

## STUDENT DISCIPLINE

### DEFINITIONS:

"Alcohol" means alcohol or any alcoholic liquor capable of being consumed by a human being, as defined in 4 Del.C. §101 including alcohol, spirits, wine, and beer.

"Alternative Placement" means the removal of a student from his/her school on a temporary basis for a period of time as determined by the Alternative Placement Team and assignment to an Alternative Program.

"Arson" shall mean a person recklessly or intentionally damages a building by intentionally starting a fire or causing an explosion.

"Assault III" shall mean: (1) A person intentionally or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a Deadly Weapon or a Dangerous Instrument.

"Attorney General's Report (Juvenile/Adult Arrest Warrant and Complaint)" shall mean the Department of Justice's report of out-of-school criminal conduct, regardless of jurisdiction, which shows disregard for the health, safety and welfare of others, including, but not limited to; acts of violence, weapons offenses, and drug offenses.

"Breaking and Entering" shall mean unauthorized entry of any locked area of the school environment during or after school; including, but not limited to, rooms, classrooms, auditorium, gym, shops, offices, lockers, cabinets and vehicles.

"Bullying" shall mean any intentional written, electronic, verbal or physical act or actions against another student, school volunteer or school employee that a reasonable person under the circumstances should know will have the effect of: (1) Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damage to his or her property; or (2) Creating a hostile, threatening, humiliating or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target; or (3) Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or (4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.

"Charter School" means a charter school board established pursuant to Chapter 5 of Title 14 of the Delaware Code.

"Commission by a student" means that a student has engaged in behavior equivalent to that which is prohibited by law regardless of whether the student has been criminally convicted of the same.

"Crime" shall have the same meaning as provided in 14 Del.C. §4112.

"Criminal Drug Offense, Commission of" shall mean the Commission by a student of the unlawful Possession, Distribution, or use of Alcohol/Palcohol, a Drug, a Drug-Like Substance, and/or Drug Paraphernalia.

"Criminal Deadly Weapons/Dangerous Instrument Offense, Commission of" shall mean the Commission by a student of an offense prohibited by 11 Del.C. §§1442 through 1458 inclusive.

"Criminal Mischief (Vandalism)" shall mean a student, in the School Environment, intentionally or recklessly: (1) Damages tangible property of another person or entity; or (2) Tampers with tangible property of another person so as to endanger person or property.

"Criminal Sexual Offense, Commission of" shall mean the Commission by a student of an offense prohibited by 11 Del.C. §§763 through 780, inclusive, or §§1108 through 112A, inclusive, or §1352(2) or §1353.

"Criminal Violent Felony Offense, Commission of" shall mean the Commission by a student of any violent felony as specified in 11 Del.C. §4201(c).

"Cyberbullying" shall mean the use of uninvited and unwelcome electronic communication directed at an identifiable student or group of students, through means other than face-to-face interaction, which (1) interferes with a student's physical well-being; or (2) is threatening or intimidating; or (3) is so severe, persistent, or pervasive that it is reasonably likely to limit a student's ability to participate in or benefit from the educational programs of the school district or charter school. Communication shall be considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community.

"Dangerous Instrument" shall have the same meaning as provided in 11 Del.C. §222(4).

"Dangerous Instrument(s) Possession/Concealment/Sale" shall mean the unauthorized Possession/ sale by a student in the School Environment of any instrument, article or substance which is readily capable of causing serious physical injury or death.

"Deadly Weapon" shall have the same meaning as provided in 11 Del.C. §222(5).

"Deadly Weapon(s) Possession/Concealment/Sale" shall mean the Possession, concealment, or sale of a Deadly Weapon in the School Environment.

"Defiance of School Authority" shall mean: (1) A verbal or non-verbal refusal to immediately comply with a reasonable request from school personnel, or refusal to identify oneself at the request of school personnel, and/or refusal to comply with disciplinary action; or (2) A verbal or non-verbal display of disrespect and/or uncivil behavior toward school personnel which either causes a substantial disruption or material interference with school activities.

“Designated Caregiver” means, pursuant to 16 Del.C. §4902A (5), a person who: is at least 21 years of age unless the person is the parent or legal guardian of a minor who is a qualifying patient; has agreed to assist with a patient's medical use of marijuana; has not been convicted of an excluded felony offense; and assists no more than 5 qualifying patients with their medical use of marijuana.

“Detention” shall mean the detaining of students after school hours or during non-class school hours for infractions of regulations not warranting suspensions. A detention may be used at the discretion of the teacher or the building administrator subject to the following procedures: No student will be detained after school hours until the parent is notified. The local school administrator is responsible for notification of parents as to the time, place, and length of the detention period. Adequate advance notice must be given so that arrangements may be made by the parents for the student's transportation and in the event of parental hardship in providing transportation, the local school administrator may use his discretion in executing the detention assignment.

"Disorderly Conduct" shall mean conduct in the School Environment which causes public inconvenience, annoyance or alarm or creates a risk thereof by: engaging in fighting or violent tumultuous or threatening behavior or making an unreasonable noise or an offensively coarse utterance or gesture or display or addressing, abusive language to any person present.

"Distribute", "Distributing" or "Distribution" means the transfer or attempted transfer of Alcohol/Palcohol, a Drug, a Look Alike Substance, a Drug Like Substance, or Drug Paraphernalia to any other person with or without the exchange of money or other valuable consideration.

"District" means a reorganized school district or vocational technical school district established pursuant to Chapter 10 of Title 14 of the Delaware Code.

"Drug" means any controlled substance or counterfeit substance as defined in 16 Del.C. §4701 including, for example, narcotic Drugs such as heroin or cocaine, amphetamines, anabolic steroids, and marijuana [and THC], and shall include any prescription substance which has been given to or prescribed for a person other than the student in whose possession it is found.

