

## STUDENT DISCIPLINE POLICY

### 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/guardians/caregivers, 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 prior to expulsion.
- 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

Students and their parents/guardians/caregivers will be notified of the District's policies and state regulations at the beginning of each school year, and when the student enrolls or re-enrolls during a school year.

For this discipline policy to be effectively implemented, Indian River School District leadership believes parents/guardians/caregivers 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/caregivers by phone or by holding a parents/guardians/caregivers conference, to discuss the behaviors and develop a mutual understanding of expectations, and how the parents/guardians/caregivers can best support the student and teacher in meeting these expectations. The teacher should also communicate the next discipline steps if the behaviors continue. The teacher should document these conversations. Likewise, administrators are strongly encouraged to follow the same procedures with parents/guardians/caregivers.

### THE STUDENT CODE OF CONDUCT IS IN FORCE

- On school property, prior to, during, and following regular school hours.
- On school property, prior to, during and following any school activity.
- While students are on the school bus for any purpose.
- At all school-sponsored event and other activities where school administrators have jurisdiction over students
- Off campus
  - The Indian River School District has the authority to suspend or expel students for activities occurring off of school premises when it is determined that the student presents a threat to the safety or welfare of IRSD students or personnel.
  - The receipt of an Attorney General's notice that a student has been arrested for a crime that may jeopardize the safety or welfare of students is sufficient evidence to warrant the initiation of the Process to Determine Appropriate Disciplinary Action.

## **STUDENTS WITH DISABILITIES**

This policy applies to all students except with respect to children with disabilities, as afforded by applicable federal and state laws.

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.

## **STUDENTS RIGHTS AND RESPONSIBILITIES**

Within each school, the principal holds the responsibility and authority to ensure an orderly educational process and foster a positive learning environment. The District upholds students' rights in accordance with state and federal laws, as well as the rules and regulations set forth by the District Board.

### **Rights and Responsibilities of Possessions**

- Students are responsible for their possessions.
- Students have the responsibility not to carry, conceal, or possess any materials which are illegal, disruptive, dangerous, or offensive to others.
- Students are expected to conduct themselves in an orderly, safe and responsible manner.
- Students are expected to attend classes daily, and on time.
- Students have the right to privacy in their personal possessions unless the Principal or the Principal's designee has reasonable suspicion of a student to be in possession of any item that may be in violation of the district policy.

### **Lockers**

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 their locker. A student should regularly check the contents of their locker. If a student does not lock one's locker, the student remains responsible for items found in the locker.

### **Bookbags/Purses**

The district presumes a student possesses, and is therefore responsible for all items found in the student's bookbag, purse or similar bag or container used to carry books or personal property. The student should regularly check the contents of their bookbag and purse. Failure to secure one's bookbag and purse, or the act of providing others access to one's bookbag and purse, does not eliminate responsibility for items found in the bookbag and purse.

### **Motor Vehicles**

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 their designee shall be the determiner in issuing student-parking privileges on school grounds. Such privileges may be provided or revoked at the Principal or their designee'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, they should carefully inspect the car. If a student fails to lock one's car, the student remains responsible for items found in the car.

A student who refuses a search is subject to discipline as outlined in the District's Code of Conduct and may warrant a referral to law enforcement.

## **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. This includes the use of smart watches.

- 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 their cell phone or ECD to take unauthorized pictures or to make unauthorized video recordings at school.

After a teacher or administrator has warned a student and contacted the parents/guardians/caregivers for disruption related to their 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 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 their 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.

### **Search and Seizures**

1. Law enforcement officers in reliance upon probable cause that a crime is, has, or is about to be committed, may search for evidence of that crime. Whenever reasonable, a search warrant issued by a court of competent jurisdiction will be sought before a search is conducted. As a general policy and when agreed upon to do so, a

school official will accompany the law enforcement officer on searches that are conducted on school property. School officials will not participate in the actual search unless specifically requested to do so by the police.

2. Efforts should be made by police and school administrators to conduct searches in a manner that will minimize disruption of the normal school routine and will minimize embarrassment to students affected.
3. A frisk (pat-down) may be conducted by the police when the officer has reason to believe that the person being encountered is armed or presents a risk of injury to the officer or an innocent third party. The Principal or their designee may, at any time, conduct such searches as are essential to the safety, security, discipline, and sound administration of the particular school. Upon completion of such searches, the Principal or their designee shall notify the student's parents/guardians/caregivers of the search and reason for the search. The appropriate police agency will respond to a request from a school official conducting an administrative search when the official feels that the search might reveal a violation of the law.

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/guardians/caregivers 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.

### **Transportation Privileges**

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:

1. 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.
2. Violations of the 'Bus Safety Regulations' are to be submitted by the bus driver on a discipline report form to the appropriate Principal or their designee as soon as practical. Administrators alone have authority to invoke school bus suspensions. When suspensions from school bus transportation are invoked, parents/guardians/caregivers will be responsible for providing transportation to and from school.

### **Extra-Curricular Activities**

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 or their designee. One half-day is defined as two (2) 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 or their designee shall make this determination.

### **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. Corporal punishment is defined as the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes but is not limited to, paddling and slapping, when used as a means of discipline.

Authority:

Every teacher, administrator, official employee, or agent of the Indian River School Board of Education 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, including, but not limited to a physical altercation, or prevent an act that threatens imminent bodily harm to any person.

- Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object
- 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 imminently inflicting bodily harm on himself or herself;

- Using reasonable and necessary force to protect the bodily safety of others; or
- Using incidental, or minor physical injury to maintain order and control.

## **DISCIPLINE PROCEDURES FOR CODE OF CONDUCT VIOLATIONS**

### **Investigatory Procedures and Timeline:**

1. In any instance when student disciplinary action, which may result in removal of the student from the regular school program for one day or more is contemplated, the Principal shall conduct a preliminary investigation to determine if there is reasonable basis to pursue disciplinary action.
  - a. The Principal may remove the allegedly offending student from the general student population while conducting the preliminary investigation if the student's presence in the school environment poses a threat to the health, safety, or welfare to persons or property within the school environment, as determined by the Principal. Initial due process shall be provided.
  - b. When obtaining written statements from witnesses, reasonable efforts may be made to notify the parents/guardians/caregivers of each witness.
  - c. Reasonable efforts shall be made to include the allegedly offending student or parents/guardians/caregivers in the preliminary investigation.
  - d. In the event that the offense included a threat towards another student(s) — whether substantiated or unsubstantiated—the parents/guardians/caregivers of the affected student(s) shall be notified upon the school's receipt or awareness of the threat.
2. The investigation shall be completed within three (3) school days of the date the incident in question was reported.
3. The Principal shall confiscate any contraband as defined in the Student Code of Conduct or under the school's policy or state or federal law, which may be used for criminal and juvenile delinquency proceedings. Such contraband shall be labeled and secured in a locked area. Any confiscated contraband, or that reasonably understood to be illegal contraband, which may be used for criminal and juvenile proceedings shall be turned over to the appropriate police agency as soon as practicable.

