

Sole Supervisory District Oneida-Herkimer-Madison BOCES

2011-2012 Code of Conduct

2011-2012 CODE OF CONDUCT

IN ACCORDANCE WITH
THE NEW YORK STATE
SCHOOLS AGAINST VIOLENCE
IN EDUCATION ACT

Table of Contents

| | | |
|-------|--|----|
| I. | Introduction | 2 |
| II. | Definitions | 2 |
| III. | Student Bill of Rights and Responsibilities | 5 |
| IV. | The Role of Essential Parties | 6 |
| V. | Student Dress Code | 8 |
| VI. | Prohibited Student Conduct | 10 |
| VII. | Reporting Violations | 13 |
| VIII. | Disciplinary Penalties, Procedures & Referrals | 14 |
| IX. | Alternative Instruction | 24 |
| X. | Discipline of Students with Disabilities | 24 |
| XI. | Corporal Punishment | 30 |
| XII. | Student Searches and Interrogations | 30 |
| XIII. | Visitors to the Schools | 34 |
| XIV. | Public Conduct on School Property | 35 |
| XV. | Employee Expectations | 37 |
| XVI. | Dissemination and Review | 37 |

CODE OF CONDUCT

I. Introduction

The Oneida-Herkimer-Madison BOCES (BOCES) Board of Education has adopted a comprehensive Code of Conduct which aligns with the New York State SAVE Legislation, delivers the highest quality of education that can be provided to students, and formulates a policy which provides our children a safe school environment.

The Cooperative Board's purpose is to meet the requirements established by the new SAVE Legislation (Safe Schools Against Violence in Education Act (Chapter 181 of the Laws of 2000) and Section 100.2 of the implementing Commissioner's Regulations and in collaboration with students, teachers, administrators, parents, school safety personnel and other school personnel) and make provisions for the governing of the conduct of students, school personnel and visitors on school property, on school buses and at school-sponsored functions. In order to do so, BOCES' comprehensive approach attempts to assure the constitutional rights of every student to expect an education delivered in an environment which is conducive to learning and free of disruption. Furthermore, it deals with any form of school violence that endangers the safety and welfare of students and disrupts the learning environment.

BOCES has also established certain expectations for conduct on school property and at school functions. These expectations are based upon:

1. **Enforcing of school rules in a fair, firm, consistent campus-wide manner.**
2. Utilizing positive reinforcement for acceptable behavior.
3. Keeping open communication with parents and the community.
4. Demonstrating by work and personal example, respect for law, order, self-discipline, and strive to uphold principles of civility, mutual respect, citizenship, character tolerance, honesty and integrity.

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 - an elementary or secondary student age 21 or under who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

Parent - parent, legal guardian or person in parental role to a student.

School property - in any building, or structure, or on any 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.

School function - any school-sponsored extracurricular event or activity. It shall also refer to any place where students are in attendance due to a school function such as field trip, away athletic games, etc.

Prohibited conduct - no person, either singly or in concert with others, shall:

1. Cause physical injury to any other person, or threaten to do so for the purpose of compelling or inducing such other person to refrain from any act which he or she has a lawful right to do, or to do any act which he/she has a lawful right not to do.
2. Damage or destroy property of BOCES or remove or use such property without authorization.
3. Enter into any private office, desk, files or vehicle of an administrative officer, faculty member or staff member without permission, express or implied. This prohibition does not apply to law enforcement officers or individuals designated by the Superintendent to conduct lawful investigations of alleged misconduct.

Violent student - a student age 21 or under who:

1. Commits an act of violence upon a school employee, or attempts to do so.
2. Commits, or attempts, 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.
3. Possesses a weapon while on school property or at a school function.
4. Displays what appears to be a weapon while on school property or at a school function.
5. Threatens to use a weapon while on school property or at a school function.
6. 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.
7. Knowingly and intentionally damages or destroys BOCES' property.
8. Conspires, either with others or alone, in an attempt to commit an act of violence.

Harassment – a person is guilty of harassment if they:

1. engage in a course of conduct or by repeating committing acts which places such persons in reasonable fear of physical injury.
2. with intent, harass, annoy, threaten or alarm another person. Acts are, but are not limited to:
 - a. striking, shoving, kicking or otherwise subject such other person to physical contact, or attempts or threaten to do the same.

- b. communicate or causes communication to be initiated in a manner likely to cause annoyance or alarm.

Assault - a person is guilty of assault when:

1. with intent to cause serious physical injury to another person, he/she causes such injury to such person or to a third person; or
2. they recklessly cause physical injury to another person; or
3. with criminal negligence, he/she causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

Other circumstances involving assault, but are not limited to are:

1. intent to disfigure.
2. evincing a depraved indifference to human life, recklessly engaging in conduct which creates a grave risk of death to another person.

Weapon - a firearm (The term “firearm” as used in Section IV subsection (B)(2)(h) is defined in 18 U.S.C.A. Section 921(3) and shall include any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. The term “destructive device” means any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge or more than one-quarter ounce, mine or any device similar to any of those devices already described in this paragraph. Except that “destruction device” shall not mean any device not designed or redesigned for use as a weapon.) 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, pocket knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, paint ball guns, pellet guns, 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.

