



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

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GOVERNOR

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STATE SUPERINTENDENT

MEMORANDUM

DATE: May 30, 2017

TO: State Board of Education

FROM: Brian J. Whiston, Chairman

SUBJECT: Presentation of Revised Model Code of Student Conduct

The attached State Board of Education Model Code of Student Conduct has been updated to reflect recent changes to the Revised School Code. Among these is the requirement of school officials, before suspending or expelling a student, to consider a number of situation-specific factors, including whether a lesser intervention or restorative practices would address the pupil's violation or behavior. The proposed changes are indicated by a strikethrough of outdated content and additions are in all caps for review.

Following a period of public comment, the Board will be asked to approve the revised Model Code of Student Conduct at its August 8, 2017, meeting.

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**MICHIGAN
STATE BOARD OF EDUCATION**

MODEL CODE OF STUDENT CONDUCT ~~2014-2017~~

PREAMBLE

Michigan students, in all of their diversity, must be educated in a safe and supportive environment that fosters academic success and healthy development. Schools can create those environments by fostering student connectedness, establishing clear behavioral expectations, and employing preventative measures with constructive discipline that prioritizes keeping students in school through graduation.

The Michigan State Board of Education’s mission is: “All students graduate ready for careers, college, and community.” This can only be achieved if students are pursuing their education. To fulfill this mission, the Michigan State Board of Education (SBE) strongly urges school districts to ~~review existing zero tolerance policies and to~~ adopt practices that allow educators to address disciplinary matters as opportunities for learning instead of punishment. The SBE encourages schools to:

- Implement or expand evidence-based alternative and supplemental strategies for social and emotional learning such as Positive Behavioral Interventions and Supports (PBIS), Michigan Model for Health™ and restorative practices.
- Integrate social and emotional learning and other evidence-based pro-social development practices into their culture, supporting and sustaining them as vital elements of the school operations.
- Collect and effectively utilize data—including discipline and academic performance records, truancy data, student and stakeholder surveys, and other relevant measurements—for ongoing formative evaluation of disciplinary processes and their effectiveness.
- Use discretion ~~afforded under zero tolerance laws and other regulations~~ to reserve suspension and expulsion for only the most serious offenses such as those infractions required by law and deemed absolutely necessary.

Legal mandates and community safety may require removal of individuals who possess a dangerous weapon, commit arson, or engage in criminal sexual conduct (Gun Free Schools Act, 1994; Michigan Compiled Laws under MCL 380.1311), make bomb threats or engage in verbal assault (MCL 380.1311a), and/or commit physical assault against another at school or a school-related event (MCL 380.1310, 380.1311, 380.1311a, 380.1312), **IN COMPLIANCE WITH MCL 380.1310(c) (d) AS REVISED**. ~~“Zero Tolerance laws,” however, allow greater flexibility and discretion than many educators realize.~~

Numerous studies have shown that exclusionary discipline often sets the stage for student disenfranchisement, academic failure, dropout, and the potential for

criminalization. Also, exclusionary discipline is disproportionately applied to students of color, students with disabilities, and low-income students. This results in staggering costs to students, school districts, and society. **DISTRICTS SHOULD CONSIDER THESE FACTORS WHEN DEVELOPING LOCAL POLICY FOR THE IMPLEMENTATION OF MCL 380.1310(c)(d) AS AMENDED.**

This document intentionally proposes an approach to school discipline that gives preference to keeping students in school where they can receive the academic and social-emotional supports they need. It includes recommended responsibilities of each school community member, and it lists the proactive steps of positive behavior supports and restorative practices available before articulating the school community's consequences for disruptive conduct.

Adoption of a code of student conduct is one element of a school district's safe schools plan. There is no singular code of student conduct that meets the needs of every school district, although every school district is required by law to adopt a code, as set forth in the Revised School Code, MCL 380.1312(8):

"A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises."

This Model Code of Student Conduct is provided as a tool to assist Michigan school districts in developing, updating, or revising their local codes. This document may be modified to reflect local school district policy and procedure.

A school district interested in developing a school-wide approach to behavior and discipline will find helpful information on the following web sites:

- The Michigan Department of Education (MDE) **ALTERNATIVES TO SUSPENSIONS AND EXPULSIONS TOOLKIT**, http://www.michigan.gov/mde/0,4615,7-140-74638_72831---,00.html
~~School Discipline Policy Tool Kit, a link will be provided upon completion of the Tool Kit.~~
- U.S. Department of Education (USED) School Climate and Discipline Guidance Package, www.ed.gov/school-discipline
- Center for Educational Networking, <http://www.cenmi.org>
- USED, Office of Special Education Programs Center on Positive Behavioral Interventions and Support Effective School Wide Interventions, <http://www.pbis.org/>
- Minnesota Department of Education Restorative Measures Website, <http://education.state.mn.us/MDE/StuSuc/SafeSch/RestorMeas/>
- Council for Exceptional Children Website, www.cec.sped.org
- Safeguarding Our Children: An Action Guide Implementing Early Warning, Timely Response (April 2000),

- <http://www.ed.gov/admins/lead/safety/actguide/index.html>
- Michigan State Board of Education Brochure on Universal Education, http://www.michigan.gov/documents/UnivEdBrochureFINAL_incl_152066_7_Glossary_03-02-06a.pdf
 - SAMHSA's National Registry of Evidence Based Programs and Practice, <http://www.nrepp.samhsa.gov/>
 - Collaborative For Social and Emotional Learning, <http://www.casel.org/guide/>
 - National Center of Safe Supportive Learning Environments—Tools and resources to help districts use the data collected, <http://safesupportivelearning.ed.gov/>
 - National Clearing House on Supportive School Discipline, <http://supportiveschooldiscipline.org/connect/discipline-disparities>
 - Michigan School Justice Partnership, Keeping Kids in School and Out of the Justice System Reducing the School to Prison Pipeline, http://www.michigan.gov/documents/micontractconnect/The_Legacy_Center_for_Community_Success_442317_7.pdf
 - Justice Center – The School Discipline Consensus Report, http://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf#page=10
 - Center for Mental Health in Schools - <http://smhp.psych.ucla.edu/>

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SECTION I: INTRODUCTION

The [insert the name of the school district] is dedicated to creating and maintaining a positive learning environment for all students. All members of our learning community—including students, educators (including teachers, secretaries, custodians, aides, paraprofessionals, and other school personnel), parents, and engaged service providers—must assume a responsible role in promoting behavior that enhances academic and social success. Courteous, respectful, and responsible behavior fosters a positive climate for the learning community. Those responsibilities include, but are not limited to, the following:

Students (persons enrolled in grades K-12) have the responsibility to:

1. Take responsibility for your learning and recognize that it is a process.
2. Attend school regularly, arrive on time, and be prepared to learn.
3. Respect yourself and others in class, on school grounds, on buses, and at any school-related activity.
4. Respect the rights and feelings of fellow students, parents, educators (including teachers, secretaries, custodians, aides, paraprofessionals, and other school personnel), visitors, and guests.
5. Work within the existing structure of the school to address concerns.
6. Know and comply with school district rules and policies.
7. Participate in your learning communities, including helping formulate rules and procedures in the school, engaging in school-related activities, and fostering a culture of respect for learning and for others.