### **Reporting School Crime Requirements**

3. If the investigation reveals that there is reliable information that would lead a reasonable person to believe that a mandatorily reportable crime under [14 Del. C. §4112](#) has been committed, the Principal shall immediately notify the appropriate law enforcement agency of the incident.
  - a. All reports to the appropriate law enforcement agency must be made immediately by telephone or in person and shall be followed by a written report of the investigation within three (3) business days.
4. The Principal shall report all offenses listed as a mandatory report to the Department of Education under [14 Del. C. §4112](#) and [14 DE Admin. Code 601](#) within five (5) business days of the incident by completing the information in the Infinite Campus discipline

### **Initial Due Process**

Pursuant to [Del. C. 14 § 600 – 616](#), a student shall be afforded initial due process rights for discipline procedures which result in the removal of the student for one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct.

- Prior to any removal of one day or more from the Regular School Program due to a violation of the school's Student Code of Conduct:
  - The student had prior opportunity to be informed in accordance with the established Student Code of Conduct rules and regulations.
  - The administrator of their designee shall inform, orally or in writing, the student of the allegations against the student, the conduct which forms the basis of the allegations, and the policy, rule, or regulation violated.

- The student shall be given an explanation of the evidence supporting the allegations and an opportunity to present the student's side of the story including any evidence.

Students and their parents/guardian/caregivers, as their representative, are afforded the right to appeal assigned discipline. A student appeal procedure is a mechanism by which a student may seek to remedy the situation where they feel they were not afforded due process, an incorrect consequence per the Code of Conduct was given, there is insufficient evidence for the charge, or the incorrect charge was used. An appeal can be filed if a student has not been able to obtain a resolution in a less formal manner.

### **Due Process Delay Provision:**

A student whose presence in the school environment poses a threat to the health, safety, or welfare to persons or property within the school environment, as determined by the Principal, may be immediately removed from the school provided that, as soon as practicable thereafter, the due process procedures are followed.

The Superintendent or designee may temporarily extend the student's short-term suspension beyond the ten-school day limit pending an Alternative Placement Meeting decision or the district's Board of Education decision regarding an expulsion hearing or other formalized Disciplinary Action hearing for the student.

### **Suspensions**

The Principal or their designee may impose a Short-term Suspension on any student in the school who has violated the school's Student Code of Conduct. The duration of the Short-term Suspension shall not be more than ten (10) consecutive school days for any single conduct violation or combination of violations which occurred during a single disciplinary incident. The student maintains enrollment in district, but is excluded from all school activities including, but not limited to extracurricular sports, programs, field trips, and ceremonies. The student is not allowed on school property when Short-term Suspension is out-of-school.

### **Notification of Suspension**

When a student receives a suspension from school (in or out-of-school), reasonable attempts to provide verbal notification to the parent shall be made by the principal prior to the suspension being served. Written notification of the suspension and information regarding the district's appeal or grievance process will be given or sent to the parents/guardians/caregivers as soon as practicable, but no later than three (3) business days. The notification shall state the cause and duration of the suspension. The parents/guardians/caregivers or student may appeal the suspension to the next administrative level in accordance with the district appeal or Grievance process.

Prior to the student's return from an out-of-school Suspension of three (3) school days or more, the Principal or their designee shall hold an in-person or phone conference with the parents/guardians/caregivers and student. A definite time, date, and place for the conference shall be designated by the Principal or their designee. The Principal or their designee may waive this conference requirement.

### **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 an assignment 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) or expulsion by the IRSD Board of Education if they are 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 Suspension**

The second type of suspension employed by the Board of Education of the Indian River School District is the out-of-school suspension. This serious disciplinary measure may be assigned by building administration for a duration of up to ten (10) school days. For suspensions exceeding ten (10) school days, the Superintendent or their designee will make the determination, particularly in cases where an administrative recommendation for expulsion, assignment to an alternative program, or other exceptional circumstances necessitate 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 makeup 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 parents/guardians/caregivers to request class work, homework, assignments, and tests missed during a period of out-of-school suspension. Students or parents/guardians/caregivers 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.

### **Grievance/Appeal Process**

Pursuant to [Del. C. 14 § 600 – 616](#), disciplinary action may only be appealed to the next administrative level for failure of the school administration to follow any of the following reasons:

- Inappropriate due process
- Incorrect consequence per the Code of Conduct
- Incorrect charge or charge not supported by substantial evidence

Upon initiation of the appeal process, penalties shall not be implemented until the student ceases or exhausts their appeal. This “stay-put” provision does not apply in the following cases:

- If the student is being suspended as a first step in the Alternative Placement process.
- If the student has been charged with a criminal offense for an act committed outside of school;
- If the Principal determines the act allegedly committed by the student is a threat to the health, safety, or welfare of the staff or other students in the building.

### 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 appeal or grievance may be brought by the student or their parents/guardians/caregivers.
2. The student and/or parents/guardians/caregivers 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.
3. The student or parents/guardians/caregivers shall have the right to informally appeal disciplinary action in writing to the Principal or their designee within two (2) school days after the charge. The objective is to resolve the matter informally.
4. 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 parents/guardians/caregivers receipt of the prior decision concerning discipline. A parents/guardians/caregivers and 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.
5. 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.