"Drug Like Substance" means any non-controlled and non-prescription substance capable of producing a change in behavior or altering a state of mind or feeling, including, for example, some over the counter cough medicines, certain types of glue, caffeine pills and diet pills. The definition of Drug Like Substance does not include tobacco or tobacco products which are governed by 14 DE Admin. Code 877 Tobacco Policy.

"Drug Paraphernalia" means all equipment, products and materials as defined in 16 Del.C. §4701

“Electronic Nicotine Delivery Systems, *ENDS*” means vapor pens, cloud pens, e-cigarettes.

"Expulsion" means, for purposes of this regulation, the exclusion from the regular school setting for a period determined by the local District board or Charter School board.

"Extortion" shall mean to obtain or attempt to obtain money, goods, services, or information from another by force or the threat of force.

"Felony Theft (\$1500 or more)" shall mean: (a) When a person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it; or (b) When a person, in any capacity, legally receives, takes, exercises control over or obtains property of another which is the subject of Theft, and fraudulently converts the property to the person's own use. The Theft is considered a felony when the value of the property received, retained, or disposed of is \$1500 or more or the victim is 62 years of age or older, or an "adult who is impaired" as defined in § 3902(2) of Title 31, or a "person with a disability" as defined in § 3901(a)(2) of Title 12.

"Fighting" shall mean any aggressive physical altercation between two or more individuals.

"Firearm" means handgun, rifle, shotgun, or other type of firearm as that term is defined in the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921.

"Gambling" shall mean participation in games of chance for money or other things of value.

"Gun Free School's Violation" shall mean the prohibited bringing to school, or Possession while in school of a Firearm by a student.

"Harassment" shall mean any actions or statements made with the intent to harass, annoy, or alarm another person which: A) insults, taunts, or challenges the other person or; B) is a cause of alarming or distressing conduct which serves no legitimate purpose and is done in a manner which the actor knows is likely to provoke a violent or disorderly response or cause a reasonable person to suffer fear, alarm, or distress.

Hate Speech/Conduct- Verbal or electronic communication and/or actions directed toward a member or members of a protected class of individuals for the explicit purpose of creating alarm, fear and/or causing emotional distress.

"Inhalant Abuse" shall mean chemical vapors that are inhaled for their mind-altering effects.

"Insubordination" means the act of disobeying authority.

"Look Alike Substance" means any non-controlled substance which is packaged so as to appear to be, or about which a student makes an express or implied representation that the substance is, a drug or a non-controlled substance capable of producing a change in behavior or altering a state of mind or feeling. 16 Del.C. §4752A

"Medical Marijuana Oil" means as defined in 16 Del.C. §4902A (10).

“Medications: Inappropriate Use or Possession” shall mean possessing or using non-prescription medication or prescription drugs of any type in the school environment in violation of 14 DE Admin. Code

"Misuse of Technology" shall mean: The use of school technology equipment in: Soliciting, using, receiving or sending pornographic or obscene material; or Accessing unauthorized email; or The unauthorized downloading and/or installing of files; or Intentionally damaging technology equipment in the School Environment; or A situation in which a student deliberately: Tamper with, damages, alters, accesses, crashes, or corrupts the computer/communications system in the School Environment resulting in the loss or corruption of information or the ability of the system to operate; or In any way disrupts or degrades the school or district's technology infrastructure.

"Non-prescription Medication" means any over the counter medication; some of these medications may be a "Drug Like Substance."

"Offensive Touching" shall mean intentionally touching another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm to such other person; or Intentionally striking another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.

“Palcohol” shall mean powdered Alcohol

"Pornography" shall mean the Possession, sharing, or production of any known obscene material in the School Environment.

"Possess", "Possessing", or "Possession" means that a student has on the student's person, in the student's belongings, or under the student's reasonable control prohibited by placement of and knowledge of the whereabouts of, Alcohol/Palcohol, a Drug, a Drug Like Substance, a Look Alike substance, or Drug Paraphernalia.

"Prescription Medications" means any substance obtained directly from or pursuant to a valid prescription or order of a practitioner, as defined in 16 Del.C. §4701(24), while acting in the course of his or her professional practice, and which is specifically intended for the student in whose possession it is found.

"Rape or Attempted Rape" shall respectively mean sexual intercourse and attempted Sexual Intercourse without consent of the victim in both cases.

“Reasonable Suspicion” exists if there are reasonable grounds for suspecting that the student has violated the law or school rules. The search as actually conducted must then be reasonably related in scope to the circumstances which justified it in the first place.

"Reckless Burning" shall mean when a person intentionally or recklessly starts a fire or causes an explosion and recklessly places a building or property in danger of destruction or damage or places another person in danger of physical injury.

"Relative Caregiver" means an individual who meets the criteria and requirements of 14 Del.C. §202 (f)(1).

"Repeated Violations of Student Code of Conduct" shall mean five or more violations of the school's Code of Conduct within a school year, excluding chronic infractions for tardiness or unexcused absences to school/ class.

"School Environment" means within or on school property, and at school sanctioned or supervised activities, including, for example, on school grounds, on school buses, at functions held on school grounds, at extracurricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

"Sexual Act" means (1) contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight; (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or (3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to arouse or gratify the sexual desire of any person.

"Sexual Assault" shall mean any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood, marriage or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment as defined in §763 of Title 11; sexual contact as defined in §761(f) of Title 11; Sexual Intercourse as defined in §761(g) of Title 11; sexual penetration as defined in §761(i) of Title 11; and child sexual abuse as defined in §901 of Title 10

"Sexual Intercourse" shall have the same meaning as provided in 11 Del.C. §761(g).