Parents have the responsibility to:

1. Take responsibility for your child(ren)'s development as learners by, as much as possible, providing a home environment suited for learning and developing good study habits.
2. See that your child(ren) attends school regularly and on time.
3. Provide for your child(ren)'s general health and welfare as much as possible.
4. Teach and model respect for yourself, your child(ren), and all members of the school community.
5. Support the school's efforts to provide a safe and orderly learning environment.
6. Know and support the school and district rules and policies and work within the existing structure of the school to address concerns.
7. Advocate for your child(ren) and take an active role in the school community.
8. Attend your child(ren)'s parent/teacher conferences.

Educators have the responsibility to:

1. Take responsibility for students' development as learners, including their academic success and positive social-emotional development, recognizing

that children should be subject to behavior management and discipline policies appropriate to their ages and levels of understanding.

2. Model and provide a mutually respectful and accountable atmosphere for learning that includes all members of the school community.
3. Cooperate and schedule conferences with students, parents, and other school personnel in an effort to understand and resolve academic and behavioral problems. Make every effort to accommodate families whose work schedules, access to transportation, or distance from school limits their ability to meet or participate.
4. Keep parents informed of their students' challenges, effort, and success.
5. Encourage students to participate in classroom, extracurricular, and other school-related activities.
6. Know and enforce the rules and policies consistently, fairly, and equitably.
7. Participate in formulating rules and procedures and other learning and developmental opportunities in the school.

The Code of Student Conduct sets forth student rights and responsibilities while at school and school-related activities, and the consequences for violating school rules. It defines behaviors that undermine the safety and learning opportunities for all members of the school community and favors actions that encourage positive behavior and learning over actions designed to punish. When determining the consequences of student misconduct, school officials may use intervention strategies and/or disciplinary actions. Recognizing the importance of keeping students in school learning as much as possible, educators will consider the severity or repetition of misconduct, age and grade level of the student, circumstances surrounding the misconduct, impact of the student's misconduct on others in the school community, and any other relevant factors in determining how they will address misconduct.

The Code of Student Conduct will be administered fairly, without partiality or discrimination. The Code of Student Conduct does not diminish any rights under federal law (20 U.S.C. 1400 et seq.) of a student determined to be eligible for special education programs and services. (A Sample Notice of Nondiscrimination is provided as Attachment 4.)

When and Where the Code of Student Conduct Applies

The Code of Student Conduct applies before, during, and after school and whenever student is engaged in a school-related activity. Each student is expected to follow this code of conduct:

- "At school," meaning in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event, whether or not it is held on school premises.
- When a student's conduct at any other time or place has a direct and immediate effect on maintaining order and discipline, or on protecting the safety and welfare of students or school district staff.

- When a student is using school telecommunications networks, accounts, or other district services.

Regarding Exclusionary Discipline

Numerous studies have shown that exclusionary discipline often sets the stage for student disenfranchisement, academic failure, dropout, and potential criminalization. This runs counter to the SBE's mission and goal that all students will graduate prepared for careers, college, and community.

Further, based on a preponderance of research, the U.S. Department of Education (USED) links school attendance with academic success and links exclusionary discipline with lower school performance and higher rates of students' academic failure. Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses. We will also employ social and emotional learning, positive behavioral expectations, restorative practices and constructive discipline measures and early intervention/diversion strategies that focus on screening and treatment to minimize a suspended student's time away from school and potential court involvement.

To foster each student's academic success and pro-social development, the school will consider research-based social and emotional learning strategies and options designed to promote positive behavior and modify negative behavior while holding students accountable and minimizing exclusion time. (For this code, a program is considered research-based if some research demonstrates its effectiveness. The practice does not have to earn the rank of evidence-based—which means the practice has been proven effective in multiple-site random controlled trials across heterogeneous populations—though evidence-based is preferred.) These may include research- or evidence-based preventative and discipline measures such as:

- Positive Behavioral Interventions and Supports (PBIS)
- Michigan Model for Health™
- Focused instruction to avert academic failure
- Restorative practices
- Early intervention/diversion programs for substance abuse and other appropriate violations
- Family supports and referrals to available community-based resources as appropriate

While the ten-day limit for short-term suspension may be widely accepted, the evidence exists that excluding a student from two weeks of instruction can have a devastating effect on the student, school performance, and long-term success. Therefore, as part of its commitment to graduating well-educated students, MDE recommends the maximum length of short-term suspensions be five days.

Recognizing that grades should reflect learning rather than behavior, when suspension is used, students have the right to complete, turn in, and receive any

credit earned on assignments and tests scheduled during their disciplinary absences.

Administered well and appropriately, positive discipline can become a powerful tool for teaching students to succeed. When considering intervention options, we will strive to address disciplinary matters as opportunities for learning and reserve exclusion for only the most serious offenses.

As parents and students obtain, read, and discuss the Code of Student Conduct, refer to Attachment 2, an official Acknowledgement of Receipt of the Code of Student Conduct.

SECTION II: DUE PROCESS PROCEDURES

The Due Process Clause of the Fourteenth Amendment to the U.S. Constitution provides two types of protection: substantive due process and procedural due process. In Goss v. Lopez, the U.S. Supreme Court found that students had a property interest in educational benefits and a liberty interest in their reputations, both of which qualify for Fourteenth Amendment protection. Substantive due process demands that a school rule must be reasonable and fair. Procedural due process protections apply to exclusionary discipline, including suspensions and expulsions from school. Due process, in either instance, is a flexible concept. The standards required depend upon the seriousness of the allegations and the possible discipline action that may be imposed.

Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses. We will also employ positive behavioral expectations, restorative practices and discipline measures and early intervention/diversion strategies that focus on screening and treatment to minimize suspended students' time away from school and potential court involvement. Please note that when used to address a situation of serious misconduct, restorative justice should be administered by a fully trained practitioner. If criminal charges result from the incident, the school may choose to engage the affected parties in restorative justice after the case is resolved in the judicial system.

In developing a policy governing school rules and regulations, the following principles to assure substantive due process should be considered:

- The policy must provide notice of what conduct is prohibited or permitted.
- The rules must be reasonably understandable to the average child/student, taking into account the age of the individual child/student.
- The rules must be rationally related to a valid educational purpose.
- The rules must be precise so as not to prohibit constitutionally protected activities.
- The policy must provide students with notice of potential consequences for violating specific rules.
- The type of consequence specified in the policy must be within the expressed or implied authority of the school district to utilize.
- The consequence must be of reasonable severity in relation to the seriousness of the misconduct or the number of times the misconduct was committed.
- Rules and procedures must be disseminated to all students and parents.

The following are some of the elements of procedural due process that should be considered:

- The timely and specific notice of charges against a student.
- The student's right to question school staff or students involved in or witness to the incident.

- The student's right to have copies of all documents to be used in the hearing and a list of all witnesses slated to testify.
- The student's right to present evidence on his or her behalf.
- The student's right to an impartial hearing.
- The student's right to rebut adverse testimony.
- The student's right to be represented by qualified counsel at the hearing.
- The student's right to a record of the hearing.
- The student's right to appeal.

As noted in the Introduction, The Code of Student Conduct does not diminish any rights under federal law (20 U.S.C. 1400 et seq.) for a student determined to be eligible for special education programs and services. Students with an Individualized Education Program (IEP) are responsible for following The Code of Student Conduct. As a consequence of a violation of The Code of Student Conduct by a student with an IEP, specific procedures may apply. Information about these procedures is available at www.michigan.gov/ose-eis.

