



Policy: 9.13

SUBJECT: **CODE OF STUDENT CONDUCT (POLICY ON DISCIPLINE AND STUDENT RIGHTS)**

Supersedes: JFC
Effective: September 8, 2008
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Approved by: Detroit Board of Education

1.0 Policy

Note: The following is extracted from the Detroit Board of Education Code of Student Conduct which was developed and adopted in compliance with the mandate of the United States District court on October 29, 1975 and subsequently amended with court approval.

The new Code of Student Conduct clearly identifies the rights and responsibilities of students. The new administrative procedures clearly outline the due process procedures which must be followed whenever infractions occur.

The Detroit Board of Education believes that the implementation of this policy will help to guarantee that every student in every school will be provided with a safe and secure environment in which to pursue the fine educational opportunities available in the Detroit Public Schools.

The full partnership of parents and students is essential in order to help ensure a safe and secure learning environment.

I. INTRODUCTION

Students in the Detroit school system are guaranteed the right to a public education. If this right is to be guaranteed, regular attendance in classes is of vital importance for a student to succeed in school. The United States Supreme Court has held that a student may not be deprived of this right to a public education without adherence to procedural due process. It is the responsibility of the Detroit Board of Education and its staff to ensure that no student is arbitrarily denied the right to an education. It is the responsibility of each student to behave in a manner that does not threaten, interfere with or deprive other students of their right to an education.

The purposes of this conduct code are to provide regulations governing the behavior of students, to prevent actions or activities which interfere with the

school program and/or are prohibited by law, and to provide for students' rights and responsibilities. Both the Board Policy and the Superintendent's Regulations reflected in this code shall be mandatory and enforced in each Detroit public school. Each staff member employed by the School District of the City of Detroit is required to function in accordance with this Code.

It is the responsibility of all students and their parents to become familiar with the Student Code. Students and parents must recognize that when students engage in unacceptable conduct they will be subject to disciplinary action. (Whenever the parent is mentioned in the Code, it also means guardian.)

The City-Wide Attendance Regulations are part of the Policy on Discipline and Student Rights.

II. DELEGATION STATEMENT

Superintendent

The Board of Education hereby delegates to the General Superintendent the authority to develop administrative rules, regulations and procedures necessary for the implementation of this policy or necessary for the administration of student rights and discipline within the district.

The Superintendent's Regulations related to student rights, due process procedures, or appeal procedures shall be periodically published and disseminated to staff, parents and students. The Superintendent's Regulations related to internal administrative procedures shall be available for inspection by staff, students and parents in each school office.

Principals

The local school principal, vocational/technical director, or other administrator assigned responsibility for an educational facility may develop supplementary administrative rules, regulations, and procedures necessary to implement this policy and the Superintendent's Regulations, with written approval by the General Superintendent. However, such additional regulations may neither substitute for nor negate any Board policy nor the Superintendent's Regulations. A copy of the approved local regulations must be filed with the Code Office.

III. STUDENT RIGHTS

Students have the following rights:

1. The Fair Administration of Discipline: The Board of Education of the School District of the City of Detroit does not illegally discriminate

against any person, with regard to the administration of discipline, on the basis of race, sex, color, national origin, creed, religion or handicap.

2. Make-up Work: Students who are suspended must be given the opportunity to make-up academic course work assignments missed during their suspensions. The judgment of the principal shall be relied upon in both the content and scheduling of make-up assignments and examinations.

Students have the right to make-up assignments missed during excused absences. (Students are not entitled to make-up academic course work missed during absences due to truancy.)

3. The Rights to Freedom of Expressions and Publication, Dissent and the Right to Petition: Students have the right to express their beliefs and opinions on issues orally, symbolically, and through publication, so long as such expression is made in a reasonable manner. However, freedom of expressions does not include engaging in libel, obscenity, personal attacks on individuals and groups, defamation of character, commercial solicitations, or the distribution of materials of a racial, ethnic, sexual or religious, etc., nature that are likely to result in disruption, or materials that otherwise endanger the health and safety of people or threaten to disrupt the educational process. Further, written expressions must bear the name(s) of the circulator(s).