"Sexual Misconduct" shall mean a consensual sexual act(s) between two individuals within the School Environment.

"Sexual Offense" means any offense defined by 11 Del.C. §§763-780 and §§1108-1112A, 1352(2) and 1353.

"Stealing" means taking, exercising control over or obtaining property of another person intending to deprive that person of it or appropriate it.

"Steroids Possession and/or Use" shall mean the unlawful Use or Possession of steroids.

"Student Code of Conduct" means the district/charter school approved document which specifies the rights and responsibilities of students, defines conduct that disrupts/threatens a positive/safe

school environment, standardizes procedures for consequences, disciplinary action, and defines due process and grievance procedures.

“Suspension” shall mean a temporary separation from school for violations of school regulations or public law dealing with school operations.

“Suspension, Long-term (Long-term Suspension)” means Disciplinary Action approved by the Superintendent upon recommendation of the Principal or District Alternative Placement Team resulting in the student being removed from the Regular School Program for eleven (11) consecutive school days or more and not to exceed the total number of school days in a school year.

"Suspension, Short-term (Short-term Suspension)" means Disciplinary Action approved by the Principal or School Discipline Committee resulting in the student being removed from his Regular School Program for at least one (1) school day and not more than ten (10) consecutive school days. Student maintains enrollment in district/charter, but is excluded from all school activities including, but not limited to extracurricular sports/programs, field trips, and ceremonies. Student is not allowed on School Property when Short-term Suspension is out-of-school.

"Tampering with Public Records" shall mean a person knowingly without valid authorization removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any original record or other written material filed with, deposited in or otherwise constituting a record of a public office or public servant.

"Teen Dating Violence" shall mean assaultive, threatening or controlling behavior, including stalking as defined in 11 Del.C. §1312, that one person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.

"Terroristic Threatening" shall mean when: (1) A person threatens to commit any Crime likely to result in death or in serious injury to person or property; or (2) A person commits an act with intent of causing an individual to believe that the individual has been exposed to a substance that will cause the individual death or serious injury.

"Terroristic Threatening - Security Threat" shall mean when a person makes a false statement or statements: (1) Knowing that the statement or statements are likely to cause evacuation in the School Environment; (2) Knowing that the statement or statements are likely to cause serious inconvenience in the School Environment; or (3) In reckless disregard of the risk of causing terror or serious inconvenience in the School Environment.

“Theft” means those acts described in 11 Del.C. §§ 841 through 846 inclusive.

“Unauthorized” shall mean without having official permission or approval by district/school authorities, or other knowingly or unknowingly involved parties.

"Unlawful Sexual Contact III" shall mean when a student has sexual contact with another person or causes the victim to have sexual contact with the student or a third person and the student knows that the contact is either offensive to the victim or occurs without the victim's consent.

"Unsafe Items" means items which can be used (*or attempted to use*) to cause injury, i.e., fireworks, firecrackers, a folding pocketknife with blade "3" or less, etc.

"Use" means that a student is reasonably known to have ingested, smoked or otherwise assimilated Alcohol/Palcohol, a Drug or a Drug Like Substance, or is reasonably found to be under the influence of such a substance.

"Use and/or Possession of a Drug and/or Alcohol/Palcohol and/or Drug Paraphernalia" shall mean, that in the School Environment, a student unlawfully Possesses, Uses or is under the influence of Alcohol/Palcohol, a Drug, Drug Paraphernalia, or any substance or paraphernalia consistent with the definitions of these substances or paraphernalia.

"Violation of Behavior Contract" shall mean the failure of a student to comply with the provisions of any behavior contract between the student, his/her legal guardian, and the school.

## PHILOSOPHY OF DISCIPLINE

The Indian River School District believes that the most effective discipline programs are preventative, clear and flexible enough to accommodate differences in specific situations while maintaining a safe school environment conducive to learning. To achieve this, the IRSD believes students, parents, teachers, support staff and administrators are responsible for developing and maintaining cooperative roles in promoting behavior that encourages a focus on student learning while supporting students in realizing their individual potential and developing into responsible and educated citizens. Therefore:

- School officials are granted the authority to maintain an orderly and safe educational environment that considers student conduct as an essential developmental aspect of learning and citizenship.
- Students have the right to be informed about violation of rules and regulations and be granted the right to a hearing regarding serious offenses.
- Minor infractions and misconduct may be handled through conferences with teachers and administrators.
- Procedures for handling infractions may vary in formality in accordance with the seriousness of the action.
- Procedures for the disciplinary action shall be conducted in accordance with the judicial concept of *innocent until proven guilty*.
- Students shall have the right to an education and any disciplinary action regarding their conduct which hampers that right shall be reasonable and within the laws of the State.
- Disciplinary action shall be fair, consistent, and appropriate to the infraction or offense; and follow the district's *Code of Conduct*.



### EFFECTIVE IMPLEMENTATION

For this discipline policy to be effectively implemented, IRSD leadership believes parents should be informed at the earliest indication of a discipline problem. In classroom situations where progressive discipline should be used, teachers are responsible for contacting parents/guardians by phone or by holding a parent conference, to discuss the behavior(s) and develop a mutual understanding of expectations, and how the parent(s)/guardian(s) can best support the student and teacher in meeting these expectations. The teacher should also communicate the next discipline steps if the behavior(s) continues. The teacher should document these conversations. Likewise, administrators are strongly encouraged to follow the same procedures with parents/guardians.

### STUDENTS WITH DISABILITIES

The district's policies and procedures involving student discipline will be applied to students with disabilities in a manner consistent with state and federal law, including the Individuals With Disabilities Education Act, Section 504 of the Rehabilitation Act, and Title 14, Chapter 31 of the Delaware Code. Students with disabilities will, as applicable, be afforded the procedural safeguards available to them by state and federal law. Such procedural safeguards may include the right to a manifestation determination prior to a change in the student's educational placement for disciplinary reasons.