### Long Term Suspension Grievance Process

When a student commits a violation, which may result in a long-term suspension, the following procedures are to be followed:

1. The appeal or grievance may be brought by the student or their parents/guardians/caregivers, or both.

2. The student and/or parents/guardians/caregivers 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.
3. Students or parents/guardians/caregivers shall have the right to informally appeal disciplinary action in writing to the Principal or their designee within two (2) school days after the charge. The objective is to resolve the matter informally.
4. 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 parents/guardians/caregivers receipt of the prior decision concerning discipline. A parents/guardians/caregivers and student conference shall be conducted within five (5) school days of appeal and the superintendent's designee shall give a written decision within five (5) school days of conference.
5. If the matter is not resolved satisfactorily, a written appeal to the Indian River School District Board of Education shall be made within 2 days of the parents/guardians/caregivers receipt of the prior decision concerning the discipline. The Indian River School District shall consider the appeal at the next regularly scheduled Board meeting and issue a written decision within 5 school days of the meeting.
6. 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.

## **Alternative Placement**

1. Criteria for student referral to an Alternative Placement.
  - a. A Principal or their designee may refer a student for Alternative Placement for any severe disciplinary violation for which Alternative Placement may be a consequence as specified in the district Student Code of Conduct and the student's behavior is within the defined conduct under [14 DE Admin. Code 614](#).
  - b. A Principal or their designee may refer a student for Alternative Placement for any offense listed in [14 Del. C. §4112](#). Students ineligible as a result of an offense listed in [14 DE Admin. Code 611](#) shall not be referred to a Consortium Discipline Alternative Program.
  - c. A Principal or their designee may refer a student for Alternative Placement in conjunction with an Attorney General's Report or court disposition that indicates that the student has been charged with a Violent Felony and/or is a threat to the health, safety, and welfare of others within the School Environment. Students ineligible as a result of an offense listed in [14 DE Admin Code 611](#) will not be referred to a Consortium Discipline Alternative Program.
  - d. A Principal or their designee may refer a student for Alternative Placement in conjunction with chronic disruptive behaviors which result in Repeated Violations of the Student Code of Conduct after all school-based best practice interventions have been put into place for said student. This may include, but is not limited to, counseling services, the development and implementation of a behavior support or modification plan, mentoring, referral to mediation, and participation in an available In-School Alternative Program.

2. Student Referral Which May Lead to Alternative Program Placement.

When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Alternative Placement, the following procedures shall occur:

- a. The Principal or their designee will conduct a preliminary investigation to determine if there is reasonable basis to pursue disciplinary action.
- b. If the preliminary investigation verifies that disciplinary action may be warranted, initial due process procedures will be followed.
- c. After the student has been afforded initial due process procedures, and if the Principal or their designee decides that disciplinary action will be taken, the student and parents/guardians/caregivers shall be notified.
- d. The Principal or their designee may impose a Short-term Suspension. If the student is suspended, the student and the parents/guardians/caregivers shall be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).
- e. If the Principal or their designee decides that the Disciplinary Action should be a referral for an Alternative Placement, the Principal or their designee shall compile an Alternative Placement Packet for the student.

The Alternative Placement Packet may also include other relevant information at the discretion of the Principal or their designee.

- f. For all referrals for Alternative Placement for a general education or special education student, the Principal or their designee shall hold a Building Level Conference with the parents/guardians/caregivers and the student.
- g. The Principal or their designee shall explain to the parents/guardians/caregivers and the student the purpose of the meeting is to inform them: 1) of the referral for Alternative Placement; 2) that the student may be suspended pending the outcome of the district Alternative Placement Team Meeting and; 3) of the procedures that will take place as follow-up to the referral for Alternative Placement. The conference shall be held by phone or in person. The Principal or their designee will have at least one other person present to take notes during the conference or shall have the conference audio recorded.
- h. Notice of the Alternative Placement Meeting will be mailed to the parents/guardians/caregivers and the student via regular U.S. and certified mail at least five business days before the meeting is to occur.

### 3. Alternative Placement Meeting

- a. An Alternative Placement Meeting shall take place to determine if an alternative setting is appropriate for a referred student.
- b. The District will provide the parents/guardians/caregivers and student with verbal and written notification of the district's Alternative Placement Meeting. Parents/guardians/caregivers and the student may, but are not required to, attend the meeting.
- c. The District will inform the parents/guardians/caregivers and student of the district Alternative Placement Team's decision for placement within one (1) business day of the meeting.
- d. If the decision is to assign to an Alternative Placement, the Superintendent will send follow-up written notice within three (3) business days to the parents/guardians/caregivers describing the circumstances which led to the placement, identifying the Alternative Program to which the student is being assigned, and the conditions which must be met in order for the student to return to the regular school program.
- e. The assignment to an Alternative Program and intake procedures outlined in [14 DE Admin C. § 611](#) will be followed.

#### Grievance Procedures for Alternative Placement Decisions:

A written appeal may be submitted by the student, parents/guardians/caregivers to the Superintendent within 3 (three) days of receipt of the Alternative Placement Team Decision. The Superintendent or designee will issue a written decision within 5 (five) school days after receipt of the appeal. The decision of the Superintendent or designee is final.

#### **EXPULSION**

"Expulsion" is disciplinary action approved by the Board of Education resulting in a student being removed from the regular school program for a duration not to exceed the total number of student days in a school year. An expelled student is not eligible to enroll in any other Delaware public school during the period of the expulsion and until any reasonable terms of the expulsion are fulfilled.

#### **Preliminary Procedures for the Expulsion of Students**

When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for Expulsion, the following procedures shall be followed:

- The Principal or their designee will conduct a preliminary investigation to determine if there is reasonable basis to pursue disciplinary action.
- If the investigation verifies that disciplinary action may be warranted, initial due process procedures will be followed.

After the student has been afforded initial due process procedures, if the Principal or their designee decides that disciplinary action in the form of a recommendation for Expulsion will be made, the following procedures will be followed:

- The student will be given written notice of charges and the parents/guardians/caregivers will be notified verbally and in writing as soon as practicable thereafter.
- The student will be given a short-term suspension and the parents/guardians/caregivers will be provided a copy of a Suspension form that includes a written notice of the Student Code of Conduct violation(s).
- The Principal or their designee will hold a Building Level Conference with the parents/guardians/caregivers and the student. The Principal or their designee will explain to the parents/guardians/caregivers and the student the purpose of the meeting is to inform them:
  - of the recommendation for Expulsion; 2) that the student will be serving a Short-term Suspension pending the outcome of the Expulsion hearing and; 3) of the procedures that will take place as follow-up to the recommendation for Expulsion.
- The conference shall be held by phone or in person. The Principal or their designee will have at least one other person present to take notes during the conference or will have the conference audio recorded.
- Documentation related to the recommendation for Expulsion will be delivered to the Superintendent within two (2) business days of the Building Level Conference or seven (7) business days of the incident, whichever is sooner.

