintendent is required to refer the following students to the County Attorney for a juvenile delinquency proceeding before the Family Court:

- a. Any student under the age of 16 who is found to have brought a weapon to school, or
- b. Any student 14 or 15 years old who qualifies for juvenile offender status under the Criminal Procedure Law §1.20 (42).

The superintendent is required to refer students age 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

## **IX. 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 school pursuant to Education Law §3214, the district will act promptly, with due regard for the nature and circumstances of each case, to provide alternative means of instruction for the student. Building principals or their designees will be responsible for making these arrangements and monitoring their status.

## **X. Discipline of Students with Disabilities**

The board recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities to address disruptive or problem behavior. The board also recognizes that students with disabilities enjoy certain procedural protections whenever school authorities intend to impose discipline upon them. The board is committed to, and provides assurance that the procedures followed for suspending, removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable federal and state laws and regulations. Appendix A contains detailed procedures for implementation.

This code of conduct affords students with disabilities subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state law and regulations.

## **XI. Visitors to the Schools**

Pioneer School District welcomes all parents and community members to our schools. For the students' safety, all visitors must report to the school greeter station upon arrival. Arrangements should be made with the building principal prior to visiting a classroom to ensure a positive experience for both the visitor(s) and the students.

The following rules apply to visitors to the schools:

- A. Anyone who is not a regular staff member, a board-appointed individual, or a student of the school will be considered a visitor.
- B. All visitors to the school must report to the greeter's station upon arrival at the school. There they will be required to sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in the school or

on school grounds. The visitor must return the identification badge to the greeter's station before leaving the building.

- C. Visitors attending school functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
- D. Any unauthorized person on school property will be reported to the principal or his or her designee. Unauthorized persons will be asked to leave. The school resource officer and/or the local law enforcement agency may be called if the situation warrants.
- E. All visitors are expected to abide by the rules for public conduct on school property contained in this code of conduct.

## **XII. Public Conduct on School Property**

The district is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on school property and at school functions. For purposes of this section of the code, "public" shall mean all persons when on school property or attending a school function including students, teachers and district personnel.

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

### **A. Prohibited Conduct**

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten or attempt to do so.
2. Intentionally damage or destroy, or threaten or attempt to damage or destroy, school district property or the personal property of a teacher, administrator, other district employee or any person lawfully on school property, including graffiti, vandalism or arson.
3. Disrupt the orderly conduct of classes, school programs or other school activities. Students are responsible for having their lunches with them in school. In rare instances, that a student forgets lunch, a parent may bring it in; however, food deliveries for an individual or for a group of students disrupt the normal operation of the school community. Requests for food deliveries to accommodate a group must be approved in advance by the principal, i.e., classroom activities, birthdays, etc.
4. Distribute or wear materials on school grounds or at school functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the school program.

5. Intimidate, harass, threaten, abuse or discriminate against any person based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, age, gender, sexual orientation or disability.
6. Enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed. Actions that create a breach in building security. This includes, but is not limited to, propping exterior doors open, leaving windows open, admitting individuals into the building through any means besides the designated front entrance, and not following sign-in/sign-out procedures upon entering or exiting the premises.
7. Actions that create a breach in building security. This includes, but is not limited to, propping exterior doors open, leaving windows open, admitting individuals into the building through any means besides the designated front entrance, and not following sign-in/sign-out procedures upon entering or exiting the premises.
8. Obstruct the free movement of any person in any place to which this code applies.
9. Violate the traffic laws, parking regulations or other restrictions on vehicles;
10. Possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.
11. Possess or attempt to buy and possess drug paraphernalia.
12. Possess or use weapons, display what appears to be a weapon, or threaten to use a weapon, in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by the school district.
13. Loiter on or about school property.
14. Gamble on school property or at school functions.
15. Refuse to comply with any directive of identifiable school district officials performing their duties.
16. Willfully incite others to commit any of the acts prohibited by this code.
17. Violate any federal or state statute, local ordinance or board policy while on school property or while at a school function. This explicitly includes, but is not limited to violation of the requirement that no smoking is allowed in school facilities or on school property.

**B. Penalties**

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

1. Visitors. Their authorization, if any, to remain on school grounds or at the school 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. 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 or contractual rights that they may have.
3. District employees, other than tenured faculty members, 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.