Short-Term Suspension Definition

For purposes of this code, a short-term suspension occurs when a student is suspended for one (1) school day, up to and including five (5) school days. During a short-term suspension, the student's rights and privileges of attending school, including extracurricular activities, are suspended.

The USED links school attendance with academic success, and links exclusionary discipline with lower school performance and higher rates of students' academic failure. Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses and employ discipline measures and early intervention/diversion strategies with a focus on screening and treatment to minimize suspended students' time away from school and potential court involvement.

Due Process for Short-Term Suspensions

For a suspension of five (5) days or less, a student is entitled to minimal due process protections, including oral or written notice of the accusation(s), what disciplinary measures are being proposed, and an opportunity to respond. If feasible, the notice and hearing should precede the student's removal from school. If the student's presence poses a danger to persons or property or threatens to disrupt the academic process, prior notice and hearing may not be feasible. In this case, a hearing should follow the student's removal from school as soon as possible.

Except in extraordinary circumstances, alleged violations of The Code of Student Conduct are initially handled at the student's school. If a short-term suspension is contemplated, the principal or assistant principal shall provide the student and the parent/guardian with oral or written notice of the charges or allegations and an explanation of the evidence or basis for the charges. Barring a situation requiring

immediate action, the student shall be given the opportunity to contact an adult advocate such as a parent or other family member, guardian, mentor, friend, and/or an attorney before presenting an explanation or a differing statement of the facts. The student's request to have a parent/guardian present should be respected.

If misconduct is found, the principal may authorize disciplinary action in accordance with The Code of Student Conduct, including short-term suspension. A student whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, may be immediately removed from the school without prior notice, explanation, or opportunity to respond. In such cases, the above procedures shall be provided as soon as practical.

The student and parent/guardian shall be notified of the circumstances and action taken.

Long-Term Suspension and Expulsion Definition

A long-term suspension is when a student is suspended for more than five (5) school days. During a long-term suspension, the student's rights and privileges of attending school, including extracurricular activities, are suspended.

Recognizing exclusionary discipline's negative impact, based on a preponderance of research, the school community will reserve exclusion for only the most serious offenses and employ discipline measures and early intervention/diversion strategies with a focus on screening and treatment to minimize suspended students' time away from school and potential court involvement.

An expulsion occurs when the school district's board of education terminates the student's rights and privileges to attend school, including extracurricular activities. An expulsion is for an indefinite time, unless otherwise specified by the school board or state law.

Due Process for Long-Term Suspension and Expulsion

A more formal due process procedure is required when serious disciplinary measures are alleged against a student. When the student's misconduct requires legal action, school district staff will work to protect his/her constitutional rights by explaining what the student is accused of and giving him/her the opportunity to speak with an adult advocate such as a parent or other family member, guardian, mentor, friend, and/or attorney. ~~(Pro-bono or affordable legal assistance is available through service providers listed in MDE's On-line Tool Kit at a link to be provided upon completion.)~~ The school district may also provide, upon a request, a list of resources for representation. The student shall be given reasonable time to prepare for a hearing. The person conducting the disciplinary hearing must be impartial.

If recommended by the principal or assistant principal, the school district's board of education or its designee shall conduct a hearing to determine whether to impose a long-term suspension or expulsion. Based upon the results of this hearing, the school district's board of education has the exclusive and final authority to expel a student from the school district.

The student and parent/guardian shall be notified of the allegation, the recommended disciplinary action, the time, date, and location of the hearing, and of their right to attend and participate in the hearing.

Prior to the hearing, families will be given an opportunity to review all documents, videos, other media, or any other types of evidence, and a list of all witnesses slated to testify.

Prior to the hearing, families should be notified of all of the district's processes for hearings and appeals.

The board of education or its designee shall conduct a hearing, which may be recorded. The student shall be advised of the alleged violation and be given an explanation of the facts. The explanation may include the written or oral testimony of others.

At the request of the student or the student's parent/guardian, the board of education shall meet in a closed session to "consider the dismissal, suspension, or disciplining of a student" [MCL 15.268(b)].

The student and parent/guardian may be represented at the hearing by an attorney or other adult. Written or oral evidence may be presented at the hearing on behalf of the student.

After the hearing, the board of education or its designee shall issue a decision, including a determination of disciplinary action.

The parent/guardian of the student may petition the school board to request the student's reinstatement to school, as permitted by state law.

Appeal Process

A student that disagrees with the decision of the board of education may, within five (5) days of receipt of the decision, petition the board of education for the opportunity to request appeal or reconsideration by the board or its designee. The petition shall be in writing and contain the reason that the board or its designee's decision should be reviewed or reconsidered. The board of education may grant or deny the request for an appeal or request for reconsideration. If granted, the board shall notify the student in writing of the procedures to be used for the appeal or the request for reconsideration.

SECTION III: TYPES OF SUSPENSION AND EXPULSION

The Revised School Code provides each school district with the authority to establish a local discipline policy. Each local school board or its designee has the authority to suspend or expel students guilty of "gross misdemeanor or persistent disobedience." This must not, however, infringe on any of the federally protected rights guaranteed to students who qualify for special education programs and services [MCL 380.1311(89)]. County Intermediate School Districts or Regional Educational Service Agencies' consultants, Community Mental Health Centers, medical clinics, and other human service agencies may need to be involved with a child whose behavior is "persistent."

Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses and will employ discipline measures and early intervention/diversion strategies with a focus on screening and treatment to minimize a suspended student's time away from school and potential court involvement. Districts are required to develop and implement a code of student conduct and to enforce its provisions with regard to student misconduct in a classroom, on school grounds, on a school bus or other school-related vehicle, and/or at a school-sponsored activity or event whether or not it is held on school grounds.

IN CONSIDERING STUDENTS' SUSPENSION OR EXPULSION, A DISTRICT SHALL COMPLY WITH MCL 380.1310(c)(d) AS FOLLOWS:

SEC. 1310c.

(1) A SCHOOL BOARD OR ITS DESIGNEE SHALL CONSIDER USING RESTORATIVE PRACTICES AS AN ALTERNATIVE OR IN ADDITION TO SUSPENSION OR EXPULSION UNDER THIS ACT. IF A SCHOOL BOARD OR ITS DESIGNEE SUSPENDS OR EXPELS A PUPIL UNDER THIS ACT, THE SCHOOL BOARD OR ITS DESIGNEE SHALL CONSIDER USING RESTORATIVE PRACTICES IN ADDITION TO SUSPENSION OR EXPULSION. IF A SCHOOL BOARD OR ITS DESIGNEE DECIDES NOT TO SUSPEND OR EXPEL A PUPIL FOR A DISCIPLINARY ISSUE, THE SCHOOL BOARD OR ITS DESIGNEE SHALL CONSIDER USING RESTORATIVE PRACTICES TO ADDRESS THE DISCIPLINARY ISSUE.