## **Expulsion Hearings**

1. Upon receipt of a recommendation following the Building Level Conference, the Superintendent will review documentation to affirm that appropriate discipline procedures were followed. The Superintendent will, within ten (10) business days of the date of the incident, notify the student and the parents/guardians/caregivers by letter that a district-level Expulsion hearing will be held to consider the recommendation.
2. Written notice shall, at a minimum, be sent by regular U.S. and certified mail to the parents/guardians/caregivers describing the circumstances which led to the recommendation for Expulsion and shall give the date, time, and location of the hearing.
3. The hearing will be held not less than seven (7) business days or more than twenty (20) business days after receipt of written notice. The written notice shall be deemed to be received on the fourth business day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student and parents/guardians/caregivers at the district office prior to the mailing.
4. If requested, the student and parents/guardians/caregivers will also be given a copy of the following: the reason(s) for the recommendation; the name(s) of witnesses who may appear; and copies of information that may be submitted as evidence.
5. The hearing shall be conducted by a district's Board of Education or Hearing Officer.
6. The Board of Education or Hearing Officer shall have full authority to admit or exclude evidence.
7. Evidence presented at the Expulsion hearing may include, but is not limited to, witness statements, police or Attorney General's Reports, and photocopies of evidence.
8. The Board of Education or Hearing Officer is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure.
9. The Board of Education or Hearing Officer may exclude plainly irrelevant, immaterial, insubstantial, cumulative and privileged evidence.
10. The Board of Education or Hearing Officer may limit unduly repetitive proof, rebuttal and cross examination.
11. In conducting the hearing, the district shall submit evidence first followed by the response of the student, if any.
12. Further evidence by either party may be presented at the hearing if the Board of Education or Hearing Officer determines such evidence is necessary.
13. The Superintendent presenting the case on the part of the district shall not testify.
14. The hearing shall be recorded in a manner that will permit transcription.

15. The student shall have the following rights: to be represented by legal counsel at the student's expense; to cross-examine witnesses; to testify and produce witnesses on their behalf; and to obtain, at the student's expense, a copy of the transcript of the hearing.
16. In lieu of a formal Expulsion hearing, a student may elect to waive the hearing and admit to the student's violation charge(s). The student and parents/guardians/caregivers shall submit a signed written hearing waiver which indicates that the student is knowingly and voluntarily waiving their right to the hearing. Such election may be exercised until the commencement of the hearing. This waiver does not absolve the student from required consequences under Federal or State Law or the Student Code of Conduct.

### **Expulsion Decision by Board of Education**

#### **Decision after Hearing Officer Presides over Hearing**

- Within five (5) business days following the conclusion of an Expulsion hearing conducted by a Hearing Officer, a written report shall be prepared by the Hearing Officer for the Superintendent.
- The report shall frame the issues, summarize the evidence, state conclusions of fact, and make a recommendation as to whether the student should be expelled.
- The Board of Education shall make its decision at the next scheduled public Board Meeting or additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.
- The Board shall conduct a review of the Hearing Officer's recommendation. The Board may accept, reject, or modify the recommendation of the Hearing Officer. The Board's decision shall be in writing and shall be based solely upon the report from the Hearing Officer and the record of the Expulsion hearing, if any.
- Any decision to expel a student will be reported to the Delaware Department of Education within five (5) business days of the Board's decision to expel. When a Board of Education expels a student, but determines the student shall not be placed at a Consortium Discipline Alternative Program, the written decision will address with specificity the reason for non-placement and the evidence in support thereof. Such decisions will be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five business days of such decision, with a copy to the student's parents/guardians/caregivers.

#### **Decision after Board of Education Presides over Hearing**

- Following the conclusion of an Expulsion hearing conducted by the Board of Education, the Board shall frame the issues, summarize the evidence, state conclusions of fact and render its decision.
- The Board's decision shall be in writing and shall be based solely upon the record of the Expulsion hearing of which it presided over.
- Any decision to expel a student will be reported to the Delaware Department of Education within five (5) business days of the Board's decision to expel. When a Board of Education expels a student, but determines the student shall not be placed at a Consortium Discipline Alternative Program, the written decision will address with specificity the reason for non-placement and the evidence in support thereof. Such decisions will be submitted to the Delaware Department of Education's Office of School Climate and Discipline within five business days of such decision, with a copy to the student's parents/guardians/caregivers.

#### **Decision After Waiving of Hearing Rights and Admission to Violation Charges**

Within five (5) business days following the waiving of hearing rights and admission of violation charges, the Superintendent will prepare a report for the Board of Education's action at its next public board meeting or an additional scheduled public board meeting for the sole purpose of deciding on the student disciplinary matter in question.

#### **Alternative Programs**

Eligible expelled students shall be placed in a Consortium Discipline Alternative Program in accordance [with 14 Del. C. §1604](#) and [14 DE Admin. Code §611](#). The Board shall determine if the students not eligible for placement in a Consortium Discipline Alternative Program shall be expelled with or without Appropriate Educational Services.

#### **Notice of Appeal Rights**

Within ten (10) business days of the decision by the Board, the Board, through its designee, shall submit its decision to the Superintendent and parents/guardians/caregivers and student in writing. The written decision shall include notice of the right to appeal to the State Board of Education.

### **Miscellaneous Information Regarding Expulsions**

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 parents/guardians/caregivers, 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, [14 DE Admin. Code §611](#).

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 of 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.

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, parents/guardians/caregivers, 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.

The following is a list of Student Code of Conduct violations which may be subject to a recommendation for expulsion or assignment to Alternative Placement. 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 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.

- 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 or who has been assigned to CAMP on one or more occasions during a school year may be expelled by the Board of Education.
- f. A student who possesses, 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 determined to have brought a Firearm to the School Environment, or to have possessed a Firearm in the School Environment, 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 Board of Education to modify the expulsion requirement on a case-by-case basis. Considerations respective of age and/or special needs of the student will be weighed. Any modification of the expulsion requirement must be reported to the Delaware Department of Education.
- 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 has the discretion to take action. Such action may include, but is not limited to, student or parent/guardian/caregiver conference, safety planning and disciplinary action, including expulsion.