Illegal Substance - Included, but are not limited to, inhalants, marijuana, cocaine, LSD, PSP, amphetamines, barbiturates, ecstasy, heroin, steroids and any substances commonly referred to as designer drugs. This also includes any prescription drugs sold, used by or in the possession of any person other than the prescribed, as well as, unauthorized possession of any and all over-the-counter drugs or medicines.

Searches:

Probable cause – reasonably trustworthy facts and circumstances known at the time of an arrest, sufficient to convince a fair-minded person of average intelligence that the suspect had committed or was committing an offence.

Reasonable suspicion – something less than “probable cause” (may rely on fewer trustworthy facts than probable cause). A search must be justified at the time of its inception (i.e., there must be reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating the law or school rules).

III. Student Bill of Rights and Responsibilities

A. Student Rights

BOCES is committed to safeguarding the rights given to all students under state and federal law, as well as focusing upon positive student behavior. In addition, to promote a safe, healthy, orderly and civil school environment, all BOCES students have the right to:

1. Take part in all BOCES activities on an equal basis regardless of race, color, creed, national origin, religion, gender, disability, or any other category of individuals protected against discrimination by federal, state or local law.
2. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty in connection with the imposition of the penalty.
3. Access school rules and, when necessary, receive an explanation of those rules from school personnel.

B. Student Responsibilities

All BOCES 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 BOCES’ policies, rules and regulations dealing with student conduct.
3. Adhere to the prohibition and usage of all drugs, alcohol, cigarettes, electronic cigarettes, chewing tobacco, lighters, matches, energy drinks and any objects which may be considered a weapon.
4. Attend school every day unless legally excused, and be in class, on time, and prepared to learn.
5. Approach teachers, if they have been absent, to make up missed work.
6. Obtain assignments ahead of time from their teacher if they know they are going to be out for an extended time.
7. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
8. Adhere to direction given by all school personnel in a respectful, positive manner.

9. Work to develop strategies to control their anger.
10. Ask questions when they do not understand.
11. Seek help in solving problems to avoid inappropriate behaviors which may lead to disciplinary measures.
12. Dress appropriately for school and school functions.
13. Accept responsibility for their actions.
14. Conduct themselves as representatives of BOCES when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.

IV. The Role of Essential Parties

A. Parents

All parents are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the parents 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 as required by State Education Law.
4. Provide written excuses for all absences.
5. Provide for their children's health, personal cleanliness, suitable grooming and dress 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 and help their children understand them. Teach their child respect for the law, for the authority of the school and for the rights and property of others.
8. Convey to their children a supportive attitude toward education and BOCES.
9. Build good relationships with teachers, other parents and their children's friends.
10. Help their children deal effectively with peer pressure.
11. Inform school officials of changes in the home situation that may affect student conduct or performance.
12. Provide a place for study and ensure homework assignments are completed.
13. Provide schools with the means to contact them or a designated person during regular school hours in case of an emergency or a discipline problem.
14. Provide school with any changes in:
 - address
 - telephone number
 - emergency contact
 - custodial designee
 - medication

B. Teachers

All BOCES teachers are expected to:

1. Maintain a climate of mutual respect and dignity in order to strengthen students' self-concept and promote confidence to learn.
2. Assist students in coping with peer pressure and emerging personal, social and emotional problems, and make referrals as needed.
3. Be prepared to teach.
4. Demonstrate interest in teaching and concern for student achievement.
5. Know school policies and rules, and enforce them in a fair and consistent manner.
6. Communicate to students and 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 and achievement.
8. Communicate and reinforce BOCES' Code of Conduct on a daily basis.

C. Guidance Counselors/Social Worker

1. Maintain a climate of mutual respect and dignity in order to strengthen students' self-concept and promote confidence to learn.
2. Know school policies and rules, and enforce them in a fair and consistent manner.
3. Assist students in coping with peer pressure and emerging personal, social and emotional problems, and make referrals as needed.
4. Initiate teacher/student/counselor conferences, as necessary, as a way to resolve problems.
5. Review educational progress and career plans with students on a regular basis.
6. Provide information to assist students with career planning.
7. Encourage students to benefit from the curriculum and extracurricular programs.
8. Communicate and reinforce the BOCES' Code of Conduct on a regular basis.

D. Support Staff

1. Maintain a climate of mutual respect and dignity which will strengthen students' self-concept and promote confidence to learn.
2. Know school policies and rules, and enforce them in a fair and consistent manner.
3. Communicate and reinforce BOCES' Code of Conduct on a regular basis.
4. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
5. Initiate teacher/student/counselor conference, as necessary, as a way to resolve problems.
6. Promote a safe, orderly and stimulating school environment to support active teaching and learning.

E. Principals

1. Maintain a climate of mutual respect and dignity in order to strengthen students' self-concept and promote confidence to learn.
2. Know school policies and rules, and enforce them in a fair, consistent, campus-wide manner.
3. Promote a safe, orderly and stimulating school environment to support active teaching and learning.
4. Ensure that students and staff have the opportunity to communicate regularly with the principal and approach the principal for redress of grievances.
5. Evaluate on a regular basis all instructional programs.
6. Support the development of and student participation in appropriate extracurricular activities.
7. Enforce the Code of Conduct and will endeavor to resolve all cases promptly and fairly.

F. District Superintendent

1. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. Review with district administrators, the policies of the Cooperative Board of Education and state and federal laws relating to school operations and management.
3. Inform the Cooperative Board about educational trends relating to student discipline.
4. Work to create and support instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.
5. Work with BOCES administrators in enforcing the Code of Conduct and will endeavor to resolve all cases promptly and fairly.