### SCOPE OF THE INDIAN RIVER SCHOOL DISTRICT'S DISCIPLINE POLICY

The policy is in effect in all of the schools in the Indian River School District. It is also in effect away from school property at any activity, function or event supported or sponsored by the Indian River School District. If a student violates the discipline policy outside of his/her own school while participating in a district or school-sponsored event, the incident will be reported to the school in which the student is enrolled. The principal or assistant principal of the student's enrolled school will investigate the case and then administer the case through to its completion.

Additionally, the policy shall also apply to student conduct that is unaffiliated with a district or school-sponsored event if the district believes that the student shows disregard for the health, safety, and welfare of others including, but not limited to, violence, weapons, and drug offenses. In such cases, the district may take appropriate action including expulsion.

### STUDENT RESPONSIBILITY

Students are expected to conduct themselves in an orderly, safe and responsible manner. Students are expected to attend classes daily and on time. Students are prohibited from loitering in the hallways at any time. Students are also responsible for their possessions. Students have the right to privacy in their personal possessions unless the principal/designee has reasonable suspicion of a student to be in possession of any item that may be in violation of the district policy.

The district presumes a student possesses, and is therefore responsible for all items found in the student's book bag/purse or similar bag or container used to carry books or personal property. The

student should regularly check the contents of his/her book bag/purse. Failure to secure one's book bag/purse, or the act of providing others access to one's book bag/purse, does not eliminate responsibility for items found in the book bag/purse.

Student motor vehicle use to, in, and from the school environment is a privilege which may be extended by school districts to students in exchange for their cooperation in the maintenance of a safe school atmosphere. The building principal or assistant principal shall be the determiner in issuing student-parking privileges on school grounds. Such privileges may be provided or revoked at the principal's or assistant principal's discretion. Reasonable suspicion of a student who may be in possession of prohibited items and a violation of a district policy may result in the student being asked to open an automobile in the school environment to permit school authorities to search for such items. Failure to open any part of the motor vehicle where such items may be located at the request of school authorities may result in the police being called to conduct a search, and will result in loss of the privilege to bring the vehicle on campus. The district presumes a student possesses, and is therefore responsible for, all items in the student's motor vehicle. The presumption applies to any car a student drives to school without regard to who owns the car. Before a student brings a car to school or a school activity, he/she should carefully inspect the car. If a student fails to lock one's car, the student remains responsible for items found in the car.

Student lockers are the property of the school and may be subjected to search at any time with or without reasonable suspicion. The district presumes a student possesses, and is therefore responsible for all items found in his/her locker. A student should regularly check the contents of his/her locker. If a student does not lock one's locker, the student remains responsible for items found in the locker.

Students of majority age, i.e., age 18 or older, are responsible for their own actions. All such students will be treated as adults for purposes of reporting violations of this policy and of the law to the police. Such students shall also be on notice that their parents and/or guardians will be notified (if their address and/or telephone number is known to the school) of the student's actions in accordance with this policy.

#### POLICY FOR USE OF CORPORAL PUNISHMENT

Under Delaware Code, no public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment, when defined as paddling, slapping or prolonged maintenance of physically painful positions, when used as discipline. Corporal punishment relates to physical contact between the student, teacher, and/or administrator for the purpose of corrective action and/or maintenance of safety and well being of students and staff.

#### Authority:

Every teacher and administrator in the Indian River School District shall have the right to exercise authority over a student as to control behavior and discipline during any school activity in the following manner:

- Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person;

- Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a pupil's control;
- Using reasonable and necessary force for the purpose of self-defense or the defense of others;
- Using reasonable and necessary force for the protection of property;
- Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself;
- Using reasonable and necessary force to protect the safety of others; or
- Using incidental, minor, or reasonable physical contact designed to maintain order and control.

### DRUG AND ALCOHOL/PALCOHOL ABUSE BY STUDENTS

The following paragraphs on the possession, use, or distribution of drugs/drug paraphernalia and alcohol/palcohol shall apply to all buildings within the Indian River School District. The possession, use and/or distribution of alcohol/palcohol, a drug, a drug-like substance, a look-alike substance and/or drug paraphernalia are wrong and harmful to students and are prohibited within the school environment. Such substances have the potential of producing, if used:

- a change in behavior
- a stimulating or depressing effect on the central nervous system
- a physical dependence
- a high psychological dependence

The following statements further describe the district's policy in that regard.

- (1) All prescription or non-prescription drugs are to be secured through the office of the school nurse. Authorized drugs are those prescribed to a student by a licensed physician or that which can be purchased over the counter and for which the student has written permission from a parent/guardian. In all cases, all medications should indicate the dosage or amount prescribed, and are to be delivered to the school nurse and administered as per physician's/parent's/guardian's written order. Violation of this policy could result in disciplinary action up to and including expulsion. All medications not reported to the nurse will be considered unauthorized. Federal and/or state regulations and guidelines may exempt students in certain circumstances from having to store their medication in the nurse's office as they may need quick access. In those cases specific criteria must be met and a signed consent from the physician, parent, and nurse must be in place prior to the student having such medications on their person with the exception of a Section 504 accommodation or when an IEP Team has determined the use of the medication is necessary for the student's educational placement (see 14 DE Admin Code 817). Other provisions of this policy related to consumption and distribution will still be in effect.
- (2) A student shall not knowingly possess, use, distribute/attempt to distribute, or be under the influence of any narcotic drug, hallucinogenic drug, opiate, amphetamine, barbiturate, marijuana, alcoholic/palcoholic beverage, diet pills or intoxicant of any kind; or any other substance, legal or illegal with or without consideration, upon the express or implied representation that the substance is a narcotic drug, an hallucinogenic drug, opiate, amphetamine, barbiturate, marijuana, alcoholic/palcoholic beverage, diet pills, intoxicant of any kind.