Additional violations that can result in suspension, alternative placement or expulsion can be found on our Discipline Matrices:

[High School Discipline Matrix](#)  
[Middle School Discipline Matrix](#)  
[Elementary Discipline Matrix](#)

## 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 in-school, out of school, to include CAMP 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, they 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. The Principal or their designee 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.

## DRUG AND ALCOHOL ABUSE BY STUDENTS POLICY

The following paragraphs on the possession, use, or distribution of drugs, drug paraphernalia and alcohol shall apply to the school environment of the Indian River School District. The possession, use and distribution of alcohol, a drug, a drug-like substance, a look-alike substance and 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 parents/guardians/caregivers. 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/caregiver'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.
2. Students are permitted to have discretionary use and possession of an asthmatic quick relief inhaler with an individual prescription label, an auto-injectable epinephrine with individual prescription label, or an insulin pump for continuous subcutaneous insulin infusion ("insulin pump"), Hand Sanitizer, or other medication supported with appropriate documentation that is required to be nearby in case of emergency; provided, nevertheless, that the student uses the inhaler, auto-injectable epinephrine, or an insulin pump or other medication supported with appropriate documentation that is required to be nearby in case of emergency pursuant to prescription or written direction from a state licensed health care practitioner; a copy of which shall be provided to the District; and further provided that the parents/guardians/caregivers of such student provide the District with written authorization for the student to possess and use the inhaler, auto-injectable epinephrine, or an insulin pump or other medication supported with appropriate documentation that is required to be nearby in case of emergency at such student's discretion or under the school nurse's supervision, together with a form of release satisfactory to the District releasing the District and its employees from any and all liability resulting or arising from the student's discretionary use and possession of the inhaler, auto-injectable epinephrine, or an insulin pump, or other medication supported with appropriate documentation that is required to be nearby in case of emergency and further provided that the school nurse may impose reasonable limitations or restrictions upon the student's use and possession of the inhaler, auto-injectable epinephrine, or an insulin pump based upon the student's age, level of maturity, behavior, or other relevant considerations. Parents/guardians/caregivers shall not be required to provide or sign a form of release where the student's use and possession of an asthmatic quick relief inhaler, auto-injectable epinephrine, or insulin pump or other medication supported with appropriate documentation that is required to be nearby in case of emergency is determined by the student's IEP or Section 504 Team to be necessary for the student's educational placement. Except as provided for in a student's Section 504 Plan or IEP, the school nurse may not unilaterally impose limitations or restrictions on a student's use and possession of an asthmatic quick relief inhaler, auto-injectable epinephrine, an insulin pump, or other medication supported with appropriate documentation that is required to be nearby in case of emergency if a Section 504 or IEP Team has determined the use of the medication is necessary for the student's educational placement. For students who use prescribed asthmatic quick relief inhalers, auto-injectable epinephrine, or an insulin pump for continuous subcutaneous insulin therapy or Hand Sanitizer, refer to [14 DE Admin. Code 817](#).
3. Other provisions of this policy related to consumption and distribution will still be in effect. Federal and 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, parents/guardians/caregivers, 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.

4. A student shall not knowingly possess, use, distribute or attempt to distribute, or be under the influence of any narcotic drug, hallucinogenic drug, opiate, amphetamine, barbiturate, marijuana, alcoholic 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 beverage, diet pills, intoxicant of any kind.
5. Any student who violates the receipt, possession or use provisions of this policy for the first time may 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 and 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
6. 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 and may be 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.
  7. If the student fails to show satisfactory evidence that they are 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 may refer the student for a discipline hearing to consider expulsion not to exceed 180 school days from the date of the incident.
  8. 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, may be assigned to alternative placement, or may be referred for expulsion 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 5 which concerns waiver of expulsion.
  9. All alcohol 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 their 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.
  10. 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 assignment to alternative placement or expulsion as provided for in this drug and alcohol/palcohol abuse by students policy.

Each Principal or their designee will be responsible for notifying all students of this policy by conducting an assembly each year, on or before September 15th, during which time students are given information about this section and consequences of its violation. Parents/guardians/caregivers shall also be notified. Students who enroll or re-enroll during the year shall be notified also.

The Superintendent shall be responsible for developing regulations governing the approval procedure for alcohol/drug abuse treatment programs, the monitoring of student participation in those programs and other procedures necessary to carry out this section of the policy. A program of assistance will be provided for students with counseling and referral services as needed.

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.

## **GUN-FREE SCHOOL POLICY**

### **I. PURPOSE**

To set forth a policy that establishes a gun free school zone in accordance with state and federal law.

### **II. POLICY STATEMENT**

The board of education supports Delaware's establishment of a gun free school zone and therefore prohibits possession of a firearm or other deadly weapon while in or on a Safe School Zone.

Therefore, the District prohibits any person from bringing, possessing or transferring a Firearm or Deadly Weapon in a Safe School Zone, including those individuals who have a permit to carry a concealed weapon.

A student who is determined to have brought a Firearm to the School Environment, or to have possessed a Firearm in the School Environment, shall result in expulsion for not less than a period of one school year. The Superintendent shall modify such expulsion requirement to the extent a modification is required by Federal/State law or State Board regulation.

Special exceptions to this policy may be considered to allow the Board of Education to modify the expulsion requirement on a case-by-case basis. Considerations respective of age and/or special needs of the student will be weighed. Any modification of the expulsion requirement must be reported to the Delaware Department of Education.

### **IV. EXCEPTIONS**

The following are exceptions to possession of a firearm while in a Safe School Zone:

- (1) Police officer
- (2) A constable employed by a school or school district who is acting in an official capacity within a Safe School Zone.
- (3) An active-duty member of the United States Armed Forces or Delaware National Guard who is acting in an official capacity within a Safe School Zone.
- (4) A holder of a valid license to carry concealed deadly weapons issued by the Superior Court, but only if the firearm is in a motor vehicle.
- (5) Employees of the Department of Services for Children, Youth, and Their Families who are authorized by the Secretary of the Department to carry a firearm or projectile weapon while acting in the employee's official capacity.
- (6) Probation and parole officers acting within the officer's official capacity.
- (7) A qualified retired law-enforcement officer who is employed or contracted by a school or school district to assist with security or investigations and who is acting in an official capacity within a Safe School Zone.
- (8) A firearm in a locked container or locked firearms rack that is in or on a motor vehicle (other than students).
- (9) Weapons possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any school-authorized sporting or recreational activity.