G. Cooperative Board of Education

1. Collaborate with student, teacher, administrator, parent organizations, school safety personnel and other school personnel to develop Code of Conduct that clearly defines expectations for the conduct of students, BOCES personnel and visitors on school property and at school functions.
2. Adopt and review annually BOCES' Code of Conduct to evaluate the Code's effectiveness and the fairness and consistency of its implementation.
3. Lead by example by conducting Cooperative Board meetings in a professional, respectful and courteous manner.

V. Student Dress Code

The intent of the dress code is to foster an environment that is sanitary, safe and conducive to teaching and student learning.

All students are expected to give proper attention to personal cleanliness and to dress appropriately and acceptably for school and school functions. Students and their parents have the primary responsibility for acceptable student dress, appearance, hygiene and

behavior. Teachers and all other BOCES personnel should exemplify and reinforce dress and behavior to help students develop an understanding of appropriate appearances and behavior in the school setting.

A student's dress, grooming, hygiene and appearance, including hair style/color, 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 including tube tops, net tops, halter tops, spaghetti straps, plunging necklines (front and/or back) and see-through garments are too revealing and are prohibited.
3. Ensure that undergarments are completely covered with outer clothing.
4. Recognize that skirts and dresses with high slits are not appropriate. Skirts, dresses or shorts that are too short are not appropriate. The length of slits and hemlines should not be over 5" above the knee. Any upper body or lower body garments that reveal the navel is not appropriate.
5. Include appropriate footwear at all times. Footwear that is a safety hazard will not be allowed.
6. Prohibit the wearing of pajamas and slippers.
7. Prohibit the wearing of hats, bandanas, scarves or other head coverings in school, except for a medical reason, religious purpose or instructional necessity (CTE). Hats, bandanas, scarves or other head coverings that display indecent language, impose a health risks, disrupts or creates other compelling educational concerns are prohibited.
8. Prohibit the wearing of any articles that display any and all gang related colors, slogans or other related forms.
9. Not include items that are vulgar, obscene, libelous or that denigrate others on account of race, color, religion, creed, national origin, gender, sexual orientation or disability.
10. Not promote nor endorse the use of alcohol, tobacco or illegal drugs nor encourage other illegal or violent activities.
11. Not include items which are gang related or display gang involvement.
12. Not include chains, spiked accessories or any other item which could be harmful or dangerous.
13. Remove all heavy winter outerwear in the building as required by the New York State Health Department.
14. Shall wear all safety equipment and attire as required by OSHA for CTEC.
15. Prohibit clothing and jewelry that presents a safety hazard.

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 removing the offending item, replacing it by an acceptable item, or by covering it up. Furthermore, if it is necessary, a parent/guardian may be required to bring an acceptable item to school for their child to change into. Any student who refuses to do so shall be

subject to disciplinary action. Any student who repeatedly fails to comply with the dress code shall be subject to further disciplinary action.

VI. Prohibited Student Conduct

The Cooperative Board expects all students to conduct themselves in an appropriate, acceptable and civil manner, with proper regard for the rights and welfare of other students, BOCES personnel and other members of the school community, and for the care of school facilities and equipment. The Board also recognizes that the involvement of parents, teachers, administrators and other school personnel shall play a role in maintaining proper student conduct. (See Section II, Definition of Prohibited Conduct).

The best discipline is self-imposed, and students must learn to assume and accept responsibility for their behavior. 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.

The Cooperative Board recognizes the need to set specific and clear expectations for student conduct while on school property or engaged in a school function. The rules of conduct listed below are intended to meet this objective, while focusing 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 school rules will be required to accept the penalties for their conduct.

Students will 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, but are not limited to:

1. Boisterous behavior and running in hallways.
2. Making unreasonable noise.
3. Using language or gestures that are profane, lewd, vulgar, abusive or have racial, gender, or religious implications.
4. Obstructing vehicular or pedestrian traffic.
5. Engaging in any willful act which disrupts the normal operation of the school community.
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. Students are not allowed on school property other than for regular school or extracurricular activity. Students are also not allowed on school property when suspended out-of-school.
7. Computer/electronic communications misuse, including any unauthorized use of computers, software, or internet/intranet account; accessing inappropriate websites; or any other violation of BOCES' acceptable use policy.

8. The use of MP3 players, iPods, walkmans, radios/players are prohibited in classrooms without authorization or specifically designated on a student's I.E.P. Beepers, pagers and laser light devices are prohibited in school.
9. The use of cell phones and electronic communication devices is strictly prohibited in school.
10. The use of skateboards, roller skates, scooters and in-line skates on school property.
11. Cutting classes
12. Spitting, gleeking or any action that allows any substance to be emitted or discharged from the mouth or nose.
13. Not promote, endorse, possess or use alcohol, tobacco, tobacco products or electronic substitutes, lighters, matches or any object that may be deemed a weapon.

B. Engage in conduct that is insubordinate. Examples of insubordination conduct include, but are not limited to:

1. Failure to comply with the reasonable directions of teachers, school administrators or other school employees in charge of students.
2. Demonstrating disrespect.
3. Tardiness, missing or leaving school without permission.
4. Skipping detention.
5. Spitting, gleeking or any action that allows any substance to be emitted or discharged from the mouth or nose.