- (3) Any student who violates the receipt, possession or use provisions of this policy for the first time shall be offered a 1<sup>st</sup> Offense waiver in lieu of an expulsion hearing. The conditions of the 1<sup>st</sup> Offense Waiver include:

Pre-K to 5<sup>th</sup> Grade:

- Up to three (3) days Out of School Suspension
- Successful completion of school-based counseling
- Social probation during period of suspension

Grades 6 through 12:

- Up to three (3) days Out-Of-School Suspension
- Enrollment/successful completion of a district approved course of instruction or program of rehabilitation appropriate for the type of violation
- Completion of a five (5) day placement at CAMP (Character Academic and Motivational Program)
- Social probation during period of suspension and CAMP placement

- (4) In the event the student refuses to accept the first-time waiver option, the student will receive a ten (10) day Out-Of-School suspension followed by a recommendation for a discipline hearing to consider for expulsion not to exceed 180 school days from the date of the incident and state or local police referral for appropriate action.
- (5) If the student fails to show satisfactory evidence that he/she is participating in an approved program, or the student violates this policy a second time, or subsequent time, during his or her school career, the student will receive a mandatory Out-of-School Suspension and the Superintendent will immediately implement the expulsion not to exceed 180 school days from the date of the incident.
- (6) Any student who distributes or attempts to distribute under the provisions of this policy shall be subject to a ten (10) day out-of-school suspension, a state or local police referral for appropriate action, and shall be expelled for a period not to exceed 180 school days from the date of the incident. The Board of Education under these violations may offer the option described under paragraph 3 which concerns waiver of expulsion.
- (7) All alcohol/palcohol, drugs, drug-like substances, look-alike substances and/or drug paraphernalia found in a student's possession shall be turned over to the principal or designee, and be made available, in the case of a medical emergency, for identification. All substances shall be sealed and documented and, in the case of substances covered by 16 Del. C. Ch. 47, turned over to police as potential evidence. A request for analysis shall be made where appropriate.
- (8) Any student who is found consuming beyond the prescribed or recommended dosage, or is found to be under the influence of, selling or distributing any substance which alters or is intended to alter performance such as steroids, stimulants, amphetamines, diuretics, and related compounds,

any of which are found on the NCAA list of banned drugs may be suspended from school and subject to disciplinary action up to and including expulsion as provided for in this drug and alcohol/palcohol abuse by students policy.

Each principal will be responsible for conducting an assembly each year, on or before September 15<sup>th</sup>, during which time students are given information about this section and consequences of its violation.

The Superintendent shall be responsible for developing regulations governing the approval procedure for alcohol/palcohol/drug abuse treatment programs, the monitoring of student participation in those programs and other procedures necessary to carry out this section of the policy.

#### Medical Marijuana Oil

A Designated Caregiver may possess for the purpose of administering and may administer to a minor qualifying patient Medical Marijuana Oil in a school bus and on the grounds or property of the preschool, or primary or secondary school in which a minor qualifying patient is enrolled. The Designated Caregiver shall not be a school nurse or other school employee hired or contracted by a school unless he or she is a parent or legal guardian of the minor qualifying patient, and said parent or legal guardian possesses no more than the number of dose(s) prescribed per day of Medical Marijuana Oil which is kept at all times on their person.

#### SCHOOL BUS DISCIPLINE

Recognizing that pupil safety and welfare on school buses depend, to some degree on the conduct of pupils themselves, and that misbehavior which distracts a school bus driver is a serious hazard to the safety of all passengers, the Indian River School Board, herewith established the following as a means of uniformly dealing with school bus discipline problems:

“School bus transportation is a privilege extended to all pupils who qualify for same under state law. This privilege may be suspended temporarily or for the remainder of the year for violations of ‘School Bus Safety Regulations.’ The ‘Student Code of Conduct’ of the Indian River School District shall be in effect on every school bus transporting Indian River School District students or at any designated Indian River School District school bus stop.

Violations of the ‘Bus Safety Regulations’ are to be submitted by the bus driver on a discipline report form to the appropriate principal or assistant principal as soon as practical. Administrators alone have authority to invoke school bus suspensions. When suspensions from school bus transportation are invoked, parents or guardians will be responsible for providing transportation to and from school.”

#### EXTRA-CURRICULAR ACTIVITES

A student must be in school one-half day of the extra-curricular event, or the last day preceding the event if the activity occurs on a non-school day, to be eligible to participate in any extra-curricular activity after regular school hours unless authorized by the principal. One half day is defined as three (3) hours for students who will be participating in any extra-curricular event. Any student representing the school or attending any extra-curricular activities is subject to the jurisdiction of the school during all aspects of participation. Normal disciplinary measures will apply to breaches of acceptable behavior and will include the possibility of being denied the privilege of further participation in or attendance at said activity. The principal shall make this determination.

### TARDINESS

Unexcused tardiness to school on the part of any student may be addressed through disciplinary action by the principal or assistant principal. Prior to giving consequences to students for being tardy to school, each school will clearly define in writing its tardy policy, include it in its student handbook to be distributed to each child, review it in discipline assemblies with students, and share it at parent open houses at the beginning of each school year. (Please see Policy JE, *Student Attendance* for more information.)

### SEXUAL HARASSMENT OR SEXUAL MISCONDUCT

Sexual harassment or sexual misconduct by a student toward another student or district employee will not be tolerated within the jurisdiction of the Indian River School District or at any school-sponsored activity, whether held within or outside the district.