(2) RESTORATIVE PRACTICES MAY INCLUDE VICTIM-OFFENDER CONFERENCES THAT ARE INITIATED BY THE VICTIM; THAT ARE APPROVED BY THE VICTIM'S PARENT OR LEGAL GUARDIAN OR, IF THE VICTIM IS AT LEAST AGE 15, BY THE VICTIM; THAT ARE ATTENDED VOLUNTARILY BY THE VICTIM, A VICTIM ADVOCATE, THE OFFENDER, MEMBERS OR THE SCHOOL COMMUNITY, AND SUPPORTERS OF THE VICTIM AND THE OFFENDER; AND THAT PROVIDE AN OPPORTUNITY FOR THE OFFENDER TO ACCEPT RESPONSIBILITY FOR THE HARM CAUSED TO THOSE AFFECTED BY THE MISCONDUCT AND TO PARTICIPATE IN SETTING CONSEQUENCES TO

REPAIR THE HARM. THE ATTENDEES, KNOWN AS A RESTORATIVE PRACTICES TEAM, MAY REQUIRE THE PUPIL TO DO 1 OR MORE OF THE FOLLOWING: APOLOGIZE; PARTICIPATE IN COMMUNITY SERVICE, RESTORATION, OR COUNSELING; OR PAY RESTITUTION. THE SELECTED CONSEQUENCES SHALL BE INCORPORATED INTO AN AGREEMENT THAT SETS TIME LIMITS FOR COMPLETION OF THE CONSEQUENCES AND IS SIGNED BY ALL PARTICIPANTS. RESTORATIVE PRACTICES SHOULD BE THE FIRST CONSIDERATION TO REMEDIATE OFFENSES SUCH AS INTERPERSONAL CONFLICTS, BULLYING, VERBAL AND PHYSICAL CONFLICTS, THEFT, DAMAGE TO PROPERTY, CLASS DISRUPTION, AND HARASSMENT AND CYBERBULLYING.

(3) AS USED IN THIS SECTION:

(A) "BULLYING" AND "CYBERBULLYING" MEAN THOSE TERMS AS DEFINED IN SECTION 1310B.

(B) "RESTORATIVE PRACTICES" MEANS PRACTICES THAT EMPHASIZE REPAIRING THE HARM TO THE VICTIM AND THE SCHOOL COMMUNITY CAUSED BY A PUPIL'S MISCONDUCT.

(C) "SCHOOL BOARD" MEANS A SCHOOL BOARD, INTERMEDIATE SCHOOL BOARD, OR THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY.

(D) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, OR A PUBLIC SCHOOL ACADEMY.

SEC. 1310D.

(1) BEFORE SUSPENDING OR EXPELLING A PUPIL UNDER SECTION 1310, 1311(1), 1311(2), OR 1311A, THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR A SUPERINTENDENT, SCHOOL PRINCIPAL, OR OTHER DESIGNEE UNDER SECTION 1311(1), SHALL CONSIDER EACH OF THE FOLLOWING FACTORS:

(A) THE PUPIL'S AGE.

(B) THE PUPIL'S DISCIPLINARY HISTORY.

(C) WHETHER THE PUPIL IS A STUDENT WITH A DISABILITY.

(D) THE SERIOUSNESS OF THE VIOLATION OR BEHAVIOR COMMITTED BY THE PUPIL.

(E) WHETHER THE VIOLATION OR BEHAVIOR COMMITTED BY THE PUPIL THREATENED THE SAFETY OF ANY PUPIL OR STAFF MEMBER.

(F) WHETHER RESTORATIVE PRACTICES WILL BE USED TO ADDRESS THE VIOLATION OR BEHAVIOR COMMITTED BY THE PUPIL.

(G) WHETHER A LESSER INTERVENTION WOULD PROPERLY ADDRESS THE VIOLATION OR BEHAVIOR COMMITTED BY THE PUPIL.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), THIS SECTION APPLIES TO GIVE THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR ITS DESIGNEE, DISCRETION OVER WHETHER OR NOT TO SUSPEND OR EXPEL A PUPIL UNDER SECTION 1310, 1311(1), 1311(2), OR 1311A. IN EXERCISING THIS DISCRETION WITH REGARD TO A SUSPENSION OF MORE THAN 10 DAYS OR AN EXPULSION, THERE IS A REBUTTABLE PRESUMPTION THAT A SUSPENSION OR EXPULSION IS NOT JUSTIFIED UNLESS THE BOARD OR BOARD OF DIRECTORS, OR ITS DESIGNEE, CAN DEMONSTRATE THAT IT CONSIDERED EACH OF THE FACTORS LISTED UNDER SUBSECTION (1). FOR A SUSPENSION OF 10 OR FEWER DAYS, THERE IS NO REBUTTABLE PRESUMPTION, BUT THE BOARD OR BOARD OF DIRECTORS, OR ITS DESIGNEE, SHALL CONSIDER EACH OF THE FACTORS LISTED UNDER SUBSECTION (1).

(3) THIS SECTION DOES NOT APPLY TO A PUPIL BEING EXPELLED UNDER SECTION 1311(2) FOR POSSESSING A FIREARM IN A WEAPON FREE SCHOOL ZONE.

(4) EXCEPT AS PROVIDED IN SUBSECTION (3), CONSIDERATION OF THE FACTORS LISTED IN SUBSECTION (1) IS MANDATORY BEFORE SUSPENDING OR EXPELLING A STUDENT UNDER SECTION 1310, 1311(1), 1311(2), OR 1311A. THE METHOD USED FOR CONSIDERATION OF THE FACTORS IS AT THE SOLE DISCRETION OF THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR ITS DESIGNEE.

(5) AS USED IN THIS SECTION:

(A) "EXPEL" MEANS TO EXCLUDE A PUPIL FROM SCHOOL FOR DISCIPLINARY REASONS FOR A PERIOD OF 60 OR MORE SCHOOL DAYS.

(B) "FIREARM" MEANS THAT TERM AS DEFINED IN SECTION 1311.

(C) "SUSPEND" MEANS TO EXCLUDE A PUPIL FROM SCHOOL FOR DISCIPLINARY REASONS FOR A PERIOD OF FEWER THAN 60 SCHOOL DAYS.

(D) "WEAPON FREE SCHOOL ZONE" MEANS THAT TERM AS DEFINED IN SECTION 1311.

SUBJECT TO 1310(d), for students in grades six (6) and above, in addition to the suspension and expulsion of students who commit violations identified in a district's Code of Student Conduct, Michigan law requires a school district to remove a student who possesses a dangerous weapon unless that student meets one of four exceptions (listed below) provided in the law. Michigan law also requires removal of students who commit arson, criminal sexual conduct (as defined in the law and noted below), or a physical assault against a school employee or volunteer. Michigan law also requires school districts to remove students who commit physical assault against another student or make a bomb threat, or similar threat. Those exclusions can last no more than 180 days. In addition, Michigan law also allows any teacher to impose one-day "snap suspensions" from his/her class for students, and it establishes procedures the teacher must follow when exercising this option. Under the law, the suspending teacher must take a number of steps explained in greater detail below. The following information describes the law.