*The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:*

**“Administration”** means administrative staff from an Indian River School.

**"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 the student's school on a temporary basis for a period of time as determined by the Alternative Placement Team and assignment to an Alternative Program.

**"Alternative Placement Packet"** means the documents submitted to the Alternative Placement Team including, but not limited to and as applicable, a student's academic information, behavioral information including reason for referral to Alternative Placement, attendance information, Individualized Education Plan (IEP), 504 plan, and immunization records.

**"Alternative Placement Team (APT)"** means a committee composed of the following: a representative of the Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level Principal or their designee, the student's parents/guardians/caregivers; guidance counselor or school social worker; and, if appropriate, a representative from the Department of Services for Children Youth and Their Families (DSCYF) with knowledge of the student's and family's needs. Other individuals may be invited as determined by the APT. The APT reviews and prescribes the appropriate placement for students being considered for Alternative Placement.

**"Alternative Placement Team Meeting"** means a meeting held by the district's Alternative Placement Team to determine the appropriate educational setting for a student whose behavior is within the defined conduct under 14 DE Admin. Code 614 and who has been recommended for Assignment to an Alternative Program.

**“Alternative Program”** means a school discipline improvement program that provides Appropriate Educational Services that has been created for students whose behavior(s) is within the defined conduct under 14 De Admin Code 614. This includes any programs managed by a school district or the Consortium Discipline Alternative Program (Sussex County Opportunity Program in Education (SCOPE)).

**“Appropriate Educational Services”** means instruction and assessment provided by the district and includes access to instructional materials, graded homework and communication with educators as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting a level of proficiency in that curriculum.

**"Attorney General's Report (Juvenile Arrest Warrant and Complaint)"** means 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.

**“C.A.M.P”** means Character Academic Motivational Program, a 5 (five) to 10 (ten) day opportunity for middle and high school students to receive academic and behavioral support in lieu of an extended out of school suspension.

**"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 definition as provided in [14 Del.C. §4112](#).

**"Dangerous instrument"** shall have the same definition as provided in [11 Del.C. §222](#).

**“Deadly weapon”** includes a firearm (any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable, loaded or unloaded. It does not include a BB gun), a bomb, a knife of any sort (other than an ordinary pocketknife carried in a closed position), switchblade knife, billy, blackjack, bludgeon, metal knuckles, slingshot, razor, bicycle chain or ice pick or any “dangerous

instrument" (any instrument, article or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury, or any disabling chemical spray or any electronic control devices including but not limited to a neuromuscular incapacitation device designed to incapacitate a person), which is used, or attempted to be used, to cause death or serious physical injury. For the purpose of this definition, an ordinary pocketknife shall be a folding knife having a blade not more than 3 inches in length. [11 Del.C. §222](#).

**"Designated Caregiver"** means, pursuant to [16 Del.C. §4902A\(5\)](#), a person who is at least twenty-one (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 five (5) qualifying patients with their medical use of marijuana.

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

**"District"** means the Indian River School District.

**"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 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 noncontrolled and nonprescription 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 and Smoking Policy](#).

**"Drug Paraphernalia"** means all equipment, products and materials as defined in [16 Del.C. §4701](#) including, for example, roach clips, miniature cocaine spoons and containers for packaging Drugs.

**"Expulsion"** means Disciplinary Action approved by the Board of Education resulting in a student being removed from the Regular School Program for a duration not to exceed the total number of student days in a school year. A student expelled without Appropriate Educational Services shall be unenrolled from the district/charter during the term of the expulsion. Regardless of whether without or with services, including Alternative Placement, the expelled student is not eligible to enroll in any other Delaware public school during the period of the Expulsion and until any reasonable terms of the Expulsion are fulfilled.

**"Firearm"** is defined in [Section 921 of Title 18, United States code](#).

**"Gun Free Schools Violation"** means the prohibited bringing to school, or possession while in school, of a firearm by a student.

**"Hand Sanitizer"** means a commercially available health care topical antiseptic product with at least 60% ethanol or 70% isopropyl alcohol content.

**"Long-term suspension"** means Disciplinary Action approved by the Superintendent upon recommendation of the Principal or their designee 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.

**"Look Alike Substance"** means any noncontrolled 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 noncontrolled substance capable of producing a change in behavior or altering a state of mind or feeling.

**"Medical Marijuana Oil"** means as defined in [16 Del.C. §4902A\(14\)](#).

**"Nonprescription medication"** means any over the counter medication that can be sold legally without a prescription. This definition may include a Drug Like Substance but excludes Hand Sanitizer.

**"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 by placement of and knowledge of the whereabouts of, Alcohol, a Drug, a Drug Like Substance, a Look Alike Substance, or Drug Paraphernalia.

**"Prescription medication"** means a legal drug that has a written order for a student by a licensed health care provider licensed to prescribe medication.

**"Principal"** means the building principal, or the equivalent of the building principal.

**"Relative Caregiver or caregiver"** means an individual who meets the criteria and requirements of [14 Del.C. §202 \(f\)\(1\)](#).

**"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 extra-curricular activities held on and off school grounds, on field trips and at functions held at the school in the evening.

**"School property"** means any building, structure, athletic field, sports stadium, or real property that is owned, operated, leased, or rented by the Indian River School District including any kindergarten, elementary, secondary, vocational-technical school, or charter school, or any motor vehicle owned, operated, leased, rented, or subcontracted by the Indian School District.

**"Sexual assault"** means 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: sexual harassment as defined in §763 of Title 11; sexual contact as defined in §761 of Title 11; Sexual Intercourse as defined in §761 of Title 11; sexual penetration as defined in §761 of Title 11; and child sexual abuse as defined in §901 of Title 10.

**"Suspension"** means a temporary separation from school for violations of school regulations or public law dealing with school operations.

**"Short-term suspension"** means disciplinary action approved by the Principal, their designee 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 the district, 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.

**"Student code of conduct"** means the district or charter school approved document which specifies the rights and responsibilities of students, defines conduct that disrupts, threatens, or disrupts and threatens a positive and safe school environment, standardizes procedures for consequences and disciplinary action, and defines due process and grievance procedures.