The following behaviors are examples of conduct that is prohibited:

- Physical assaults of a sexual nature.
- Other unwanted and unnecessary physical contact.
- Subtle pressure or requests for sexual contact.
- Verbal comments of a sexual nature, including but not limited to inappropriate comments about an individual's body or sexual activities.
- The inappropriate use of sexually explicit or offensive language in discussions with, or to describe, an individual.
- Sexually offensive jokes.
- The display of sexually suggestive objects or pictures.
- Any physical contact or activity of a sexual nature or any attempt to engage in any physical contact or activity of a sexual nature, either consensual or not, within the jurisdiction of the Indian River School District, or at any school sponsored activity or event.

Employees of the district who feel that they are the victim of sexual harassment or misconduct in any form by a district student or staff member should advise the offending person that the conduct is offensive and request that it be discontinued immediately. If the offending conduct continues or recurs, the employee shall immediately report the incident to the Principal or Assistant Principal; or, in the case of the Central Office, to the Superintendent or designee. If the staff member is uncomfortable for any reason with discussing the matter with the individual designated to receive the report, or who

are not satisfied after bringing the matter to the attention of the designated individuals, shall report the matter promptly to the Superintendent or designee.

Students who feel that they are the victim of sexual harassment or misconduct in any form by another student or a staff member; or who become aware of an instance of sexual harassment or misconduct should report the situation immediately to an administrator of the school or to a district employee who is in a position of authority, other than the person about whom the complaint is being made. Students are also encouraged to report all violations of this policy to their parents or guardians. Students who are uncomfortable for any reason with discussing the matter with the individual designated to receive the report, or who are not satisfied after bringing the matter to the attention of the designated individuals, shall report the matter promptly to the Superintendent or designee.

The district will investigate all allegations of sexual harassment or misconduct in as prompt and confidential manner as possible and will take appropriate corrective action when warranted. Students who are found, as a result of such investigation, to have engaged in sexual harassment or misconduct in violation of this policy will be subject to appropriate disciplinary action, up to and including expulsion from the school district. Furthermore, retaliation in any form against students who exercise their right to make a complaint under this policy is strictly prohibited, and will itself be cause for appropriate disciplinary action.

The Sexual Misconduct portion of the policy shall be printed in any student handbook distributed to or made available to students and employees within the district.

### SUSPENSION

Suspensions are authorized by the building principal or assistant principal for a period of time ranging from one day to ten school days. After having a conference with the student, the Superintendent or designee may suspend the student additional days when the administrative recommendation is to expel the student, or if unusual circumstances warrant such action.

The parent(s) or legal guardian(s) shall be notified by mail, email, and/or phone call of any suspension imposed upon a student. The parent shall be informed of the reason for suspension, how due process was provided to the student, the day and time when the suspension begins, and the day and time when the suspension ends. The parent shall be offered a hard copy of the referral which can be emailed, mailed home, or left for parent pick-up in the main office.

When a student is suspended, he/she must be given a written note saying exactly what time the suspension begins and ends.

### Suspension Programs

The Board of Education of the Indian River School District will conduct two (2) suspension programs and school administration may use either of these depending upon the severity and/or number of previous disciplinary offenses of a student.

### In-school Suspension

Indian River School District schools will conduct In-School Suspensions (ISS) as a strategy for addressing identified student behaviors violating the district's *Code of Conduct* while keeping students in the school environment.

In-School Suspensions occur at the student's school site under the supervision and support of an administrator-designated staff member in a location that removes participating students from their normal school schedule while still providing them with the opportunity to make academic progress through the completion of assignments and academic tasks.

Students in ISS:

- Are expected to adhere to the *Code of Conduct* and follow the directions of the ISS staff member.
- Are not permitted to engage in any other school/district activities until the suspension is completed.
- May be subject to an Out-of-School Suspension (OSS) and/or expulsion by the IRSD Board of Education if s/he is unable to complete the period of ISS (i.e. follow the Code of Conduct while in ISS, refusal to attend school for ISS).

### Out-of-School Suspensions

The second type of suspension that the Board of Education of the Indian River School District will have is the out-of-school suspension. This type of suspension is very serious and may be assigned by the building administration for a period up to ten (10) school days, and by the Superintendent or designee for periods in excess of ten (10) school days when an administrative recommendation is to expel the student or if unusual circumstances warrant such action.

### Out-of-School Suspension/Grading

Out-of-school suspensions will be regarded as excused absences. A student will be allowed the opportunity to make up and receive full credit for all work and tests missed during the out-of-school suspension. It is the responsibility of the student and/or parent/guardian to request class work, homework, assignments, and tests missed during a period of out-of-school suspension. Students and/or parent/guardian must request to make up the schoolwork within two (2) days after returning to school. The amount of time permitted for the student to complete the missed work shall be the same amount as for any other excused absences as provided in the Attendance Policy JE.

## APPEAL/GREIVANCE PROCESS

### Short-Term Suspension Appeal/Grievance Process

When a student commits a violation, which may result in a short-term (less than 10 days) in or out of school suspension, the following procedures are to be followed:



1. The student had prior opportunity to be informed in accordance with the established Student Code of Conduct rules and/or regulations.
2. The administrator/designee shall inform, orally or in writing, the student of the allegation(s) against him/her, the conduct which forms the basis of the allegation(s), and the policy, rule, or regulation violated.
3. The student shall be provided an explanation of the evidence supporting the allegation(s) and an opportunity to present his/her side of the story including any evidence.
4. The appeal or grievance may be brought by the student or his/her parent/guardian, or both.
5. The student shall have the option to meet with an administrator or designee regarding proposed disciplinary actions within one (1) school day after the charge was issued to them in writing. This informal/private process should be followed in order to resolve differences/problems in friendly and cooperative manner.
6. Students or parents/guardians shall have the right to informally appeal disciplinary action to the principal or principal's designee within two (2) school days after the charge. The objective is to resolve the matter informally.
7. If the matter is not resolved satisfactorily in the above manner, a written appeal to the superintendent's designee shall be made within two (2) school days of the previous disciplinary level. A parent/guardian/student conference shall be conducted within five (5) school days of appeal and the designee shall give a written decision within five (5) school days of conference. The decision of the superintendent's designee shall be final.
8. Should an appeal be requested after the consequence has been served, the appellant may request that a student's discipline record be erased or corrected for the infraction. Such an appeal must be requested within 30 calendar days of the incident.

