

# NEW YORK STATE CENTER FOR SCHOOL SAFETY

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## ARTICLE 55

### REGULATION BY BOARDS OF EDUCATION OF CONDUCT ON SCHOOL DISTRICT PROPERTY

- Section 2801. Codes of conduct on school property.
- 2801-a. School safety plans.
2802. Uniform violent incident reporting system.
2814. Omnibus school violence prevention grant program.

S 2801. Codes of conduct on school property. 1. For purposes of this section, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; and a school function shall mean a school-sponsored extra-curricular event or activity.

2. The board of education or the trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational extension board, shall adopt and amend, as appropriate, a code of conduct for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers and other school personnel as well as visitors and shall provide for the enforcement thereof. Such policy may be adopted by the school board or trustees only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Such code of conduct shall include, at a minimum:

a. provisions regarding conduct, dress and language deemed appropriate and acceptable on school property, including a school function, and conduct, dress and language deemed unacceptable and inappropriate on school property, including a school function, and provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property, including a school function, including the appropriate range of disciplinary measures which may be imposed for violation of such code, and the roles of teachers, administrators, other school personnel, the board of education and parents;

b. standards and procedures to assure security and safety of students and school personnel;

c. provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the code;

d. disciplinary measures to be taken in incidents involving the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights and threats of violence;

e. provisions for detention, suspension and removal from the classroom of students, consistent with section thirty-two hundred fourteen of this chapter and other applicable federal, state and local laws including provisions for the school authorities to establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school;

f. procedures by which violations are reported, determined, discipline measures imposed and discipline measures carried out;

g. provisions ensuring such code and the enforcement thereof are in compliance with state and federal laws relating to students with disabilities;

h. provisions setting forth the procedures by which local law enforcement agencies shall be notified of code violations which constitute a crime;

i. provisions setting forth the circumstances under and procedures by which persons in parental relation to the student shall be notified of code violations;

j. provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the family court act will be filed;

k. circumstances under and procedures by which referral to appropriate human service agencies shall be made;

1. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner; and

m. a minimum suspension period for acts that would qualify the pupil to be defined as a violent pupil pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law.

3. The district code of conduct shall be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel and shall be approved by the board of education, or other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community school district board shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

4. The board of education, chancellor or other governing body shall provide copies of a summary of the code of conduct to all students at a general assembly held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall mail a plain language summary of such code to all persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education, chancellor or other governing body shall take reasonable steps to ensure community awareness of the code provisions.

5. a. The board of education, chancellor or other governing body shall annually review and update the district's codes of conduct if necessary, taking into consideration the effectiveness of code provisions and the fairness and consistency of its administration. Each school district is authorized to establish a committee and to facilitate the review of the code of conduct and the district's response to code of conduct violations. Any such committee shall be comprised of similar individuals described in subdivision three of this section. The school board, chancellor, or other governing body shall reapprove any such updated code only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

b. Each district shall file a copy of its codes of conduct with the commissioner and all amendments to such code shall be filed with the commissioner no later than thirty days after their adoption.

§ 2801-a. School safety plans. 1. The board of education or trustees, as defined in section two of this chapter, of every school district within the state, however created, and every board of cooperative educational services and county vocational education and extension board and the chancellor of the city school district of the city of New York shall adopt and amend a comprehensive district-wide school safety plan and building-level school safety plans regarding crisis intervention, emergency response and management, provided that in the city school district of the city of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a **district-wide school safety team and a building-level school safety team established** pursuant to subdivision four of this section and shall be in a form developed by the commissioner in consultation with the division of criminal justice services, the superintendent of the state police and any other appropriate state agencies. A school district having only one school building, shall develop a single building-level school safety plan, which shall also fulfill all requirements for development of a district-wide plan.