### **C. Enforcement**

The superintendent, building principals or their designees shall be responsible for enforcing the conduct required by this code.

When the building principal or his or her designee sees an individual engaged in prohibited conduct, which in his or her judgment does not pose any immediate threat of injury to persons or property, the principal or his or her designee shall tell the individual that the conduct is prohibited, and warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the prohibited conduct, or if the person's conduct poses an immediate threat of injury to persons or property, the principal or his or her designee shall have the individual removed immediately from school property or the school function. If necessary, local law enforcement authorities will be contacted to assist in removing the person.

NOTE: For further policy-related information about school district relations with law enforcement officials, see Policy #7441 on law enforcement officials and student interrogations.

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

## **XIV. Dissemination and Review**

### **A. Dissemination of Code of Conduct**

The board will work to ensure that the community is aware of this code of conduct by:

1. Providing copies of a summary of the code in age appropriate and plain language to all students at a general assembly held at the beginning of each school year.
2. Making copies of the code available to all parents at the beginning of the school year.
3. Mailing a summary of the code of conduct written in plain language to all parents of district students before the beginning of the school year and making this summary available later upon request.
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 code available for review by students, parents and other community members.

## Pioneer Central School District Code of Conduct

The board will sponsor an in-service education program for all district staff members to ensure the effective implementation of the code of conduct. The superintendent may solicit the recommendations of the district staff, particularly teachers and administrators, regarding in service programs pertaining to the management and discipline of students.

The board of education will review this code of conduct every year and update it as necessary. In conducting the review, the board will 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 district's response to code of conduct violations. The committee will be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

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

The code of conduct and any amendments to it will be filed with the Commissioner no later than 30 days after adoption.

## Appendix A

### Procedures for Students with Disabilities

#### A. Authorized Suspensions or Removals of Students with Disabilities

1. For purposes of this section of the code of conduct, the following definitions apply.  
A “suspension” means a suspension pursuant to Education Law § 3214.  
A “removal” means a removal for disciplinary reasons from the student’s current educational placement other than a suspension and change in placement to an interim alternative educational setting (IAES) ordered by an impartial hearing officer because the student poses a risk of harm to himself or herself or others.  
An “IAES” means a temporary educational placement for a period of up to 45 days, other than the student’s current placement at the time the behavior precipitating the IAES placement occurred, that enables the student to continue to progress in the general curriculum, although in another setting, to continue to receive those services and modifications, including those described on the student’s current individualized education program (IEP), that will enable the student to meet the goals set out in such IEP, and include services and modifications to address the behavior which precipitated the IAES placement that are designed to prevent the behavior from recurring.
2. School personnel may order the suspension or removal of a student with a disability from his or her current educational placement as follows:
  - a. The board, the district (BOCES) superintendent of schools or a building principal 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 and not to exceed the amount of time a non-disabled student would be subject to suspension for the same behavior.
  - b. The superintendent may order the placement of a student with a disability into an IAES, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed under subparagraph (a) above for the same behavior, if the superintendent determines that the student has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non-disabled students would be subject to suspension for the same behavior.
  - c. The superintendent may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.
  - d. The superintendent may order the placement of a student with a disability in an IAES to be determined by the committee on special education (CSE), for the same amount of time that a student without a disability would be subject to discipline, but not more than 45 days, if the student carries or possesses a weapon to school or to a school function, or the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

- 1) “Weapon” means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. Specifically this is 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. Pocketknives with a blade of less than two-and-one-half inches in length are excluded from the definition.
- 2) “Controlled substance” means a drug or other substance identified in certain provisions of the federal Controlled Substances Act specified in both federal and state law and regulations applicable to this policy.
- 3) “Illegal drugs” means a controlled substance except for those legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or any other federal law.
- 4) Subject to specified conditions required by both federal and state law and regulations, an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 days at a time, if maintaining the student in his or her current educational placement poses a risk of harm to the student or others.

#### **B. Change of Placement Rule**

1. A disciplinary change in placement means a suspension or removal from a student’s current educational placement that is either:
  - b. for more than 10 consecutive school days; or
  - c. 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 and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.
2. School personnel may not suspend or remove a student with disabilities if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal.
3. However, the district may impose a suspension or removal, which would otherwise result in a disciplinary change in placement, based on a pattern of suspensions or removals if the CSE has determined that the behavior was not a manifestation of the student’s disability, or the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances.