C. Engage in conduct that is disruptive. Examples of disruptive conduct include, but are not limited to:

1. Violating BOCES Acceptable Use Policy.
2. Failure to comply with the reasonable directions of teachers, school administrators or other school personnel in charge of students.
3. Unacceptable classroom behavior which interferes with the learning process of any other student.
4. Unacceptable classroom behavior which is disrespectful toward teachers, staff members or peers.
5. Inappropriate noise or talking in class.
6. Public displays of affection.
7. Spitting, gleeking or any action that allows any substance to be emitted or discharged from the mouth or nose.

D. Engage in conduct that is violent. Examples of violent conduct include, but are limited to:

1. Committing an act of violence (such as, but not inclusive of, 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, but not inclusive of, 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. Communicating threats to use any weapon.
6. Damaging, destroying, or stealing the personal property of a student, teacher, administrator, other BOCES employee or any person lawfully on school property, including graffiti or arson.
7. Damaging or destroying BOCES property.
8. Spitting, gleeking or any action that allows any substance to be emitted or discharged from the mouth or nose.

E. Engage in any conduct that endangers the safety, morals, health or welfare of self and/or of others. Examples of such conduct include, but are not limited to:

1. Lying to school personnel or impeding an investigation.
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 or unprivileged 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.
4. Discrimination, which includes the use of race, color, creed, national origin, religion, gender, sexual orientation or disability as a basis for treating another in a negative manner.
5. Harassment, which includes a sufficiently severe action, statement or a persistent, pervasive pattern of actions or statements directed at an identifiable individual or group which are intended to be, or which a reasonable person would perceive as, ridiculing, demeaning or sexual.
6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm.
7. 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.
8. Selling, using or possessing obscene material.
9. Using vulgar, discriminatory, or abusive language, cursing or swearing.
10. All tobacco products and associated items (lighters, matches) are prohibited on campus. In addition to behavioral consequences, Law Enforcement will be notified.
11. Possessing, consuming, selling, distributing or exchanging alcoholic or illegal substances, or being under the influence of either. "Illegal substances" include, but are not limited to, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs and any substances commonly referred to as "designer drugs." Law Enforcement will be notified.

12. Possessing, selling, distributing, exchanging any instrument for the use of drugs, controlled substance or marijuana such as rolling papers, pipes, syringes, clips or other paraphernalia. Law Enforcement will be notified.
13. Inappropriately using, sharing or selling prescription and over-the-counter drugs. Law Enforcement will be notified.
14. Spitting, gleeking or any action that allows any substance to be emitted or discharged from the mouth or nose.
15. Gambling.
16. Extortion.
17. Indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
18. Initiating or engaging in a report warning of fire, bomb threat or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
19. Leaving school grounds or building without permission.
20. Fighting, threatening, intimidating or endangering others.
21. Forgery.

F. Engage in misconduct while on a school bus. It is crucial for students to behave appropriately while riding on school 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. Any noise, pushing, shoving, spitting and fighting will not be tolerated.

G. Engage in any form of academic misconduct. Examples of academic misconduct 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.

VII. Reporting Violations

A. Procedures to Inform Law Enforcement Officials of a Crime and Filing Criminal/Juvenile Delinquency Complaints:

1. In the case of a violation of this section or any other provision of this Code of Conduct which constitutes a crime, the Superintendent has established the following procedures to report such an incident to the appropriate law enforcement agency and to follow through with filing a criminal/juvenile delinquency complaint:
 - a. All individuals are expected to promptly report violations of the Code of Conduct to a teacher, guidance counselor/social workers, the building principal or his/her designee. Any individual observing a person possessing, discussing the possession of or using a weapon, alcohol or an illegal substance

on school property, a school bus, or at a school function shall report this information immediately.

- b. The principal and/or his/her designee will gather the necessary information to determine whether they believe a crime has been committed. Any weapon, alcohol or illegal substance shall be confiscated. If it has been determined that a crime has been committed, the appropriate law enforcement agency will be contacted immediately, followed by notification to the parents/guardian of the student(s) involved. These procedures should be followed in all circumstances except in reporting “child abuse in an educational setting” where the procedures for reporting such incidents is set forth in the statute.
- c. The building principal or his/her designee must notify the appropriate local law enforcement agency of any code violations that constitute a crime or substantially affect the order or security of a school as soon as practical, but in no event no 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 the 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.
- d. If, in consultation with the local law enforcement agency, the school district is deemed the appropriate entity to file a criminal/juvenile delinquency complaint against the code violator, the appropriate school official (e.g., building principal) will be expected to file such a complaint. Where the victim of the crime is an individual, whether a student, teacher, staff member, visitor, etc., the crime victim will be strongly encouraged to file such a complaint.
- e. All BOCES staff who are authorized to impose disciplinary sanctions are expected to do so in a prompt, fair and lawful manner. BOCES staff who 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.

VIII. Disciplinary Penalties, Procedures and Referrals

Discipline is often most effective when it deals directly with the problem at the time and place it occurs, and in a way the students view as fair and impartial. BOCES personnel who interact with students are expected to use disciplinary action only when appropriate and to place emphasis on the student’s ability to grow in self-discipline. (Refer to policy on Gun-Free School Law, Section VIII., C., 1. of this policy).