Students have the right to dissent. However, freedom to dissent is relative, not absolute. The exercise of the right to dissent must not infringe in any way upon the rights of others. The right of dissent does not include participation in student sit-ins, unauthorized assemblies, the take-over of school offices or other school facilities, or the obstruction of halls and stairways.

Students have the right to petition to seek redress of grievances or to express dissatisfaction with policies affecting them.

4. Freedom from Unreasonable Searches and Seizures: Students have rights which have been established and guaranteed by the Fourth Amendment to the United States Constitution protecting the right or privacy of their person and freedom from the unreasonable search or seizure of property. The school district retains the authority to search regardless of whether the student has given consent or is present for the search of school property assigned to the student. The following guidelines apply to the seizure of items in the student's possession and the search of a student's school property (locker, desk): (1) There must be reasonable cause to believe that the student is in possession of an article, possession of which constitutes an illegal behavior under this policy; or (2) There must be reason to

believe that the student is using his/her locker, desk or other property in such a way as to endanger his/her own health or safety or the health, safety and right of other persons.

The school district retains the right to search in emergency situations, such as a bomb threat or a belief that there are weapons or dangerous materials on the premises. In the event of such a clearly defined emergency the principal or his/her designee (s) has (have) the right to enter. The student should be notified of such action as soon thereafter as possible.

5. **Student's Rights When Under Interrogation by the Police:** Principals are authorized to permit police officers and identified representatives from the court to interview pupils on official business. Students may be searched or arrested when such action is authorized by a warrant or otherwise permitted by law. All other identified representatives from other public and private agencies may interview students only with parental approval. If the police do not have a warrant from the court, the principal will decide whether to honor the request to interview the student in school. When considered appropriate, such interviews shall be conducted in the presence of the principal or a designated representative. When students are being interviewed by police officers or other representatives of law enforcement agencies and the courts, the principal or his/her designee must verify that the student has been informed of his/her rights to refuse to answer questions, anything he/she says may be used against him/her in court, and to consult with and be advised by legal counsel. Parents will be informed of this questioning and, whenever possible, they may be present.

IV. STUDENT RESPONSIBILITIES

Students in the Detroit Public Schools are expected to fulfill the following responsibilities:

1. **Participation:** Students have the responsibility of participating fully in the learning process. Students must report to school and to all scheduled classes regularly and on time, remain in classes until excused, pay attention to instruction, complete assignments to the best of their ability and request help when it is needed.
2. **Behavior:** Students have the responsibility of avoiding any behavior that is detrimental to the achievement of their own or to other students' educational goals. Students must cooperate in maintaining reasonable orderliness in the school and in the classroom, take reasonable care of books and other instructional materials, and encourage a climate where learning is cherished. Most particularly, students must refrain from engaging in conduct that violates the provisions of the Code of Conduct.

3. Respect for Staff: Students have the responsibility of showing respect for the knowledge and the authority of school staff. Students must obey reasonable directions, use only acceptable and courteous language, avoid actions that show contempt and appeal decisions only through appropriate channels.
4. Respect for Other Students: Students have the responsibility of showing respect for the rights and human dignity of fellow students. For example, students must refrain from name-calling, fighting, harassment, belittling or engaging in deliberate attempts to embarrass or harm another student.

While all students are expected to fulfill these responsibilities, some may occasionally need guidance and correction. Some students will need more help than others in learning to behave in a responsible, mature manner. It is expected that persistent misbehavior, even when each single instance is a minor infraction of the rules, will be dealt with appropriately in order to help students avoid establishing a pattern of unacceptable habits.

