

SUBJECT: WEAPONS IN SCHOOL AND THE GUN-FREE SCHOOLS ACT

Weapons in School

The possession of a weapon (including a firearm) on school property, in District vehicles, in school buildings, or at school sponsored activities or settings under the control and supervision of the District regardless of location, is strictly prohibited, except by law enforcement personnel. Any person possessing a weapon for educational purposes in any school building must have written authorization of the Superintendent of Schools or his/her designee.

The Penal Code of the State of New York shall be used to determine what is considered a weapon.

Penal Law Sections 265.01-265.06

Specific Penalties Imposed by the Gun-Free Schools Act

No student shall bring or possess any weapon (including a firearm) as defined in federal law on school premises (including school buildings and grounds, District vehicles, school settings and/or school sponsored activities under the control and supervision of the District regardless of location). For purposes of this policy, the term "weapon (including a firearm)" includes any weapon, including a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, firecracker or other incendiary device, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

- (a) **Weapon means as defined by * N.Y.C.R.R. § 100.2 (gg) (1) (iii) (a)** means any of the following:
- §a) a firearm, including but not limited to a rifle, shotgun, pistol, handgun, silencer, electronic dart gun, stun gun, machine gun, airgun or spring gun;
 - (b) a switchblade knife, gravity knife, pilum ballistic knife, cane sword, dagger, stiletto, dirk, razor, box cutter, metal knuckle knife, utility knife or other dangerous knife;
 - (c) a billy club, blackjack, bludgeon, chukka stick, or metal knuckles;
 - (d) a sandbag or sandclub;
 - (e) a sling shot or slungshot;
 - (f) a Martial arts instrument, including but not limited to a kung fu star, ninja star, nin chuck, or shirken;
 - (g) an explosive, including but not limited to a firecracker or other fireworks;
 - (h) a deadly or dangerous chemical, including but not limited to a strong acid or base, Mace, or pepper spray;
 - (i) an imitation gun;

(Continued)

SUBJECT: WEAPONS IN SCHOOL AND THE GUN-FREE SCHOOLS ACT (CONT'D.)

Specific Penalties Imposed by the Gun-Free Schools Act (Cont'd.)

- (j) loaded or blank cartridges or other ammunition; or
- (k) any other deadly or dangerous instrument.

In accordance with the Gun-Free Schools Act Section 3214(3)(d) of the Education Law, any student who brings or possesses a weapon (including a firearm), as defined in federal law, on school property, will be referred by the Superintendent to the appropriate agency or authority for a juvenile delinquency proceeding in accordance with Article 3 of the Family Court Act when the student is under the age of sixteen (16) except for a student fourteen (14) or fifteen (15) years of age who qualifies for juvenile offender status under the Criminal Procedure Law, and will be referred by the Superintendent to the appropriate law enforcement officials when the student is sixteen (16) years of age or older or when the student is fourteen (14) or fifteen (15) years of age and qualifies for juvenile offender status under the Criminal Procedure Law. For purposes of this policy, the term “dangerous weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches (2 ½”) in length.

In addition, any student attending a District school who has been found guilty of bringing a weapon (including a firearm) to or possessing a weapon (including a firearm) on school property, after a hearing has been provided pursuant to Section 3214 of the Education Law, shall be suspended for a period of not less than one (1) calendar year and any student attending a non-district school who participates in a program operated by the School District using funds from the Elementary and Secondary Education Act of 1965 who is determined to have brought a weapon (including a firearm) to or possessed a weapon (including a firearm) at a District school or on other premises used by the School District to provide such programs shall be suspended for a period of not less than one (1) calendar year from participation in such program. The procedures of Education Law Section 3214(3) shall apply to such a suspension of a student attending a non-district school. Further, after the imposition of the one (1) year penalty has been determined, the Superintendent of Schools has the authority to modify this suspension requirement for each student on a case-by-case basis. In reviewing the student's one (1) year suspension penalty, the Superintendent may modify the penalty based on factors as set forth in Section 100.2 of the Regulations of the Commissioner of Education and in Commissioner's Decisions. The determination of the Superintendent shall be subject to review by the Board of Education in accordance with Education Law Section 3214(3)(c) and by the Commissioner of Education in accordance with Education Law Section 310.

(Continued)

SUBJECT: WEAPONS IN SCHOOL AND THE GUN-FREE SCHOOLS ACT (CONT'D.)

Student with a Disability

Pursuant to Commissioner Regulations, a student with a disability who is determined to have brought a weapon (including a firearm) to school or possessed a weapon (including a weapon at school may be placed in an interim alternative educational setting, in accordance with federal and state law, for not more than forty-five (45) calendar days. If the parent or guardian requests an impartial hearing, the student must remain in the interim alternative placement until the completion of all proceedings, unless the parent or guardian and District can agree on a different placement. For more information regarding Interim Alternative Educational Settings (IAES) refer to policy #7313, Suspension of Students.

However, a student with a disability may be given a long term suspension pursuant to the Gun-Free Schools Act only if a group of persons knowledgeable about the student, as defined in federal regulations implementing the Individuals with Disabilities Education Act (IDEA), determines that the bringing of a weapon (including a firearm) to school or possessing a weapon (including a firearm) at school was not a manifestation of the student's disability, subject to applicable procedural safeguards.

If it is determined that the student's bringing of a weapon (including a firearm) to school or possessing a weapon (including a firearm) at school was a manifestation of the student's disability, the Superintendent must exercise his/her authority under the Gun-Free Schools Act to modify the long term suspension requirement, and determine that the student may not be given a long term suspension for the behavior. The Committee on Special Education may review the student's current educational placement and initiate change in placement proceedings, if appropriate, subject to applicable procedural safeguards.

The District may offer home instruction as an interim alternative educational setting during the pendency of review proceedings only if the student's placement in a less restrictive alternative educational setting is substantially likely to result in injury either to the student or to others.

The District may also seek a court order to immediately remove a student with a disability from school if the District believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.

Students with disabilities continue to be entitled to all rights enumerated in the Individuals With Disabilities Education Act and Article 89 of the Education Law; and this policy shall not be deemed to authorize suspension of students with disabilities in violation of these laws.

(Continued)

SUBJECT: WEAPONS IN SCHOOL AND THE GUN-FREE SCHOOLS ACT (CONT'D.)

Student with a Disability (Cont'd.)

This policy does not prohibit the District from utilizing other disciplinary measures including, but not limited to, out-of-school suspensions for a period of five days or less, or in-school suspensions, in responding to other types of student misconduct which infringe upon the established rules of the school. Additionally, this policy does not diminish the authority of the Board of Education to offer courses in instruction in the safe use of weapon (including a firearm)s pursuant to Education Law Section 809-a.

The District will continue to provide the suspended student who is of compulsory attendance age with appropriate alternative instruction during the period of the student's suspension.

Gun-Free Schools Act as reauthorized by the No Child Left Behind Act of 2001
18 United States Code (USC) Section 921(a) and 930
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Sections 1400-1485 and 7151
Criminal Procedure Law Section 1.20(42)
Education Law Sections 310, 809-a, 3214, and Article 89
Family Court Act Article 3
8 New York Code of Rules and Regulations (NYCRR) Section 100.2 & Part 200

NOTE: Refer also to Policies #3411 -- Unlawful Possession of a Weapon Upon School Grounds

Adopted: 7/10/2001

Revised: 8/10/2004, 11/13/2007

Reviewed 4/2/2019 with Superintendent & Assistant Superintendent with no recommended changes. BOE approved at their 5/28/2019 meeting.