Disciplining action, when necessary, will be firm, fair and consistent so as to be the most effective in changing student behavior and protecting the student body. In determining the appropriate disciplinary action, BOCES personnel authorized to impose disciplinary penalties 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 all available forms of discipline.
5. Information from parents, teachers and/or others, as appropriate.
6. Other extenuating circumstances.

As a general rule, discipline will be progressive, unless it poses a serious threat or endangerment. This often means that a student's first violation will merit a lighter penalty than subsequent violations. However, the district may impose any level of discipline, even for a first violation, that is proportionate to the misconduct at issue.

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. 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. They shall not be disciplined for behavior related to his or her disability.

A. Penalties

Students who are found to have violated the BOCES' Code of Conduct may be subject to any combination of the following penalties. The BOCES personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

1. Verbal warning - any member of the BOCES staff.
2. Written warning - bus drivers, coaches, guidance counselors/social workers, student managers, teacher assistants, teachers, principal, district superintendent or designee.
3. Written notification to parent - bus driver, coaches, guidance counselors/social workers, teachers, principal, district superintendent or designee.
4. Detention – teachers may assign detentions if they are consistent with the building detention policy.
5. Detention - principal, district superintendent or designee.
6. Suspension from transportation - director of transportation, principal, district superintendent or designee.
7. Suspension from social or extracurricular activities - principal, district superintendent or designee.
8. Suspension of other privileges - principal, assistant superintendent, district superintendent or designee.
9. In-school suspension - principal, assistant superintendent, district superintendent or designee.
10. Removal from classroom by teacher - teachers, principal.
11. Short-term (five days or less) suspension from BOCES program - principal, assistant superintendent, district superintendent.
12. Long-term (more than five days) suspension from BOCES program - district superintendent.

13. Restitution for damage to school property or the personal property of any staff member - principal.

B. Procedures

The amount of due process students are entitled to receive before a penalty is imposed depends on the penalty being imposed. In all cases, regardless of the penalty imposed, the BOCES 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 BOCES personnel imposing the disciplinary penalty in connection with the imposition of the penalty.

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

At present, a BOCES detention program does not exist. If, in the future, BOCES incorporates a detention program, the following policy will be followed:

Teachers, principals and the superintendent 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 been notified to confirm that the student has appropriate transportation home following detention. Assignment to a detention must comply with building detention policy and procedure.

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 either the district's administrator or the BOCES administrator depending on the individual district's designation of dealing with bus behavior. Students who become a serious disciplinary problem may have their riding privileges suspended by the district. In such cases, the student's parent will become responsible for seeing that his/her child gets to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the district will make appropriate arrangements to provide for the student's education.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent 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.

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

A student subjected to a suspension from athletic participation, extra-curricular activities or other privileges will follow the sending district's policy, if it applies to the district's activity or privilege. If it does not, then the decision to suspend a student from athletic participation, extra-curricular activities and other privileges will be a shared decision between the staff or faculty involved in the activity, and the building principal.

4. In-school suspension

The Cooperative 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 staff will be supervised by a certified teacher.

A student subjected to an in-school suspension is not entitled to 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 BOCES 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 and should make every effort to control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. When these techniques fail a teacher may direct a student to briefly leave the classroom to give the student an opportunity to regain his/her composure and self-control in an alternative setting. Short-term time out will be in a designated area.

The teacher who removes a student from the classroom is responsible to see that equal instructional time that the student was removed is made up.

On occasion, a student's behavior may become disruptive. In order to initiate a removal of a student from the classroom, the teacher must first determine that a student is disruptive. For purposes of this Code of Conduct, a disruptive student is a student who substantially disrupts 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.

Behaviors which do not rise to the level defined as disruptive shall be subject to traditional disciplinary strategies, in accordance with this policy.

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/she is being removed and an opportunity to explain his/her version of the relevant events before the student is removed. Only after the informal discussion may a teacher remove a student from class.

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

The principal or designee will receive notification of a student's removal from the classroom by the teacher by the end of the day. The principal or designee must notify the parent of said removal within a 24-hour time period. If a telephone call is made and the parent is not reached, a letter must be sent out.

The principal may require the teacher who ordered the removal to attend the informal conference if it is held within the teacher's regular school day.

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.

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

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

The principal or his/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.

Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he/she is permitted to return to the classroom.

Each program or site will establish their own procedures for handling record keeping and notification. These must meet the SAVE Legislation requirement.

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement.

6. Suspension from school

Suspension from school is a severe 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 self and/or others.

The Cooperative 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 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 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.

a. Short-term (5 days or less) suspension from school

When the superintendent or principal (referred to as the "suspending authority") proposes to suspend a student charged with misconduct of 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 is being 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 if the school has been provided with a telephone number(s) for the purpose of contacting the parents.

The 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 the 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 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.

After the conference, the principal shall promptly advise the parents in writing of his/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 Cooperative Board with the BOCES clerk within 10 business days of the date of the superintendent's decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board may be appealed to the Commissioner within 30 days of the decision.

b. Long-term (more than 5 days) suspension from school

When the superintendent 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. The building principal may recommend to the superintendent that a suspension of more than five days is warranted. At the hearing the student shall have the right to be represented by counsel, the right to question witnesses against him/her and the right to present witnesses and other evidence on his/her behalf.

The superintendent shall personally hear and determine the proceeding or may, in his/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/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 all or any part thereof.