V. **UNACCEPTABLE CONDUCT**

Detroit Public School students are prohibited from engaging in behavior that will endanger or threaten to endanger the safety of others, that will damage property, or that will impede the orderly conduct of the school program. The following offenses are prohibited by this policy whenever they occur on school grounds, on school buses, during school-sponsored field trips, in connection with school-related events and activities whenever held, when directed against students enroute to or from school, or when done with intent to disrupt or impede the orderly conduct of any school activity. Student actions directed against any person, whether adult or minor, on school property or at any location where a school-related event or activity is held, shall be disciplined in the same manner as if the action had been directed against school staff or students. These offenses fall into two categories: Illegal Behavior and Prohibited Behavior.

A. Illegal Behavior

1. Threats of Violence: Words or actions that may threaten to do injury or bodily harm to another person or that may intimidate another person through fear for his/her safety. No actual bodily contact is necessary.
2. Battery: The unlawful intentional touching or application of force to another person, done in rude, insolent or angry manner.

3. Possession of Weapons or Other Dangerous Objects: Carrying, using or storing weapons or other dangerous objects (e.g., explosives or firecrackers) in a school building or on school grounds.

Weapons are identified in two (2) categories:

- (a) Articles commonly used or designed to inflict bodily harm or to intimidate other persons. Examples are: firearms, brass knuckles, knives, chains, clubs.
 - (b) Articles designed for other purposes that could be easily used to inflict bodily harm and/or intimidate. Examples include but are not limited to: belts, combs, pencils, files and compasses. Students acting in an aggressive or belligerent manner with any such article will be adjudged to be in possession of a weapon.
4. Sale, Use, Possession or Distribution of Illegal Drugs, Materials, or Substances, or Alcoholic Beverages: Selling, distributing, using, possessing illegal drugs, materials, substances or alcoholic beverages on school property or at school functions, including bringing such items into the school for another person or having such items on one's person or placing them in a locker or any hiding place.
 5. Burglary, Theft, Robbery, Larceny: Stealing money or property.
 6. Arson: The willful and malicious burning, or attempting to burn any part of any building or any property belonging to, rented by or on loan to the school district, or property (including automobile) of persons employed by the school or in attendance at the school.
 7. Extortion, Coercion, Blackmail: Obtaining money or property (something of value) from an unwilling person or forcing an individual to act by either physical force or intimidation (threat).
 8. Vandalism or Malicious Destruction of Property: Destruction of or defacing of property belonging to, rented by or on loan to the school system or property (including automobiles) of persons employed by the school or in attendance at the school.
 9. Interfacing With or Intimidation of School Personnel: Preventing or attempting to prevent school personnel from engaging in their lawful duties through threats, violence or harassment.

10. False Alarms: Activating the fire alarm system in any school building or on school property and/or reporting a fire or bomb when none exists.
11. Interference With the Movement of Pupils In and Out of Schools, Between Schools, or Between Home and an Assigned School: Any action that prevents or delays scheduled transportation of pupils to and from an assigned school, that prevents pupils from entering or leaving schools at scheduled hours, or that causes fear of jeopardy to students while walking to and from an assigned school.
12. Other Felonious Conduct: Any and all conduct that constitutes an offense under city, state, or federal laws.

B. Prohibited Behavior

1. Insubordination: Refusal to respond to or to carry out reasonable and lawful directions of authorized school personnel.
2. Verbal Abuse: Name-calling, racial or ethnic slurs or derogatory statements addressed to others designed to precipitate disruption, incite violence or impede the school program.
3. Loitering/Trespass: Being in a school or on school property during school hours at a site other than where the student is enrolled without having promptly secured authorization from the school office.
4. Refusal to Identify Self: Refusing to show identification card and/or to give correct name when requested to do so by school personnel, or the use of another person's name or identity.
5. Smoking in School or on School Property: Using or carrying lighted tobacco.
6. Gambling: Participating in games of chance or skill for money or profit.
7. Student Demonstrations: Any form of student protest or demonstration that results in disruption of the normal educational process or that is conducted in a manner that violates legal restraints.
8. Disruptive or Other Misconduct: Other misconduct, not listed above that disrupts or interferes with the educational process.