Weapons, Arson, or Criminal Sexual Conduct Expulsion

For students in grades six (6) and above, school districts are required to expel students who possess a dangerous weapon, commit arson, or engage in criminal sexual conduct in a school building or on school grounds. The law allows for possible reinstatement [MCL 380.1311]. The term "criminal sexual conduct" is defined in the Michigan Penal Code, 1931, PA 328 MCL 750.520. It refers to sections which describe various levels of sexual penetration, sexual conduct, and assault with intent to commit criminal sexual conduct [MCL 750.520b, 520c, 520d, 520e, 520g]. The term "dangerous weapon" means a firearm, dirk, dagger, stiletto, iron bar, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, and brass knuckles [MCL 380.1313(4)]. The definition of "firearm" in section 380.1311 refers to the definition of that term in the federal Gun-Free Schools Act of 1994, which in turn refers to another section of federal law which defines "firearm" as:

- Any weapon (including a starter gun) which will or is designed to, or may readily be converted to, expel a projectile by the action of an explosive.
 - The frame or receiver of any such weapon.
 - Any firearm muffler or firearm silencer.
 - Any destructive device.
1. Dangerous Weapon Exceptions (referenced in paragraph #3, previous page): School boards are not required to expel a student if the student can establish in a clear and convincing manner at least one of the following:

- The object or instrument possessed by the student was not possessed for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.
- The weapon was not knowingly possessed by the student.
- The student did not know or have reason to know that the object or instrument possessed by the student constituted a dangerous weapon.
- The weapon was possessed by the student at the suggestion, request or direction of, or with the express permission of school or police authorities.

A student who possesses a weapon in a weapon-free school zone or commits arson or criminal sexual conduct at school or on school grounds is expelled from all Michigan public schools unless the school district operates or participates in an alternative education program appropriate for expelled students. At the school district's discretion, the district may admit the student to that program or a "strict discipline academy."

2. **Weapon-Free School Zone and School Property Definition:** "Weapon-free school zone" means school property and a vehicle used by a school to transport students to or from school property [MCL 750.237a]. "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses [MCL 750.237a].
3. **Reporting Requirements:** If a dangerous weapon is found in the possession of a student while the student is attending school or a school activity, or while the student is en route to or from school on a school bus, the superintendent of the school district or intermediate school district, or his or her designee, shall immediately report that finding to the student's parent/guardian and the local law enforcement agency [MCL 380.1313(1)].

Physical Assault - Student to Employee, Contractor or Volunteer

A student in grade six (6) or above who commits a physical assault against an employee, contractor, or a volunteer of a district, at school or on school grounds, shall be expelled permanently, subject to possible reinstatement. The term "physical assault" means "intentionally causing or attempting to cause physical harm to another through force or violence" [MCL 380.1311a].

A student expelled for committing physical assault against an employee, contractor, or volunteer of a district at school or on school grounds is expelled from all Michigan public schools unless the school district operates or participates in an alternative education program appropriate for expelled students. At the school district's discretion, the district may admit the student to that program or a "strict discipline academy."

In the event a student is expelled for possession of a dangerous weapon in a weapon-free school zone, arson in a school building or on school grounds, or criminal sexual conduct in a school building or on school grounds, the school board shall ensure that within three days after the expulsion an official of the school district refers the individual to the appropriate county Department of Human Services or county Department of Community Mental Health agency, and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral [MCL 380.1311(4)].

Physical Assault - Student to Student

A student in grade six (6) or above who commits physical assault against another student shall be suspended or expelled for up to 180 school days by the school board or its designee if the physical assault is reported to the school board, superintendent, or principal. The term "physical assault" means "intentionally causing or attempting to cause physical harm to another through force or violence" [MCL 380.1310].

Bomb Threats or Similar Threats

If a student in grade six (6) or above makes a bomb threat, or similar threat, directed at a school building, other school property, or a school-related event, then the school board or the designee on behalf of the school board, as described in MCL 380.1311(1), shall suspend or expel the pupil from the school district for a period of time as determined at the discretion of the school board or its designee. The school board policy should include the types of behavior for which a student who makes a bomb threat, or similar threat, would be suspended or expelled.

Teacher "Snap Suspension"

While "Snap Suspension" is part of the law, we believe that it should be used minimally, if at all. A teacher may suspend a student from the teacher's classroom for up to one day if the student's behavior exceeds limits as defined by local policy. The policy shall be adopted as part of the school district's Code of Student Conduct and specify the types of behavior for which a student may be suspended. If a student is retained in the school, he or she must be under appropriate supervision. The law requires a teacher who imposes this option to immediately report the "snap suspension" to the office, then, as soon as possible, schedule a meeting with the suspended student's parent(s) or guardian(s) and attempt to include the school counselor, social worker, or psychologist. If the teacher or parent requests that a school administrator attend, the teacher must also include the administrator in the meeting [MCL380.1309]. A student may return that school day to the classroom, subject, or activity for which he or she was suspended, with the concurrence of the teacher and the school principal [MCL 380.1309].

Insert the school district policy on Teacher "Snap Suspension" here.
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Petitioning for Reinstatement

For students in grades six (6) or above, although the law calls for the “permanent” expulsion of a student who possesses a dangerous weapon in a weapon-free school zone, commits arson, criminal sexual conduct, or a physical assault against an employee, contractor, or a volunteer of a district, at school or on school grounds, the law provides a process for petitioning for reinstatement to school [MCL 380.1311(5) and 380.1311a(5)]. It is the responsibility of the petitioning person (a parent, legal guardian, or the expelled student if he or she is at least 18 years of age or is an emancipated minor) to prepare and submit the petition for reinstatement.

Petition for Student to Return to School

If a petition form is requested by a person wishing to be reinstated, the school board must make the petition form available. The form is provided as Attachment 3. (An informational packet for parents is available in the MDE online Tool Kit at a link to be provided upon completion of the Tool Kit.)

For a student in grade five (5) or below that is expelled for possessing a firearm or threatening another person with a dangerous weapon, the parent/guardian or the student (if he or she is at least 18 years of age or an emancipated minor) may initiate a petition for reinstatement any time after 60 school days following the date of the expulsion. A student may be reinstated 90 school days following the date of expulsion.

For a student in grade five (5) or below that is expelled for committing arson or criminal sexual conduct in a school building or on school grounds, the parent/guardian or the student (if he or she is at least 18 years of age or an emancipated minor) may initiate a petition for reinstatement at any time, and the student may be reinstated ten school days after the expulsion.

For a student in grade six (6) or above that is expelled for possessing a dangerous weapon in a weapon-free school zone, commits arson or criminal sexual conduct, the parent/guardian or the student (if he or she is at least 18 years of age or an emancipated minor) may initiate a petition any time after 150 school days following the date of expulsion. A student may be reinstated 180 school days following the date of expulsion.

For a student in grade six (6) or above that is expelled for committing a physical assault against an employee, contractor, or volunteer, the parent/guardian or the student (if he or she is at least 18 years of age or an emancipated minor) may initiate a petition any time after 150 school days following the date of expulsion. A student may be reinstated 180 school days following the date of expulsion.

A district may establish reinstatement procedures for students expelled for reasons other than those listed.

Insert the school district policy specifying petition of reinstatement procedures for students expelled for reasons other than weapons, arson, criminal sexual conduct, and student to employee physical assault here.

Committee Review and Recommendation

The local school board may include conditions in a petition for reinstatement, including the successful completion of a restorative justice process or a similar effort, which the student can complete during the exclusion period or as a condition for returning to school. If the expelling school board denies a petition for reinstatement, the petitioner may petition another school board for reinstatement. The following timelines and procedures apply to reinstatement:

Within ten (10) school days after receiving a petition for reinstatement, the school board must appoint a committee comprised of two school board members, one school administrator, one teacher, and one parent of a student in the school district to review the petition and any supporting information submitted by the petitioner. During this time, the superintendent may prepare and submit information concerning the circumstances of the expulsion and any factors weighing in favor of or against reinstatement.