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 BOCES 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

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

C. Minimum Periods of Suspension

1. Students who bring a weapon to school:

In accordance with the Gun-Free Schools Law (20 U.S.C.A. Section 3351), the Gun-Free Schools Act of 1994 (20 U.S.C.A. Section 8921), New York State Education Law Section 3214(3), and this Board Policy, the punishment for violation of Section VI Subsection D(3), (4), (5) shall be suspension from attendance upon instruction for a period of not less than one calendar year, unless the superintendent shall determine to modify such punishment. The superintendent's determination shall be on a case-by-case basis.

The superintendent shall refer a pupil who has been determined to have violated Section VI subsection D(3),(4), (5) as follows:

1. If the pupil is under 16 years of age, to a presentment agency for a juvenile delinquency proceeding: except a pupil 14 or 15 years of age who qualifies for juvenile offender status in accordance with the Family Court Act, Article 3.
2. If the pupil is 16 years of age or older, or 14 or 15 years of age who qualifies for juvenile offender status, to the appropriate law enforcement agency.

Any student, other than a student with a disability, 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:

1. The student's age.
2. The student's grade in school.
3. The student's prior disciplinary record.
4. The superintendent's belief that other forms of discipline may be more effective.

5. Input from parents, teachers and/or others.
6. Other extenuating circumstances

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

2. Students who commit violent acts other than bringing a weapon to school (Refer to violent student under Section II of this policy):

Any student, other than a student with a disability, 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. The superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the same factor considered in modifying a one-year suspension for possessing a weapon.

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

Any student, other than a student with a disability, who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom will be suspended from school for at least 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 of 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. The superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. 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. Smoking/Tobacco Use

Smoking is against the law on public school property (Public Health Law #13990-0). Consequences have been determined by Oneida-Herkimer-Madison BOCES. They are as follows:

1st Offense The student will be suspended for one full day of in-school suspension, with a letter and a phone call to parents notifying them of the disciplinary process. The student may be given an additional assignment and or task, as deemed appropriate, to educate the student to the harmful effects of tobacco product usage.

2nd Offense The student will be suspended for an increased amount of time in in-school suspension. A letter will be sent, followed by a phone call to parents, notifying them of the second offense and requesting a conference. The student may be given an additional assignment and or task, as deemed appropriate, to educate the student to the harmful effects of tobacco product usage.

3rd Offense The student will be suspended out-of-school for a minimum of one day, followed by a letter and a phone call to parents notifying them of the third offense. Additionally, this letter will be followed by a phone call to the parents to establish the date and time of a conference. The student may be given an additional assignment and or task, as deemed appropriate, to educate the student to the harmful effects of tobacco product usage.

Subsequent Offenses The student will be suspended out-of-school up to a maximum of five days. Parents will be notified by a letter and a phone call regarding these continued offenses and a re-entry meeting with parents will be arranged.

E. Referrals

1. Counseling

The Guidance Counselor/Social Worker Office shall handle all referrals of students to counseling.

2. PINS Petitions

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

- a. Being habitually truant and not attending school as required by Part One of Article 65 of the Education Law.
- b. 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 sufficient basis for filing a PINS petition.

3. 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 of Education Law §3214, BOCES will take immediate steps in conjunction with the provisions under Section VIII., B., 5. of this document to provide attendance means or instruction for the student.

X. Discipline of Students with Disabilities

The Cooperative 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 ensuring that the procedures followed for suspending, removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable laws and regulations.

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 regulations.

Students that are enrolled in an Oneida BOCES Special Education Program located at a school district site are required to follow the Code of Conduct of the district and of Oneida BOCES.

A. Authorized Suspensions or Removals of Students with Disabilities

1. For purposes of this section of the Code of Conduct, the following definitions apply:

Student with a Disability – means a student with a disability as defined in Section 4401(1) of the Education Law.

Suspension - a suspension pursuant to Education Law §3214.

Removal - 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/herself or others.

IAES - 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. BOCES personnel may order the suspension or removal of a student with a disability from his/her current educational placement as follows:
 - a. The Cooperative 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 to or possesses a weapon in school or at 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** - the same as "dangerous weapon" under 18 U.S.C §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.

- 2) **Controlled substances** - a drug or other substance identified in certain provisions of the federal and state law and regulations applicable to this policy. (Federal Controlled Substances Act (21.U.S.C. §802 [6])).
 - 3) **Illegal drugs** - 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.
3. 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/her current education 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:
 - 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 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. BOCES 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.

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/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/her 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.

The procedural safeguards notice prescribed by the Commissioner shall accompany the notice of disciplinary removal.

4. 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.
5. 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.
6. 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.

7. 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/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/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 BOCES 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/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. Any transmission of records shall be accomplished only in accordance with the Family Educational Rights and Privacy Act (20 U.S.C.§1932g).

XI. Corporal Punishment

Corporal punishment is any act of physical force upon a student for the purpose of punishing that student. Corporal punishment of a student by any BOCES employee is strictly forbidden.

However, in situations where alternative procedures and methods that do not involve the use of physical force cannot reasonably be employed, reasonable physical force may be used to:

1. Protect oneself, another student, teacher or any person from physical injury.
2. Protect the property of the school or others.
3. Restrain or remove a student whose behavior interferes with the orderly exercise and performance of school district functions, powers and duties, if that student has refused to refrain from further disruptive acts.

BOCES will file all complaints about the use of corporal punishment with the Commissioner of Education in accordance with Commissioner's regulations.