2. Such comprehensive district-wide safety plan shall be developed by the district-wide school safety team and shall include at a minimum:

a. policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel as well as visitors to the school;

b. policies and procedures for responding to acts of violence by students, teachers, other school personnel as well as visitors to the school, including consideration of zero-tolerance policies for school violence;

c. appropriate prevention and intervention strategies such as:

(i) collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations, and are effectively and fairly recruited;

(ii) non-violent conflict resolution training programs;

(iii) peer mediation programs and youth courts; and

(iv) extended day and other school safety programs;

d. policies and procedures for contacting appropriate law enforcement officials in the event of a violent incident;

e. policies and procedures for contacting parents, guardians or persons in parental relation to the students of the district in the event of a violent incident;

f. policies and procedures relating to school building security, including where appropriate the use of school safety officers and/or security devices or procedures;

g. policies and procedures for the dissemination of informative materials regarding the early detection of potentially violent behaviors, including but not limited to the identification of family, community and environmental factors, to teachers, administrators, school personnel, persons in parental relation to students of the district, students and other persons deemed appropriate to receive such information;

h. policies and procedures for annual school safety training for staff and students;

i. protocols for responding to bomb threats, hostage-takings, intrusions and kidnappings;

j. strategies for improving communication among students and between students and staff and reporting of potentially violent incidents, such as the establishment of youth-run programs, peer mediation, conflict resolution, creating a forum or designating a mentor for students concerned with bullying or violence and establishing anonymous reporting mechanisms for school violence; and

k. a description of the duties of hall monitors and any other school safety personnel, the training required of all personnel acting in a

school security capacity, and the hiring and screening process for all personnel acting in a school security capacity.

3. A school emergency response plan, developed by the building-level school safety team defined in subdivision four of this section, shall include the following elements:

a. policies and procedures for the safe evacuation of students, teachers, other school personnel as well as visitors to the school in the event of a serious violent incident or other emergency, which shall include evacuation routes and shelter sites and procedures for addressing medical needs, transportation and emergency notification to persons in parental relation to a student. For purposes of this subdivision, "serious violent incident" means an incident of violent criminal conduct that is, or appears to be, life threatening and warrants the evacuation of students and/or staff, as defined in regulations of the commissioner developed in conjunction with the division of criminal justice services;

b. designation of an emergency response team comprised of school personnel, local law enforcement officials, and representatives from local regional and/or state emergency response agencies, other appropriate incident response teams, and a post-incident response team that includes appropriate school personnel, medical personnel, mental health counselors and others who can assist the school community in coping with the aftermath of a violent incident;

c. procedures for assuring that crisis response and law enforcement officials have access to floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area;

d. establishment of internal and external communication systems in emergencies;

e. definition of the chain of command in a manner consistent with the national interagency incident management system/incident command system;

f. coordination of the school safety plan with the state-wide plan for disaster mental health services to assure that the school has access to federal, state and local mental health resources in the event of a violent incident;

g. procedures for review and the conduct of drills and other exercises to test components of the emergency response plan; and

h. policies and procedures for securing and restricting access to the crime scene in order to preserve evidence in cases of violent crimes on school property.

4. Each district-wide school safety team shall be appointed by the board of education, or the chancellor in the case of the city school district of the city of New York, and shall include but not be limited to representatives of the school board, student, teacher, administrator, and parent organizations, school safety personnel, and other school personnel. Each building-level school safety team shall be appointed by the building principal, in accordance with regulations or guidelines prescribed by the board of education, chancellor or other governing body. Such building-level teams shall include but not be limited to representatives of teacher, administrator, and parent organizations, school safety personnel and other school personnel, community members, local law enforcement officials, local ambulance or other emergency response agencies, and any other representatives the board of education, chancellor or other governing body deems appropriate.

5. Each safety plan shall be reviewed by the appropriate school safety team on at least an annual basis, and updated as needed.