#### CELL PHONES/ELECTRONIC COMMUNICATION DEVICES

##### **Grades K-8**

Cell phones and Electronic Communication Devices (ECD) can be a disruption to the school learning environment. Therefore, possession, use or display of cell phones and (ECD) should not be in use in elementary and middle school buildings during normal school hours.

- Students must silence and stow away cell phones and ECD prior to entering school.
- Cell phones and ECD may not be retrieved by a student until after the end of the student day as determined by the procedures of the individual school.
- Cell phones and ECD in use during the school day for any reason will be considered a violation of this policy.
- Cell phones and ECD must be surrendered to school district personnel upon request. Failure to do so shall be considered insubordination.

##### **Grades 9-12**

Students will be permitted to use their cell phones or ECD for approved instructional purposes within the classroom and during breakfast and lunch periods within the cafeteria. Cell phones are not permitted in any other area of the school.

Students must adhere to the Student Code of Conduct and the Board's acceptable use policy while using their cell phone or other ECD while on school property, including use during after-school activities and at school related functions. Students who inappropriately use their cell phone or ECD at school will be subject to disciplinary action as set forth in the High School Discipline Matrix.

A student is prohibited from using his/her cell phone or ECD to take unauthorized pictures or to make unauthorized video recordings at school.

After a teacher/administrator has warned a student and contacted the parent for disruption related to his/her cell phone or ECD, consequences as outlined within the Student Code of Conduct will be administered.

#### USE OF CELL PHONES ON BUSES

Cell phone and ECD use by students while riding to and from school on the bus, or on the bus during school sponsored activities, shall be at the discretion of the bus driver and/or staff supervising students on the bus. If approval is granted, students must ensure acceptable use that is not in violation of this, or any other, IRSD policy.

The Superintendent or his/her designee is authorized to establish procedures to determine whether exceptional circumstances require exceptions from this policy. Exceptions must be applied in a consistent manner to serve the best interest of the student population.

The use of cell phones and other electronic communication devices ECD is prohibited in grades K-8. Thus, during the period of confiscation, and at any time when the device is turned over to an employee, the district, each school, and its employees shall not be responsible for safekeeping, loss or damage.

A student's IEP or 504 team shall be authorized to approve exceptions to the above-referenced cell phone and ECD policy for a particular student for educational purposes only.

Indian River School District shall not assume any responsibility for theft, loss, or damage of a cell phone, or unauthorized calls/use of the cell phone.

#### ASSIGNMENT TO AN ALTERNATIVE PROGRAM/ADMINISTRATIVE PLACEMENT

Assignment to an alternative program is the removal of a student from the regular school program due to continuing violations of school regulations or public laws dealing with school operations. This procedure may be implemented in lieu of an expulsion and agreed upon with student, the student's parent/guardian, building administrator and Administrator of Student Services. Alternative program placement is designed to meet the student's particular needs and may be located at the Sussex County Opportunity Program in Education (SCOPE), Assignment to an available alternative program will be

made according to procedures established for the program, Delaware Education Administrative Code Title 14/611 6.0.

### EXPULSION

For all violations of this policy, an expulsion is a separation from the school district as recommended by the hearing officer and determined by the Board of Education not to exceed 180 school days. The Board of Education will use hearing officers to engage in the fact-finding process with respect to student disciplinary cases. The board will retain its authority and responsibility to make the final decision in such matters, but will make its decision based upon a review of the record of a hearing conducted by a hearing officer. Such an approach preserves the board's role of making the policy decision, but eliminates the board's involvement in lengthy hearings aimed at gathering the facts. Thus, for example, in the case of a student expulsion, the hearing officer gathers the facts, prepares proposed findings of fact, and makes a recommendation to the board. The board reviews the record to assure that the proposed findings are supported by substantial evidence, and the board makes the policy decision as to whether the conduct of the student should result in expulsion. Expulsions are for very serious and/or continuing violations of school regulations or public laws dealing with school operations. Expulsion is authorized only by the Board of Education after receiving a recommendation for such action from the building administrator and Superintendent or designee of the district.

Any student who is expelled at any time during a school year will not receive any credit for that school year unless the work for the credit has been completed prior to the expulsion or the student successfully completes a term of referral at an alternative school, as directed by the Board of Education. An expulsion shall commence with the day on which the violation occurred; this will be the last day the student is in school.

A student who is expelled or in an alternative placement setting is banned from school property and may not attend any school function during the period of the expulsion. If a student is scheduled for an expulsion hearing and withdraws prior to the hearing, the student will be banned from school property and not allowed to attend any school functions for 180 school days from the date of the withdrawal or until the expulsion has been formally completed. If the student withdraws after the expulsion hearing, but prior to board review of the hearing officer's recommendations, the student will be banned from school property and not allowed to attend any school functions for 180 school days from the date of the withdrawal.

Students expelled and referred to the Sussex County Opportunity Program in Education (SCOPE) must successfully meet that school's daily requirement for acceptable behavior for the full term of the expulsion.