Not later than ten (10) school days after being appointed, the committee must review the petition and supporting information, together with information provided by the school district, and submit a recommendation to the school board. The committee may recommend unconditional reinstatement, conditional reinstatement, or against reinstatement. The recommendation must be accompanied by an explanation of the reasons for the recommendation. If the recommendation is for conditional reinstatement, it must include any recommended conditions.

According to the law, the committee's recommendation must be based on all of the following factors:

- The extent to which reinstatement of the student would create a risk of harm to pupils or school personnel.
- The extent to which reinstatement would create a risk of school district or individual liability for the school board or school district personnel.
- The age and maturity of the individual.
- The student's school record before the incident that caused the expulsion.
- The student's attitude concerning the incident that caused the expulsion.
- The student's behavior since the expulsion and the prospects for remediation.
- If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by, and that can be expected from, that person if the student is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement [MCL 380.1311(5)(e)].

The committee may also choose to consider such factors as the successful completion of restorative justice measures, the presence of mental health considerations, family situations that might be impacting the child's behavior, observations from a school-based advocate for the student, and more.

School Board Decision

After receiving the committee's recommendation, the school board must make a decision no later than the next regularly-scheduled board meeting. The school board must decide either to reinstate the student, to conditionally reinstate the student, or to deny reinstatement.

Before conditionally reinstating the student, a school board may require a student and the parent or legal guardian to agree in writing to specific conditions. The conditions may include, but are not limited to, the following:

- Successful completion of a restorative justice process and evidence of compliance with the resulting agreement developed by the participating affected parties.
- Agreement to a behavior contract which may involve the student, parent or legal guardian, and an outside agency.
- Participation in, or completion of, an anger management program or other appropriate counseling.
- Periodic progress reviews.
- Specified immediate consequences for failure to abide by a condition.

The law specifies that the decision of the school board is final.

Alternative Education

A school district may provide alternative education for a student who has been suspended or expelled. The Michigan Attorney General issued an opinion cited as 1985 OAG 6271 in which he stated that the board of education of a school district which, in accordance with due process requirements, suspends for a lengthy period of time or permanently expels a non-handicapped student who is subject to the compulsory education requirements is not required to provide an alternative education program for a student. The Michigan State Board of Education, however, encourages school districts to provide alternative education opportunities for excluded students. It encourages schools to explore the Michigan Department of Education's list of alternative education providers on its Michigan Safe Schools website at http://www.michigan.gov/safeschools/0,4665,7-181-49444-232580--_00.html with the goal of keeping suspended and/or expelled students engaged in learning.

Ultimately, however, it is the responsibility of the parent or legal guardian to locate a suitable alternative education program and to enroll their child in a program during the expulsion.

Mandatory Expulsion

SUBJECT TO 1310(d), a student who has been expelled for weapons, arson, criminal sexual conduct, or physical assault against an employee or volunteer is expelled from all Michigan public schools unless the district operates or participates in an alternative education program appropriate for the mandatory expelled student and at the school district's discretion admits the student to that program or strict discipline academy [MCL 380.1311(2) and 380.1311a(2)].

A program operated for mandatory expelled students must ensure that a student is physically separated at all times during the school day from the general pupil population. If the student is not placed in an alternative education program or a "strict discipline academy," the school district may provide or arrange for the intermediate school district to provide to the student appropriate instructional services at home. Homebound services are designed to help students who are unable to attend school to keep up with their studies [MCL 388.1709].

Insert the school district information on educational options and alternative programs available for students suspended or expelled here.

SECTION IV: VIOLATIONS OF THE CODE OF STUDENT CONDUCT AND THE SCHOOL COMMUNITY RESPONSES

Michigan students, in all of their diversity, must be educated in a safe and supportive environment that fosters academic success and healthy development. The Michigan State Board of Education's mission is: "All students graduate ready for careers, college, and community." This can only be achieved if students are pursuing their education. To fulfill this mission, the Michigan State Board of Education (SBE) strongly urges school districts to adopt practices that allow educators to address disciplinary matters as opportunities for learning instead of punishment.

The SBE encourages schools to:

- Implement or expand evidence-based alternative and supplemental strategies for social and emotional learning such as Positive Behavioral Intervention and Supports (PBIS), Michigan Model for Health™ and restorative practices.
- Integrate these and other research- and evidence-based, pro-social development practices into their culture, supporting and sustaining them as vital elements of the school operations.
- Collect and utilize data for ongoing formative evaluation of disciplinary processes and their effectiveness.
- Reserve suspension and expulsion for only the most serious offenses such as those infractions required by law and deemed absolutely necessary.

The school community will want to create an inclusive, achievement-oriented culture by implementing PBIS and restorative practices to help guide student conduct. These, partnered with social emotional learning curriculum such as Michigan Model for Health™ and access to mental health and other supports, will contribute to a positive school climate. As part of that climate, the school community will check that students understand what is respectful and accountable conduct toward themselves, their peers, adults, and property.

As referenced in this document's preamble, resources and technical assistance exist to develop and maintain a PBIS plan, implement restorative practices, and utilize other relevant community-based services. In the event that students violate the rules, the school community will prioritize keeping them in school and helping them learn from mistakes. Restoring students and those affected by their behavior is the desired outcome of this approach.

Student Rights and Responsibilities

If a student feels unsafe or is threatened, the student or the student's parent/guardian should contact the principal.

Individual rights relate to individual responsibilities and must be seen in relationship to the safety, health, and welfare of all members of the school community.

Expectations of student conduct should be kept within the bounds of reasonable behavior expected of all members of the community. Students should have freedom and encouragement to express their individuality in school, as long as their conduct does not intrude upon the freedom or safety of others. This applies especially to the freedom of fellow students to receive instruction. There must be a balance between individual freedom and the orderly operation of a classroom, but educators must prioritize keeping students engaged in learning as much as possible. The practices outlined above are powerful tools educators have used successfully to address misconduct and conflict at all levels.

All students should recognize the consequences of their language, manners, and actions toward each other, school staff, and volunteers. Students need to understand that they benefit from an orderly school operation and, as members of the school community, acknowledge their responsibility to promote a mutually respectful learning environment and support the reduction of any disruption to learning. The following pages list actions that can cause disruptions and, therefore, require some action to address the harm they cause. Whenever possible, the action to address this misconduct should include steps to heal the harm and restore the community members affected.

Violations of The Code of Student Conduct

Various types of student misconduct are defined below. These definitions of misconduct are not all-inclusive, but only representative and illustrative. A student who commits an act of misconduct not listed herein is nonetheless subject to disciplinary action, including “snap suspension” by a teacher for misconduct in a class, subject, or activity.

School district staff may use intervention strategies including preventative measures such as intensive instruction, social-emotional learning, PBIS, restorative practices, teacher/student conferences, auxiliary staff/student intervention, and teacher/parent/guardian contacts for every type of violation listed here. As required by law, the staff will refer the last group of violations directly to school administrators due to the serious and/or unlawful nature of the misconduct. At the option of school administrators, a student accused of any violation of The Code of Student Conduct may be referred to a school social worker or counselor, in conjunction with or in lieu of other disciplinary procedures. Where the misconduct is subject to mandatory discipline under state law, however, the school board will act to impose any mandatory sanctions.

Violation Definitions and School Community Responses

The school district may modify the following violation levels and definitions to meet local needs and policies.