6. Each board of education, chancellor or other governing body shall make each district-wide and building-level school safety plan available for public comment at least thirty days prior to its adoption, provided that only a summary of each building-level emergency response plan shall be made available for public comment. Such district-wide and building-level plans may be adopted by the school board only after at least one public hearing that provides for the participation of school

personnel, parents, students and any other interested parties. Each district shall file a copy of its district-wide comprehensive safety plan with the commissioner and all amendments to such plan shall be filed with the commissioner no later than thirty days after their adoption. A copy of each building-level safety plan and any amendments thereto, shall be filed with the appropriate local law enforcement agency and with the state police within thirty days of its adoption.

Building-level emergency response plans shall be confidential and shall not be subject to disclosure under article six of the public officers law or any other provision of law. If the board of education, chancellor or other governing body or chancellor fails to file such plan as required by this section, the commissioner may, in an amount determined by the commissioner, withhold public money from the district until the district is in compliance.

7. The commissioner may grant a waiver of the requirements of this section to any school district or board of cooperative educational services for a period of up to two years from the date of enactment upon a finding by the commissioner that such district had adopted a comprehensive school safety plan on the effective date of this section which is in substantial compliance with the requirements of this section.

8. The commissioner shall annually report to the governor and the legislature on the implementation and compliance with the provisions of this section.

9. Whenever it shall have been demonstrated to the satisfaction of the commissioner that a school district has failed to adopt a code of conduct which fully satisfies the requirements of section twenty-eight hundred one of this article, or a school safety plan which satisfies the requirements of this section, or to faithfully and completely implement either or both, the commissioner may, on thirty days notice to the district, withhold from the district monies to be paid to such district for the current school year pursuant to section thirty-six hundred nine-a of this chapter, exclusive of monies to be paid in respect of obligations to the retirement systems for school and district staff and pursuant to collective bargaining agreements, or the commissioner may direct the district to expend up to such amount upon the development and implementation of a code of conduct and a school district safety plan as required by such sections. Prior to such withholding or redirection, the commissioner shall provide the district an opportunity to present evidence of extenuating circumstances; when combined with evidence that the district shall promptly comply within short time frames that shall be established by the commissioner as part of an agreement between the district and the commissioner, the commissioner may temporarily stay the withholding or redirection of funds pending implementation of such agreement. If the district promptly and fully complies with the agreement and is in full compliance with this section and section twenty-eight hundred one of this article, the commissioner shall abate the withholding in its entirety. Any failure to meet the obligations of the compliance agreement by the district within the time frames established shall be considered a willful violation of a commissioner's order by the members of the district board for purposes of subdivision one of section three hundred six of the education law. Notwithstanding any other law, rule or regulation, such transfer shall take effect upon filing of a notice thereof with the director of the budget and the chairs of the senate finance and assembly ways and means committees.

S 2802. Uniform violent incident reporting system. 1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative

educational services and county vocational education and extension boards shall follow.

3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension boards to annually report to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

- a. the type of offenders;
- b. if any offender is a student, the age and grade of the student;
- c. the location at which the incident occurred;
- d. the type of incident;
- e. whether the incident occurred during or outside of regular school hours;
- f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;
- g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;
- h. any student discipline or referral action taken against a student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and
- i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By January first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and identify specifically the schools and school districts with the least and greatest incidence of violent and disruptive incidents, and the least and most improvement since the previous year or years. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

\* 7. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any student who attends a persistently dangerous public elementary or secondary school, as determined by the commissioner pursuant to paragraph a of this subdivision, or who is a victim of a violent criminal offense, as defined pursuant to paragraph b of this subdivision, that occurred on the grounds of a public elementary or secondary school that the student attends, shall be allowed to attend

a safe public school within the local educational agency to the extent required by section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001.

a. The commissioner shall annually determine which public elementary and secondary schools are persistently dangerous in accordance with regulations of the commissioner developed in consultation with a representative sample of local educational agencies. Such determination shall be based on data submitted through the uniform violent incident reporting system over a period prescribed in the regulations, which shall not be less than two years.