Students who have successfully met a minimum of 50% of their assigned time at the alternative school may apply to that school's staff for early release. Such application shall be based upon exemplary accomplishments in regular attendance, earned grades, appropriate behaviors with peers and staff, and adherence to rules.

If the staff at the alternative school approves the student's request, an application for re-admittance to the student's regular school will be considered.

The administrators and staff of the sending school shall convene and consider the request.

If approved, a Behavior Contract shall be signed by the student, parent(s), and building Administrator, specifying the conditions of the early release.

Under normal circumstances, the matter shall be handled by appropriate district personnel and will neither require nor entitle the pupil to another formal hearing. However, the Board of Education shall be informed of each case which results in an early release. Once informed of the early release and based upon the recommendation of the building administrative staff, the board will have the option of ending the student's expulsion.

### Expellable Offenses

The following is a list of expellable offenses. The list is not all inclusive of expellable offenses; therefore, other offenses may also warrant expulsion.

- a. A student who physically or verbally abuses a teacher, administrator, or any other school district employee may be liable for expulsion and prosecution by law.
- b. A student who violates the narcotics, alcoholic/palcoholic beverages, and stimulant drugs section of this policy shall be expelled except that for certain violations the expulsion can be waived.
- c. A student who engages in a **criminal** sexual offense (i.e., sexual contact, sexual penetration, sexual intercourse) while under the jurisdiction of the Indian River School District may be liable for expulsion and prosecution by law. A student who engages in a **non-criminal** sexual offense for the **first** time (i.e., sexual contact, sexual penetration, sexual intercourse) while under the jurisdiction of the Indian River School District will be suspended out of school for up to three (3) school days and required to successfully complete five (5) days at CAMP.
- d. A student who recklessly or intentionally causes physical injury to another person while under the jurisdiction of the Indian River School District may be liable for expulsion and prosecution by law.
- e. A student who has been suspended out of school on three or more occasions during a school year may be expelled by the Board of Education.
- f. A student who uses, attempts to use, or threatens to use a dangerous/deadly weapon, tool or instrument to inflict harm to another individual while under the jurisdiction the Indian River School District may be expelled by the Board of Education.
- g. A student who is in possession of a "firearm" on school property, a school bus or at a bus stop, or at any school-sponsored event or activity shall result in expulsion for a period of not less than 180 days. The Superintendent shall modify such expulsion requirement to the extent a modification is required by Federal/State law or State Board regulation. For purposes of this appendix, "firearm" is defined in Section 921 of Title 18, United States code (see attached definition of "firearm"). Special exceptions to this policy may be considered to

- allow the Superintendent to modify each recommendation for expulsion on a case-by-case basis. Considerations respective of age and/or special needs of the student will be weighed.
- h. A student who communicates the possession of a bomb or other incendiary device, or has communicated or facilitated the communication of a bomb threat against any facility, school property, school bus, or at a school bus stop or at any school-sponsored event or activity within the Indian River School District or under the jurisdiction of the Indian River School District may be liable for expulsion and prosecution by law.
  - i. Once an Attorney General's Report (*Juvenile/Adult Warrant and Complaint*) is received by the district in support of student out-of-school criminal conduct, regardless of the jurisdiction, which shows disregard for the health, safety and welfare of others, including, but not limited to acts of violence, sexual offenses, weapons offenses and drug offenses, the district may take appropriate action including expulsion.

### STUDENT RECORDS

When a student is expelled and there is no waiver of that expulsion, an indication of the expulsion, and the reason therefore, will be made a part of the student's permanent record. This indication will be made before the student's record is released or prior to graduation, whichever comes first. If a student violates any provision of this policy which could lead to expulsion and subsequently, but prior to the actual expulsion, ceases to be an official student of the Indian River School District, the student's permanent record will indicate any action taken as a result of that violation, up until the time the student ceased to be an official student of the district.

Attorney General reports are not a part of a student's permanent record. However, they are included in the expulsion packet and will be a part of manifestation meetings and expulsion hearings.

### RECIPROCAL EXPULSION

A student expelled and/or pending an expulsion or currently in an alternative placement setting from a public or private school in the State of Delaware or any other state, including Sussex County Vocational Technical School District, will not be permitted to attend a school in the Indian River School District until the student has completed the expulsion period defined by the school district that assigned the expulsion.

### SOCIAL PROBATION

Social probation will be assigned as a consequence for students who are suspended out of school, or are attending an alternative placement for disciplinary reasons. While on social probation, the student may only attend regularly scheduled classes during the hours that the school is normally open to students. The student will not engage in or attend activities of any nature within the jurisdiction or property of the Indian River School District after regular school hours. If a student is placed on social probation, he/she shall not be allowed:

- To be in the school or on school grounds beyond regular school hours (normal school academic day). Graduation exercises are to be considered part of the regular school day for graduating

seniors. Principals may make graduation exceptions as needed in their schools in consultation with the Assistant Superintendent.

- To attend, as a participant or spectator, any school sponsored event after school hours or on weekends, or any school social activities such as parties, dances, trips, or proms during the period of assigned social probation.

Social probation begins at the time of the infraction and continues through the end of the day of the last day social probation is assigned.

Adopted 4/28/87

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4/18/00, 12/19/00, 12/18/01, 10/21/02, 5/27/03, 9/23/03, 4/27/04, 5/25/04, 6/15/04, 7/27/04, 6/21/05, 4/24/07, 6/19/07, 3/18/08, 7/22/08, 12/16/08, 6/23/09, 10/20/09, 5/25/10, 8/9/10, 1/25/11, 10/25/11, 1/24/12, 02/28/12, 04/17/12, 11/27/12, 5/21/13, 10/28/13, 7/1/14, 5/18/15, 12/22/15, 11/29/17, 7/29/19, 10/28/19, 11/23/20, 4/25/22, 7/24/23