1. **Bullying/CYBERBULLYING:** A student will not engage in bullying **OR CYBERBULLYING** any student for any reason in a classroom, elsewhere on

school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "At school" includes conduct using a telecommunications access device or telecommunications service provider that occurs off school premises if the telecommunications access device or the telecommunications service provider is owned by or under the control of the school district or public school academy. "Telecommunications access device" and "telecommunications service provider" mean those terms as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

"Bullying" means any written, verbal, or physical act, or any electronic communication, **INCLUDING, BUT NOT LIMITED TO, CYBERBULLYING**, that is intended or that a reasonable person would know is likely to harm one or more pupils either directly or indirectly by doing any of the following:

- Substantially interfering with educational opportunities, benefits, or programs of one (1) or more pupils.
- Adversely affecting the ability of a pupil to participate in or benefit from the school district's or public school's educational programs or activities by placing the pupil in reasonable fear of physical harm or by causing substantial emotional distress.
- Having an actual and substantial detrimental effect on a pupil's physical or mental health.
- Causing substantial disruption in, or substantial interference with, the orderly operation of the school.

Insert the school district information on school bullying policies and processes to address them.

2. Cheating/Academic Misconduct: A student will not plagiarize, cheat, gain unauthorized access to, or tamper with educational materials. Discipline under this section may result in academic sanctions in addition to other discipline.
3. Defacement of Property: A student will not willfully cause defacement of, or damage to, property of the school or others. Actions such as writing in school textbooks or library books, writing on desks or walls, carving into woodwork, desks, or tables, and spray-painting surfaces are acts of defacement.
4. Destruction of Property: A student will not intentionally cause destruction of property of the school or others. Actions that impair the use of something are destructive. Ruining bulletin boards, intentionally clogging the plumbing system, breaking light bulbs or fixtures, and damaging school equipment to the point where repair is necessary are acts of property destruction.

5. Disorderly Conduct: A student will not knowingly harass others or misbehave in a manner that causes disruption or obstruction to the educational process. Disruption caused by talking, making noises, throwing objects, or otherwise distracting another constitutes disorderly conduct. Behavior is considered disorderly if a teacher is prevented from starting an activity or lesson, or has to stop instruction to address the disruption.
6. Failure to Serve Assigned Detention: A student will not fail to serve an assigned detention of which students and/or parents/guardians have been notified. Notification needs to be confirmed. Alternative consequences could be approved by school administrators for students who lack transportation.
7. False Identification: A student will not use another person's identification or give false identification to any school official with intent to deceive school personnel or falsely obtain money or property.
8. Fighting: A student will not physically fight with another person. Self-defense or defense of others may be taken into account in determining whether this provision has been violated.
9. Forgery: A student will not sign the name of another person for the purpose of defrauding school personnel or the Board of Education.
10. Fraud: A student will not deceive another or cause another to be deceived by false or misleading information in order to obtain anything of value.
11. Gambling: A student will not engage in any game of chance or contest wherein money or other items of monetary value are awarded to the winner, except for those games and contests authorized as official school functions.
12. Gang Activity: A student will not, by use of violence, force, coercion, threat of violence, or gang activity, cause disruption or obstruction to the educational process. Gangs are defined as organized groups of students and/or adults who engage in activities that threaten the safety of the general populace, compromise the general community order, and/or interfere with the school district's education mission.

Gang activity includes any one of the following:

- Wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member of a gang, or otherwise symbolizes support of a gang.
- Using any word, phrase, written symbol, or gesture that intentionally identifies a student as a member of a gang, or otherwise symbolizes support of a gang.
- Gathering of two or more persons for purposes of engaging in activities or discussions promoting gangs.
- Recruiting student(s) for gangs.

13. Harassment/Intimidation: A student will not engage in or participate in any behavior that is included in the definition of harassment or intimidation.
"Harassment or intimidation" means any gesture or written, verbal, or physical act that a reasonable person, under the circumstances, should know will have the effect of harming a student or damaging the student's property, placing a student in reasonable fear of harm to the student's person or damage to the student's property, or that has the effect of insulting or demeaning any student or group of students in such a way as to disrupt or interfere with the school's educational mission or the education of any student. Harassment or intimidation includes, but is not limited to, a gesture or written, verbal, or physical act.
14. Hazing: The act of hazing is a crime in Michigan and will not be tolerated in the district. A student will not engage in or participate in any behavior that is included in the definition of hazing. The term "hazing" means "an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization." The term "organization" means "a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution." [MCL 750.411t].
15. Improper, Negligent, or Reckless Operation of a Motor Vehicle: A student will not intentionally or recklessly operate a motor vehicle so as to endanger the safety, health, or welfare of others on school property.
16. Public Display of Affection: Students will not engage in inappropriate displays of affection.
17. Appropriate Dress and Grooming: A student will not dress or groom in a manner that disrupts the educational process or is detrimental to the health, safety, or welfare of others.
18. Appropriate Use of Electronic Communication Devices: Students may possess a cellular telephone or other electronic communication device while at school provided that during school hours and on a school vehicle the cellular phone or electronic communication device remains off and out of sight unless authorized school personnel have given students permission to use them.
19. Insubordination/Unruly Conduct: A student will not willfully ignore or refuse to comply with directions or instructions given by school authorities. Refusing to open a book, write an assignment, work with another student, work in a group, take a test or do any other class or school-related activity not listed herein, refusing to leave a hallway or any other location when instructed by a school

staff member, or running away from school staff when told to stop constitutes unruly conduct.

20. Leaving School Without Permission: A student will not leave the school building, classroom, cafeteria, assigned area, or campus without permission from authorized school personnel.
21. Loitering: A student will not remain or linger on school property without a legitimate purpose and/or without proper authority.
22. Possession of Inappropriate Personal Property: A student will not possess personal property that is prohibited by school rules or that is disruptive to teaching and learning, including, but not limited to, pornographic or obscene material, laser lights, or personal entertainment devices. Certain devices may be permitted for health or other reasons, if approved by the administration.
23. Profanity and/or Obscenity Toward Students: A student will not verbally, in writing, electronically, or with photographs or drawings direct profanity or insulting, obscene gestures toward any other student.
24. Profanity and/or Obscenity Toward Staff: A student will not verbally, in writing, electronically, or with photographs or drawings direct profanity or insulting, obscene gestures toward any school district staff members or adult volunteers.
25. Sexual Harassment (Level 1): A student will not use words, pictures, objects, gestures, or other actions relating to sexual activity or a person's gender that cause embarrassment, discomfort, or a reluctance to participate in school activities.
26. Sexual Harassment (Level 2): A student will not make unwelcome sexual advances, request sexual favors or engage in verbal communication or physical conduct of a sexual nature with or toward any other student, school district personnel, or adult volunteers.
27. Smoking: A student will not smoke or use e-smoking devices, use tobacco or alternative cigarette options, or possess any substance containing tobacco or nicotine in any area under the control of a school district, including all activities or events supervised by the school district.
28. Tardiness: A student will not fail to be in his or her place of instruction at the assigned time without a valid excuse.
29. Technology Abuse: A student will not violate the district's "Technology Use Guidelines."
30. Theft or Possession of Stolen Property: A student will not, without permission of the owner or custodian of the property, take property or have in his or her

possession property valued at \$100.00 or less which does not belong to the student.