**"Use"** means that a student is reasonably known to have ingested, smoked or otherwise assimilated Alcohol, a Drug or a Drug Like Substance, or is reasonably found to be under the

***The following words and terms shall be used to understand the student's alleged criminal conduct in Attorney's General's reports:***

**"Assault"** means any offense defined by [11 Del.C. §§611 through 613](#).

**"Criminal Deadly Weapons/Dangerous Instrument Offense, Commission of"** means the commission by a student of an offense prohibited by [11 Del.C. §§1442 through 1463](#) inclusive.

**"Criminal Drug Offense, Commission of"** means the commission by a student any controlled substances prohibited by [Title 16](#).

**"Criminal Sexual Offense, Commission of"** means the commission by a student of an offense prohibited by 11 Del.C. [§§763 through 780, 783 through 783A, 787, 1100A, 1108 through 1112B, 1335, 1352 through 1353, and 1361.](#)

**"Criminal Violent Felony Offense, Commission of"** means the commission by a student of any violent felony as specified in [11 Del.C §4201.](#)

**"Sexual assault"** means 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: sexual harassment as defined in [§763 of Title 11](#); sexual contact as defined in [§761 of Title 11](#); Sexual Intercourse as defined in [§761 of Title 11](#); sexual penetration as defined in [§761 of Title 11](#); and child sexual abuse as defined in [§901 of Title 10.](#)

**"Sexual offense"** means any offense defined by 11 Del.C. [§§763 through 780, 783 through 783A, 787, 1100A, 1108 through 1112B, 1335, 1352 through 1353, and 1361.](#)

**"Theft"** means those acts described in [11 Del.C. §§ 841 through 847 inclusive.](#)

### **Definitions of Student Code of Conduct Violations**

**"Academic dishonesty"** means fraudulent deception in preparing or presenting course work or class assignments as a student's own work when it is not. This includes: (1) copying another student's work, (2) unauthorized use of notes or sharing answers during a test, (3) presenting another person's work as one's own, (4) presenting quotations, words, or ideas without proper references or credit (plagiarism), (5) unauthorized use of AI for completion of student assignments, and (6) collusion, working together to provide or receive answers on an independent assignment or assessment.

**"Assault causing physical injury"** means students who intentionally engage in an act that causes physical injury or serious physical injury to another person. This includes bruises, lacerations, puncture and stab wounds, dislocations, sprains, or bone fracture. This offense is not used for students under the age of 12, unless the student causes a serious physical injury, which are injuries that create the risk of death or cause disfigurement, impairment of health, or loss or impairment of the function of any bodily organ or limb.

**"Attorney General's report"** means a report received by the Delaware Department of Justice regarding students in regular school programs who engage in alleged out-of-school criminal conduct, regardless of jurisdiction, which demonstrates the propensity to show disregard for the health, safety, and welfare of others, including, serious acts of violence, weapons offenses, and drug offenses.

**"Bullying"** means 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 a student's, school volunteer's, or school employee's emotional or physical well-being or substantial damage to a student's, school volunteer's, or school employee's 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.

**"Careless and reckless behavior"** means unintentional behavior that threatens to or causes injury or property damage or intentional behavior that causes or may cause unintentional injury or property damage.

**"Consensual sexual misconduct"** means consensual sexual acts between students within the school environment. This may require a report to the Delaware Department of Services for Children, Youth and Their Families Division of Family Services.

**"Defiance of school authority"** means a verbal or non-verbal refusal to comply with a reasonable request from school personnel, or refusal to identify oneself at the request of school personnel, or refusal to comply with disciplinary action that causes either a substantial disruption or material interference with school activities. This does not include a student who walks away to deescalate or manage the student's emotions.

**"Destruction of property"** means students who damage or deface school property or the personal property of another person. This includes tampering with security, medical, or fire protective equipment.

**"Disruptive behavior"** means students who intentionally disrupt the school environment by not following expectations or interrupt learning or school activities despite non-verbal and verbal redirection. This can include excessive talking that limits others' ability to learn and behaviors by the student or with other students that are distracting to other persons.

**"Distribution of alcohol or drugs"** means students who are found to be selling or distributing alcohol, drugs, or other substances in the school environment. This includes inhalants, marijuana (cannabis, edible, liquid, etc.), drug like substances, look alike substances, nonprescription medication, and prescription medications.

**"Dress code violation"** means failure to comply with the school-level dress code. Dressing in a manner that is unsafe or disrupts the learning environment. This includes clothing that promotes drugs, alcohol, or profanity.

**"Exposure"** means students who expose the student's genitals, breasts, or buttocks to another person.

**"Falsely signing and impersonating"** means falsely or fraudulently signing or altering a document or electronic record such as hall pass, early dismissal note, progress report, absence excuse, etc. Forgery shall also include impersonating another student or falsely identifying oneself or others inaccurately via electronic, verbal, or written means.

**"Fighting"** means students who willingly engage in a one-on-one physical altercation. This is a physical altercation in which none of the participants are identified as victims.

**"Harassment"** means students who engage in unwelcome verbal, written, electronic, graphic, or physical conduct relating to another person's actual or perceived sex, gender, age, race, color, national origin, sexual orientation, gender identity expression, pregnancy or related conditions, religion, disability, English language proficiency, socioeconomic status, or physical appearance. The behavior must be considered severe, persistent, or pervasive to be considered harassment. The behavior does not have to include intent to harm, be directed at a specific target, or involve repeated incidents.

**"Hate speech and conduct"** means verbal or electronic communication or actions directed toward a member or members of a protected class of individuals for the explicit purpose of creating alarm, fear, or causing emotional distress.

**"Inappropriate language and gestures"** means cursing, swearing, or using written or spoken language, gestures, electronic images, photos, or actions, directed towards another person, that are considered sexually explicit, offensive, obscene, or vulgar.

**"Inappropriate touch"** means students who intentionally engage in physical aggression towards a school employee, volunteer, or another student either with the student's own body or with an object and it does not result in physical injury. This includes pushing, pinching, punching, kicking, slapping, grabbing, scratching, poking with an object, throwing an object at, or spitting on a school employee or volunteer. The behavior does not have to include intent to harm. This offense should be used for students under the age of 12 who caused a physical injury to a school employee, volunteer, or another student that is not classified as serious.