C. Staff Intervention in Unacceptable Conduct

Whenever an employee discovers a student engaging in unacceptable conduct, he/she must take prompt action which may include directly addressing the student, seeking the assistance of other staff persons, and reporting the incident to an administrator. Whenever an employee discovers a student engaging in conduct constituting illegal behavior, the employee must make a prompt report to a building administrator. Whenever an administrator receives a report of conduct constituting illegal behavior, disciplinary proceedings must be initiated.

VI. DISCIPLINARY ACTIONS

A. Teacher Disciplinary Actions

Teachers have the authority to utilize various behavior management techniques within the classroom to address incidents of minor misbehaviors, so long as such techniques do not violate Board policies, district administrative regulations, or building level regulations developed by the principal.

A teacher may exclude from his/her class a child who in the teacher's opinion is causing serious disruption. The teacher shall be available to confer with the principal or assistant principal or counselor to provide the necessary information concerning the problem in writing as soon as possible not to exceed twenty-four hours. The teacher will re-admit the child after some adjustment has been made, following a conference with the child and at least two of the following parties as determined by the principal; an administrator, a counselor, school social worker, school psychologist, attendance officer, a parent of the child.

Whether the teacher is right shall be determined by mutual agreement between the principal and teacher. The teacher shall be informed as to the results of the conference and/or the adjustment before the child returns to class.

B. Administrative Disciplinary Actions

When disciplinary action is appropriate, it shall at all times depend upon the establishment of guilt, involve a reasonable and logical relationship between the seriousness of the act and the severity of the discipline, be constructive in intent and take account of such factors as age and

motivation of the student and his/her past record. In those instances in which the seriousness of the offense does not dictate an immediate disciplinary response, the administrator or his/her designee will attempt to take actions designed to encourage a change in the student's behavior. For example, the administrator might warn the student that his/her behavior was unacceptable and the reason why such behavior is so defined. Where necessary, the assistance of the home, other educational supportive services and/or other professional community agencies may be utilized.

Each building principal is authorized to adopt disciplinary actions for use by building administrators in situations which do not warrant suspension, disciplinary transfer, or expulsion. Building disciplinary rules and procedures must be written and distributed to staff, parents and students on an annual basis.

In those instances where the seriousness of the offense requires the removal of the student from a class or building, the following forms of disciplinary action are authorized:

1. Short Term Suspension: The temporary removal of a student from the building and all school sponsored activities. An elementary student may be suspended for up to three school days and a secondary student (grades 6-12) may be suspended for up to five schools days, before a suspended student may be returned to school.
2. Disciplinary Transfer: The reassignment of a student to another building with the Detroit Public Schools or the temporary assignment of a student to an alternative educational program operated by the school district or another agency. When a student is reassigned to another building for disciplinary action, that reassignment may be temporary or permanent.
3. Long Term Suspension: The temporary removal of a secondary student for the remainder of the current academic semester when there are fewer than twenty-five (25) school days remaining. Long term suspension shall only be utilized when the student has been found guilty of conduct for which disciplinary transfer is warranted. A student who is subject to a long-term suspension must be provided with assigned work and the opportunity to take final examinations.

C. Board Disciplinary Actions

Expulsion: The permanent denial of the right of the student to attend any school or program operated by the school district. Only the Board of

Education may order the expulsion of a student. Although expulsion is usually permanent, the Board may establish conditions under which the student may petition for readmission.

VII. STANDARDS GOVERNING THE USE OF DISCIPLINARY ACTIONS

- A. Prohibited Behavior: Except in the event of repeated offenses (three or more), offenses constituting prohibitive behavior may not be punished by disciplinary transfers. Students suspended twice in a school year for prohibited behavior and NOT TRANSFERRED must be approved by the General Superintendent to remain in that school upon the third suspension.
- B. Illegal Behavior: Students who have been suspended once for illegal behavior in a school year and NOT TRANSFERRED must be approved to remain in that school by the General Superintendent upon the second suspension.
- C. Violent Acts: Any student, who, after appropriate suspension hearings at the local school level, is found guilty of committing a violent act as defined by this policy, MUST be suspended and referred to the General Superintendent for review. A suspension pending an expulsion review may extend for up to sixty (60) school days or until such time as the central level review has been completed (whichever is sooner). The review shall be for the purpose of either confirming the suspension, rescinding the suspension and referring the case back to the principal for other alternative actions, and/or recommending a central level expulsion review to the General Superintendent. Upon completion of the review, the General Superintendent will make a recommendation to the Detroit Board of Education. Under these conditions the student is not to return to school pending resolution of the reviews.