XII. Student Searches and Interrogations

The Cooperative Board of education is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary penalty on a student may question a student about an alleged violation of law or BOCES Code of Conduct. Students are not entitled to any sort of "Miranda"-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, school officials will tell all students why they are being questioned.

The Cooperative Board authorized the superintendent, building principals, the school nurse, guidance counselor/social worker, district security officials and designated staff to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will result in evidence that the student

violated the law or BOCES' Code of Conduct. Searches can only be conducted in the presence of another designee.

In addition, the Cooperative Board authorizes the superintendent, building principals, the school nurse, guidance counselor/social worker, district security officials and designated staff to conduct periodic "metal detection sweeps" of students to protect the school community from the possibility of the possession of weapons by students. Such "sweeps" should, to the extent possible, include all students present at the time of the sweep, rather than singling out individual students. Students will be given the opportunity to remove items which may "set off" the metal detector. Should the metal detector indicate the presence of additional metal, the authorized staff person(s) conducting the sweep may determine that there is reasonable suspicion for a search, as described below. Signs will be posted on the entrance(s) on the day of the search notifying students a search is in process. Parents/guardians will be contacted if any student refuses to be searched or if anything illegal or potentially dangerous is found. Law enforcement will be present during the metal detection sweeps.

An authorized school official may conduct a search of a student's belongings without reasonable suspicion that is minimally intrusive, such as touching the outside of a book bag. The school official should have legitimate reason for a very limited search. An authorized school official may search a student or the student's belongings based upon information received from a reliable informant. Individuals, other than BOCES employees, will be considered reliable informants if they have previously supplied information that was accurate and verified, or they make an admission against their own interest, or they provide the same information that is received independently from other sources, or they appear to be credible and the information they are communicating relates to an immediate threat to safety. BOCES employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.

Before searching a student or the student's belongings, the authorized school official should attempt to get the student to admit that he/she possesses physical evidence that violates the law or BOCES Code, or get the student to voluntarily consent to the search. Searches will be limited to the extent necessary to locate the evidence sought.

Whenever practicable, searches will be conducted in the privacy of administrative offices or other designated private area and students will be present when their possessions are being searched.

A. Student Lockers, Desks and other School Storage Places

The rules in this Code of Conduct regarding searches of students and their belongings do not apply to student lockers, desks and other school storage places. Students have no reasonable expectations of privacy with respect to these places and school officials retain complete control over them. This means that student lockers, desks and other school storage places may be subject to search at any time by school officials, without prior notice to students and without their consent.

B. Strip Searches

A strip search is a search that requires a student to remove any or all of his/her clothing, other than an outer coat or jacket. If an authorized school official believes it is necessary to conduct a strip search of a student, the school officials may do so only if the search is authorized in advance by the superintendent or the school attorney. The only exception to this rule requiring advanced authorization is when the school official believes there is an emergency situation that could threaten the safety of the student or others.

Strip searches may only be conducted by an authorized school official of the same sex as the student being searched and in the presence of another BOCES professional employee who is also of the same sex as the student.

In every case, the school official conducting a strip search must have probable cause – not simply reasonable cause – to believe the student is concealing evidence of a violation of law or BOCES' Code of Conduct. In addition, before conducting a strip search, the school official must consider the nature of the alleged violation, the student's age, the student's record and the need for such a search.

School officials will attempt to notify the student's parent by telephone before conducting a strip search, or in writing after the fact if the parent could not be reached by telephone.

C. Documentation of Searches

The principal will keep a confidential record of each reported search. The authorized school officials conducting the search shall be responsible for promptly recording the following information about each search:

1. Name, age and grade of student searched.
2. Reasons for the search.
3. Name of any informant(s) must be confidential unless required for a hearing.
4. Purpose of search (this is, what items(s) were being sought).
5. Type and scope of search.
6. Person conducting search and his/her title and position.
7. Witnesses to the search.
8. Time and location of search.
9. Results of search (that is, what items(s) were found).
10. Disposition of items found.
11. Time, manner and results of parental notification.

The building principal or the principal's designee shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The principal or his/her designee 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 or his/her designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

D. Police Involvement in Searches and Interrogations of Students

BOCES officials are committed to cooperating with police officials and other law enforcement authorities to maintain a safe school environment. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work. Police officials may enter school

property or a school function to question or search a student or to conduct a formal investigation involving students only if they have:

1. Search or an arrest warrant; or
2. Probable cause to believe a crime has been committed on school property or at school functions; or
3. Been invited by school administrator or his/her designee.

Before police officials are permitted to question or search any student, the building principal or his/her designee shall first try to notify the student's parents to give the parent the opportunity to be present during the police questioning or search. If the police officials are merely questioning a student regarding an incident not involving their arrest, a parent does not need to be present. If the police official is conducting an interrogation, which may result in an arrest, the student being interrogated must have their parents present, or the school must have obtained permission from the parent for their child to be interrogated, if the student is fifteen (15) years of age or younger. The principal or designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school. This means:

1. They must be informed of their legal rights.
2. They may remain silent if they so desire.
3. They may request the presence of an attorney.

E. Child Protective Services Investigations

Consistent with the district's commitment to keep students safe from harm and the obligation of school officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, BOCES will cooperate with local child protective services workers who wish to conduct interviews of students on school property relating to allegations of suspected child abuse, and/or neglect, or custody investigations.