b. Each local educational agency required to provide unsafe school choice shall establish procedures for determinations by the superintendent of schools or other chief school officer of whether a student is the victim of a violent criminal offense that occurred on school grounds of the school that the student attends. Such superintendent of schools or other chief school officer shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The trustees or board of education or other governing board of a local educational agency may provide, by local rule or by-law, for appeal of the determination of the superintendent of schools to such governing board. Notwithstanding any other provision of law to the contrary, the determination of such chief school officer pursuant to this paragraph shall not have collateral estoppel effect in any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense. For purposes of this subdivision, "violent criminal offense" shall mean a crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.

c. Each local educational agency, as defined in subsection twenty-six of section ninety-one hundred one of the No Child Left Behind Act of 2001, that is required to provide school choice pursuant to section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001 shall establish procedures for notification of parents of, or persons in parental relation to, students attending schools that have been designated as persistently dangerous and parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the local educational agency and procedures for such transfer, except that nothing in this subdivision shall be construed to require such notification where there are no other public schools within the local educational agency at the same grade level or such transfer to a safe public school within the local educational agency is otherwise impossible or to require a local educational agency that has only one public school within the local educational agency or only one public school at each grade level to develop such procedures. The commissioner shall be authorized to adopt any regulations deemed necessary to assure that local educational agencies implement the provisions of this subdivision.

\* NB Repealed June 30, 2003

S 2814. Omnibus school violence prevention grant program. 1. Within amounts appropriated for implementation of extended day programs and school violence prevention programs, the commissioner is hereby authorized and directed to award grants on a competitive basis to school districts. Such grants shall be for one or more of the following pursuant to this section: school safety and violence prevention programs consistent with the purposes of the school safety plans required by section twenty-eight hundred one-a of this article and extended day activities defined in this section. School districts shall be prohibited from using funds awarded pursuant to this section to displace school

district after-school funding in existence as of the effective date of this article.

a. School safety activities. Programs eligible for funding pursuant to this section may include, but not be limited to: (i) safe corridors programs; (ii) diversity programs; (iii) collaborative school safety programs with law enforcement agencies or community-based organizations; (iv) metal detectors, intercom and other intra-school communication devices and other devices to increase school security and the safety of school personnel and students; (v) other programs including comprehensive school-based intervention models, approved by the commissioner, that reduce violence and improve school safety. Comprehensive school based intervention models shall coordinate with and collaborate with other services currently being provided in the school district, incorporate appropriate school violence prevention and intervention services, and coordinate appropriate funding sources to ensure the efficient delivery of services. Such comprehensive school-based intervention models shall also include provisions for the involvement of teachers, parents, school administrators in the development and implementation of the program, a detailed statement identifying specific performance goals, a proposed timetable for implementation and achievement of such goals and specific assessment methods which will be used to measure student and school progress.

b. Extended day activities. (i) Eligible extended day activities under this paragraph shall be for programs conducted outside the regular school day whereby students can participate in extra curricular enrichment activities including but not limited to athletics, academic enrichment, art, music, drama, academic tutoring, mentoring, community services and related programs that will increase student achievement and contribute to school violence prevention. Such activities conducted outside the regular school day shall be offered collaboratively between not-for-profit educational organizations, community based organizations, other agencies approved by the commissioner and public elementary or secondary schools, and where applicable, school districts.

(ii) Grantees receiving funding pursuant to this subdivision may expend no more than five percent of grants for administration and no more than five percent for grantee training.

2. In the event the appropriation for the purposes of this section in any year is insufficient to pay all claims pursuant to this subdivision, the commissioner shall pay such claims on a prorated basis among all districts filing such claims until the appropriation is exhausted.

3. Programs supported by grants pursuant to this section shall not be eligible aid pursuant to any other provision of this chapter.

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ARTICLE 55-NYS 2801-a.School safety plans