Violent acts specifically include the following illegal behaviors:

- 1. Possession of a gun or knife, whether manufactured or homemade (under circumstances which create an immediate and clear threat of injury to the health and safety of individuals).
- 2. Use or possession of a gun, other weapon, or dangerous instrument in a physical altercation with staff or other students.
- 3. Committing a battery upon an employee of the Detroit Public School where the evidence demonstrates that the staff member did not provoke the battery by initiating an unlawful battery upon the student.

4. Any threat of harm or taking of property from the school staff or another student which involves the use of a weapon or dangerous object.
5. Acts which result in a substantial threat of or actual destruction of property which necessitates significantly altering a school's operations and activities. Specifically included acts:
 - a. Significant damage to the physical plant.
 - b. Conditions necessitating evacuation of pupils and staff from the building.
 - c. The inability of a school to perform its functions. Specifically included herein are acts of arson, use of smoke bombs or incendiary devices, making bomb threats, or reporting fire or activating fire alarms without a reasonable belief that a fire or bomb is present.
6. The sale or distribution of any illegal drug or controlled substance.
7. Any battery upon another student in which:
 - a. Serious physical injury results, or
 - b. The victim attempts to avoid the altercation but is attacked, or
 - c. Three or more individuals are involved simultaneously, or
 - d. Weapons are in the possession of a student during the battery or are used during the battery.
8. Other acts, not specifically listed, which fall within the general definition of violent acts, such as criminal sexual assaults, etc.

D. Attendance: The City-Wide Attendance Regulations for elementary, middle and senior high schools are issued annually, but are a part of this policy.

VIII. THE RIGHT TO DUE PROCESS IN DISCIPLINARY PROCEEDINGS

A. General

Due process safeguards must apply in all instances where the behavior or rights of students are being evaluated. The student must always be treated

with fundamental fairness in light of the total circumstances. Thus, the student has the right to be informed fully about his/her alleged breach of behavior and must be provided with an opportunity to respond to such charges. Where there is an opportunity for review by others of the student's alleged misconduct, he/she should be fully informed of the opportunity for such review. Finally, any permanent record that results from the student's actions or their consequences should clearly state whether the charges of misbehavior were or were not substantiated.

The due process procedures required vary depending on the nature of the misconduct and the seriousness of the disciplinary action that may be imposed on a student as a result of the hearing. Thus, separate sets of procedures apply, depending on whether a student faces possible short term suspension from school, disciplinary transfer, or long term suspension or expulsion. Applicable administrative procedures for each type of hearing are set out in the regulations that accompany this policy.

B. Special Education Students

The standards of conduct contained within these policies apply to all students, including those students enrolled in special education programs. However, due to the unique needs of special education students and federal and state laws, the procedures determining the appropriate disciplinary action will vary somewhat when a special education student is involved.

C. Appeals

Students and parents have the right to appeal the decision of a suspension hearing to the General Superintendent by informing him/her in writing that they wish to appeal the principal's decision, citing the cause for appeal. The General Superintendent must receive the appeal request within one (1) week after the parent receives the decision of the disciplinary action ordered by the principal or other administrator. Students and parents have the right to appeal the General Superintendent's decision to the Detroit Board of Education within five (5) school days of receiving the General Superintendent's decision.

Note: An administrator directly responsible to the General Superintendent works with administrators to implement the Code of Student Conduct.

The police must be notified of violent acts as defined by the Board in its violent acts expulsion policy.

Attachments to Policy 9.13: None

Legal References: 20 USC § 7151

Labor Contract References: None