#### **C. Special Rules Regarding the Suspension or Removal of Students with Disabilities**

1. The district’s Committee on Special Education shall:
  - a. Conduct functional behavioral assessments to determine why a student engages in a particular behavior, and develop or review behavioral intervention plans whenever the district is first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes

a disciplinary change in placement, including a change in placement to an IAES for misconduct involving weapons, illegal drugs or controlled substances.

If subsequently, a student with a disability who has a behavioral intervention plan and who has been suspended or removed from his or her current educational placement for more than 10 school days in a school year is subjected to a suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more members of the CSE believe that modifications are needed, the school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.

- b. Conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to disciplinary action whenever a decision is made to place a student in an IAES either for misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension that constitutes a disciplinary change in placement.
2. The parents of a student who is facing disciplinary action, but who has not been determined to be eligible for services under IDEA and Article 89 at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and state statutory and regulatory criteria, the school district is deemed to have had knowledge that their child was a student with a disability before the behavior precipitating disciplinary action occurred. If the district is deemed to have had such knowledge, the student will be considered a student presumed to have a disability for discipline purposes.
    - a. The superintendent, building principal or other school official imposing a suspension or removal shall be responsible for determining whether the student is a student presumed to have a disability.
    - b. A student will not be considered a student presumed to have a disability for discipline purposes if, upon receipt of information supporting a claim that the district had knowledge the student was a student with a disability, the district either:
      - 1) conducted an individual evaluation and determined that the student is not a student with a disability, or
      - 2) determined that an evaluation was not necessary and provided notice to the parents of such determination, in the manner required by applicable law and regulations.

If there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other non-disabled student who engaged in comparable behaviors.

However, if a request for an individual evaluation is made while such non-disabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted and completed in the manner prescribed by applicable federal and state law and regulations. Until the expedited evaluation is completed, the non-disabled student who is not a student presumed to have a disability for discipline purposes shall remain in the educational placement determined by the district, which can include suspension.

3. The district shall provide parents with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his/her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement.
4. The procedural safeguards notice prescribed by the Commissioner shall accompany the disciplinary removal.
5. The parents of a student with disabilities subject to a suspension of five consecutive school days or less shall be provided with the same opportunity for an informal conference available to parents of non-disabled students under the Education Law.
6. Superintendent hearings on disciplinary charges against students with disabilities subject to a suspension of more than five school days shall be bifurcated into a guilt phase and a penalty phase in accordance with the procedures set forth in the Commissioner's regulations incorporated into this code.
7. The removal of a student with disabilities other than a suspension or placement in an IAES shall be conducted in accordance with the due process procedures applicable to such removals of non-disabled students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless the CSE has determined that the behavior is not a manifestation of the student's disability.
8. During any period of suspension or removal, including placement in an IAES, students with disabilities shall be provided services as required by the Commissioner's regulations incorporated into this code.

#### **D. Expedited Due Process Hearings**

1. An expedited due process hearing shall be conducted in the manner specified by the Commissioner's regulations incorporated into this code, if:
  - a. The district requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his or her current educational placement, or during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings.
  - b. The parent requests such a hearing from a determination that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding placement, including but not limited to any decision to place the student in an IAES.

- 1) During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES for behavior involving weapons, illegal drugs or controlled substances, or on grounds of dangerousness, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing officer or until expiration of the IAES placement, whichever occurs first, unless the parents and the district agree otherwise.
  - 2) If school personnel propose to change the student's placement after expiration of an IAES placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the placement prior to removal to the IAES, except where the student is again placed in an IAES.
2. An expedited due process hearing shall be completed within 15 business days of receipt of the request for a hearing. Although the impartial hearing officer may grant specific extensions of such time period, he or she must mail a written decision to the district and the parents within five business days after the last hearing date, and in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extensions.

**E. Referral to law enforcement and judicial authorities**

In accordance with the provisions of IDEA and its implementing regulations:

1. The district may report a crime committed by a child with a disability to appropriate authorities, and such action will not constitute a change of the student's placement.
2. The superintendent shall ensure that copies of the special education and disciplinary records of a student with disabilities are transmitted for consideration to the appropriate authorities to whom a crime is reported.