**"Instigation"** means students incite aggressive or physical conflict between 2 or more students that resulted in a confrontation without directly participating in the confrontation.

**"Leaving school grounds without permission"** means leaving the school building or the school grounds during school hours without required staff permission.

**"Loitering"** means student's unauthorized presence in any school area for an extended period of time or student's failure to leave the school grounds at the time designated.

**"Misuse of technology"** means any use of school technology for unauthorized purposes such as, copying software, inappropriate internet or email usage, unauthorized use of school issued electronic devices, tampering with databases,

passwords or configurations, or deletion of files. This also includes the use of school technology equipment in: soliciting, using, or posting on social media; receiving or sending inappropriate images or materials; accessing unauthorized email; the unauthorized downloading or installing of files; or intentionally damaging technology equipment in the school environment.

**"Mutual group fight"** means students who willingly engage in a physical altercation with multiple willing participants. This is a physical altercation in which none of the participants are identified as victims.

**"Other school crime"** means any significant incident resulting in disciplinary action not classified previously but required to be reported under the School Crimes Reporting Law (14 **Del.C.** §4112). This may include arson, manslaughter, or violent felonies as defined by 11 **Del.C.** §4201.

**"Physical restraint - no code violation"** means a student was physically restrained by an employee or contractor of a public school district or charter school, private program, or alternative program, but there was no violation of the student code of conduct by the student.

**"Possession or production of pornography"** means students who possess, share, or produce any known pornographic or obscene material in the school environment. This would include a student who distributes photos or videos of another student who did not consent to getting the student's photos taken or shared, or cannot consent to the photos due to the student's age (under age 12).

**"Possession or use of alcohol or drugs"** means students who use or are under the influence of alcohol, drugs, or other substances, or who are found to be in possession of alcohol, drugs, other substances, or drug paraphernalia in the school environment. This includes inhalants, marijuana (cannabis, edible, liquid, etc.), drug like substances, and look alike substances.

**"Possession or use of dangerous instrument"** means students who possess or use any object, device, or instrument in the school environment classified as a dangerous instrument under 11 **Del.C.** §222. This includes pellet guns, air guns, tasers, mace, or other dangerous instruments.

**"Possession or use of deadly weapons"** means students who possess or use any object, device, or instrument in the school environment classified as a deadly weapon under 11 **Del.C.** § 222. This includes a knife of any sort, switchblade knife, billy, blackjack, bludgeon, metal knuckles, slingshot, or razor. This does not include toys, or ordinary objects including pocket knives with blades less than 3 inches. Firearms and bombs are captured under separate offenses.

**"Possession or use of explosive devices"** means students who are found to be in possession or use incendiary devices such as fireworks, firecrackers, pipe bombs, or other explosives in the school environment.

**"Possession or use of firearms"** means students who possess or use any firearm in the school environment. This includes handguns, rifles, shotguns, starter guns, or other firearms identified in 11 **Del.C.** §222, whether loaded or not. BB guns are included per 11 **Del.C.** §1457 and §1457A. This does not include toys, pellet, or air guns; these should be captured under possession or use of dangerous instruments.

**"Possession or use of nonprescription or prescription medications"** means students who use or are under the influence of nonprescription or prescription medications, or who are found to be in possession of nonprescription or prescription medications in the school environment without proper documentation.

**"Possession or use of tobacco or electronic smoking devices"** means students who use or possess any tobacco product or any electronic smoking device in the school environment. This includes products containing tobacco, electronic cigarettes, and any vape device.

**"Rape"** means the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent, including when a person is unable to give consent. All persons, regardless of sex, sexual orientation, or gender identity, can be victims of rape.

**"Robbery"** means students who take or attempt to take anything of value that is owned by another person or organization, under confrontational circumstances by force or threat of force or violence, or by putting the victim in fear. A key difference between robbery and theft is that robbery involves a threat or assault.

**"Safety violation"** means students who engage in any behavior that is not appropriate for school and has the potential to put the students or others in danger.

**"Sexual assault"** means any sexual act directed against another person without consent, including when a person is unable to give consent. It includes threatened rape, fondling, indecent liberties, or child molestation. Rape is not included. All persons, regardless of sex, sexual orientation, or gender identity, can be victims of sexual assault. Classification of these incidents should take into consideration the age and developmentally appropriate behavior of the offender.

**"Skipping and leaving class"** means absence from school or class without authorization or permission or leaving the assigned classroom without permission.

**"Tardiness to school and class"** means unexcused lateness to school or class without authorization or permission.

**"Theft (\$1500 or more)"** means students who take school property or the personal property of another person.

**"Theft (less than \$1500)"** means students who take, obtain, or intentionally have possession of school property or the personal property of another person.

**"Threat of physical attack with weapon"** means students who threaten to engage in an act that causes harm and introduces fear in another person, and the threat is made while displaying, brandishing, or discharging a weapon but with no actual physical contact of any person. A threat may or may not be made in person. A threat of physical attack using words that refer to a weapon would be considered a threat without a weapon.

**"Threat of physical attack without weapon"** means students who threaten to engage in an act that causes harm and introduces fear in another school community member. Threats can be made verbally, in writing, or with gestures and may refer to a weapon that is not present. A threat may or may not be made in person.

**"Threatening mass violence"** means students who threaten to engage in an act that causes serious physical harm or creates a substantial risk of serious physical harm in the school environment. This includes bomb threats and other threats that are likely to cause an evacuation of a building.

**"Unauthorized use of an electronic device"** means students who engage in non-educational activities in the school environment, including capturing, distributing, displaying, sharing, or posting of inappropriate images, videos, movies, or music from personal devices. Engaging in social media, texting, playing games, or streaming that disrupts the learning environment.

**"Unsafe item"** means any item, device, or substance that may be deemed disruptive or is used for a purpose in which it was not intended.

Adopted 4/28/87

Revised 5/26/87, 9/29/87, 1/1/88, 4/26/88, 5/24/88, 8/28/90, 2/26/91 (effective 7/1/91), 6/25/91, 6/23/92, 12/22/92, (Effective 2/1/93), 2/22/94, 8/23/94, 11/22/94, 3/28/95, 3/26/96, 6/24/97, 11/23/98, 4/16/99, 5/24/99  
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, 4/22/24, 3/25/25, 8/25/25, 12/15/25