All requests by child protective services to interview a student on school property shall be made directly to the building principal or his/her designee. The principal or his/her designee shall set the time and place of the interview. The principal or designee shall decide if it is necessary and appropriate for a school official to be present during the interview, depending on the age of the student being interviewed and the nature of the

allegations. If the nature of the allegations is such that it may be necessary for the student to remove any of his/her clothing in order for the child protective services worker to verify the allegations, the school nurse or other BOCES medical personnel must be present during that portion of the interview. No student may be required to remove his/her clothing in front of a child protective services worker or BOCES official of the opposite sex.

A child protective services worker may not remove a student from school property without a court order, unless the worker reasonably believes that the student would be subject to danger of abuse if not he/she were not removed from school 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.

XIII. Visitors to the Schools

The Cooperative Board encourages parents and other district citizens to visit the district's schools and classrooms to observe the work of students, teachers and other staff. Since schools are a place of work and learning, however, certain limits must be set for such visits. Clearly displayed signs must be posted at all entrances informing visitors to report to the main office or designated areas. The building principal or his/her designee is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the schools:

1. Anyone who is not a regular staff member or student of the school will be considered a visitor.
2. All visitors to the school must report to the office of the principal or other designated area upon arrival at the school. 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 principal's office before leaving the building. A visitor may be required to provide identification.
3. Visitors attending school functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
4. Parents or citizens who wish to observe a classroom while school is in session are required to arrange such visits in advance with the classroom teacher(s), so that class disruption is kept to a minimum. The teacher should notify the principal.
5. Teachers are expected not to take class time to discuss individual matters with visitors.
6. Any unauthorized person on school property will be reported to the principal or his/her designee. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.
7. All visitors are expected to abide by the rules for public conduct on school property contained in this Code of Conduct.

XIV. Public Conduct on School Property

BOCES is committed to providing an orderly, safe, 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 BOCES personnel.

The restrictions on public conduct on school property and at school functions contained in this code are not intended to limit freedom of speech or peaceful assembly. BOCES recognizes that free inquiry and free expression are indispensable to the objectives of BOCES. The purpose of this code is to maintain public order and prevent abuse of the rights of others.

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 (refer to Dress Code, Section V) for the purpose they are on school property.

A. Prohibited Conduct

No person, either alone or with others, shall:

1. Injure any person intentionally or threaten to do so.
2. Damage, destroy, or steal school district property or the personal property of a teacher, administrator, other BOCES employee, student, or any person lawfully on school property, including graffiti or arson.
3. Disrupt the orderly conduct of classes, school programs or other school activities.
4. Distribute or wear materials on school grounds or at school functions that are obscene, advocate illegal action, appear libelous, are gang related, obstruct the rights of others, or are disruptive to the school program.
5. Intimidate, harass or discriminate against any person on the basis of race, color, creed, national origin, religion, 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.
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, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.
10. Possess or use weapons in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by BOCES.
11. Loiter on or about school property.
12. Gamble on school property or at school functions.
13. Refuse to comply with any reasonable order of identifiable BOCES officials performing their duties.

14. 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 school property or while at a school function.

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. 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 who are entitled to the protection of Civil Service Law §75 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 4 and 5. 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 building principal or his/her designee shall be responsible for enforcing the conduct required by this code.

When the building principal or his/her designee sees an individual engaged in prohibited conduct, which in his/her judgment does not pose any immediate threat of injury to persons or property, the principal or his/her designee shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The principal or his/her designee should also warn the individual of the consequences for failing to stop, if possible and appropriate. 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/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.

BOCES shall initiate disciplinary action against any student or staff member, as appropriate, with the "Penalties" section above.

In addition, BOCES reserves its right to pursue a civil or criminal legal action against any person violating the code.

XV. Employee Expectations are:

To be negotiated.

XVI. Dissemination and Review

A. Dissemination of Code of Conduct

The Cooperative 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 to all students as 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.

The Cooperative Board will sponsor an in-service education program for all BOCES staff members to ensure the effective implementation of the Code of Conduct. The superintendent may solicit the recommendations of BOCES staff, particularly teachers and administrators, regarding in service programs pertaining to the management and discipline of students.

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

The Cooperative Board may appoint an advisory committee to assist in reviewing the code and BOCES' response to Code of Conduct violations. The committee will be made up of representatives of student, teacher, administrator, parent organizations, school safety personnel and other BOCES personnel.

Before adopting any revisions to the code, the Cooperative Board will 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 will be filed with the Commissioner no later than 30 days after adoption.

NOTICE OF COMPLIANCE

The Board of Cooperative Educational Services, Sole Supervisory District of Oneida, Herkimer and Madison Counties, hereby gives notice that it does not discriminate on the basis of sex, race, creed, color, national origin, marital status, religious affiliation, disability, age, veteran status, political affiliation or sexual orientation in the recruitment and appointment of employees; employment pay and benefits; counseling services for students; access by students to educational programs; course offerings; and student activities. This policy is in compliance with Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the New York State Civil Rights Law 40-a-c. Any alleged grievances should be reported to the Supervisor of Human Resources at (315) 793-8576, Oneida BOCES, Box 70 Middle Settlement Road, New Hartford, New York 13413-0070.

Oneida-Herkimer-Madison BOCES
Box 70 • Middle Settlement Road
New Hartford, New York 13413-0070