31. Threat/Coercion: A student will not threaten another with bodily harm. A student will not coerce another to act or refrain from acting.
32. Trespassing: A student will not enter upon the premises of the school district, other than the location to which the student is assigned, without authorization from proper school authorities. If removed, suspended, or expelled from school, a student will not return to the school premises without permission of the proper school authorities.
33. Truancy: A student will not willfully and repeatedly fail to report to the school's assigned class or activity without prior permission, knowledge, or excuse by the school and parent/guardian.
34. Weapon Look-A-Likes: A student shall not possess, use, sell, or distribute a toy weapon, a look-a-like or replica weapon except with the prior approval of a teacher or an administrator for appropriate educational use.

School Community Responses to Violations

The school community will maintain a safe and supportive environment and persistently check that students can identify respectful and accountable conduct toward themselves, their peers, adults, and property. In the event that students violate any part of the Code of Student Conduct, the school community will apply support and guidance to increase the opportunity for the student to both offer restitution and learn from mistakes.

School administrators and staff may use mutually respectful and accountable intervention strategies, as determined by local district policies including, but not limited to, restorative practices, staff and student/parent conferences, auxiliary staff intervention and counseling programs, student programs for conflict resolution and peer mediation, and programs for anger management and violence prevention. They may also refer students and/or their families to community-based services such as mental health care, substance abuse prevention and diversion, and others. Any of the following intervention strategies and disciplinary actions may be used alone or in combination:

- administrator/student conference or reprimand
- administrator and teacher-parent/guardian conferences
- referrals and conferences involving various support staff or agencies
- daily/weekly progress reports
- behavioral contracts
- Behavior Intervention Plan (BIP)
- behavior intervention teacher training
- coordinate behavior intervention strategies among all personnel who work with the student

- consultation with a behavioral specialist
- cooperate with the parent/guardian to ensure follow-through on behavior intervention
- counseling and psychological services
- change in student's class schedule
- school service assignment
- confiscation of inappropriate item
- support restitution of offense
- restoration for all affected parties
- before- and/or after-school detention
- denial of participation in class and/or school activities
- weekend detention
- in-school suspension
- other intervention strategies, as needed
- teacher "snap suspensions" (see Section III)
- out-of-school suspension (short-term) from one (1) school day up to and including five (5) school days
- law enforcement agency notification

The school district may modify this list in accordance with alternatives available to the district, such as conflict resolution or peer mediation programs.

Intervention strategies are not limited to those listed herein. Other methods of addressing misconduct may be more appropriate, depending upon the circumstances. Educators will seek the option that maximizes students' learning and pro-social development while prioritizing keeping students engaged in learning.

Very Serious Violations

Legal mandates and community safety may require removal of individuals **SUBJECT TO MCL 380.1310(d)** who possess weapons, commit arson, or engage in criminal sexual conduct (Gun Free Schools Act, 1994; Michigan Compiled Laws under MCL 380.1311), make bomb threats or engage in verbal assault (MCL 380.1311a), and who commit physical assault against another (380.1310, 380.1311, 380.1311a, 380.1312). However, the USED links school attendance with academic success and links exclusionary discipline with lower school performance and higher rates of students' academic failure. Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses. The district will employ discipline measures and early intervention/diversion strategies with a focus on screening and treatment to minimize suspended students' time away from school and potential court involvement.

When the student's misconduct requires legal action, school district staff will work to protect his/her constitutional rights by taking the following steps:

- The school will explain what the student is accused of and will give him/her the opportunity to speak with an adult advocate such as a parent or other family member, guardian, mentor, friend, and/or attorney. (Pro-bono or affordable legal assistance is available through service providers listed in MDE's Online Tool Kit at a link to be provided upon completion of the Tool Kit.)
- If the student's case requires a hearing, the school will provide the student and his/her representative with copies of all documents that might be used in the hearing, a list of all witnesses and an opportunity to prepare for the hearing ahead of time. During the hearing, the student and/or representative will have an opportunity to cross examine witnesses.
- If the student is found not guilty of the alleged misconduct in a criminal trial, the school district may consider re-evaluating the student's expulsion.

The school community will persistently check that students understand what is respectful and accountable conduct toward themselves, their peers, adults, and property. In the event that students violate the following rules, the school community will apply any of the options listed above with the support and guidance to increase the opportunity for the student to offer restitution, learn from mistakes, and restore both the offender and the offended.

1. Alcohol and Drugs: A student will not possess, use, offer to buy or sell, or purport to buy or sell, a controlled substance, dangerous drug, prescription drug, counterfeit drug, intoxicating substance, or alcohol. A student legally in possession of prescribed medication will not be in violation of this section as long as his/her use and possession of the prescribed medication is authorized at school and the student follows the required possession and use protocols as defined by the school.
2. Arson (Starting a Fire): A student will not intentionally, by means of starting a fire, cause harm to any property or person, or participate in the burning of any property or person. If a student commits arson in a school building or on school grounds or other school property, the school board or its designee shall expel the student from the school district permanently, subject to possible reinstatement, pursuant to MCL 380.1311(5) [MCL 380.1311(2)]. "Arson" means a felony violation as set forth in Chapter X of the Michigan Penal Code [MCL 750.71 to MCL 750.80].
3. Extortion: A student will not make another person do any act against his or her will, by force or threat, expressed or implied.
4. False Fire Alarm or Bomb Report; Tampering with Fire Alarm System: Unless an emergency exists, a student will not intentionally sound a fire alarm or cause a fire alarm to be sounded, nor will a student falsely communicate or cause to be communicated that a bomb is located in a building or on school property, or at a school-related event. These acts are prohibited, irrespective of the whereabouts of the student. A student will not destroy, damage, or otherwise tamper with a fire alarm system in a school building.

If a student enrolled in grade six (6) or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, then the school board or its designee shall suspend or expel the student from the school district for a period of time as determined at the discretion of the school board, or its designee [MCL 380.1311a(2)].

5. Felony: A student will not commit a criminal act that results in being convicted of a felony offense.
6. Fireworks: A student will not possess, handle, transmit, conceal, or use any fireworks or firecrackers on school property or any school-related event.
7. Interference with School Authorities: A student will not interfere with administrators, teachers, or other school personnel or volunteers by threat or violence.
8. Physical Assault: A student will not physically assault another person. If a student enrolled in grade six (6) or above commits a physical assault at school against another student, then the school board or its designee shall suspend or expel the student from the school district for up to 180 school days [MCL 380.1310(1)].

If a student enrolled in grade six (6) or above commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the school board, then the school board or its designee shall expel the student from the school district permanently, subject to possible reinstatement under MCL 380.1311a(5) [MCL 380.1311a(1)].

“Physical assault” means intentionally causing or attempting to cause physical harm to another through force or violence [MCL 380.1310(3)(b), MCL 380.1311a(12)(b)].

9. Robbery: A student will not take or attempt to take from another person any property, by force or threat of force, expressed or implied.
10. Sexual Assault: A student will not sexually assault another person. If a student commits criminal sexual conduct in a school building, on school grounds or any other school property, the school board or its designee shall expel the student from the school district permanently, subject to possible reinstatement, pursuant to MCL 380.1311(5) [MCL 380.1311(2)]. “Criminal sexual conduct” means a violation as set forth in Chapter LXXVI of the Michigan Penal Code [MCL 750.520b to MCL 750.520g].
11. Theft or Possession of Stolen Property: A student will not, without permission of the owner or custodian of the property, take property or have in his or her possession property valued at more than \$100.00 that does not belong to the student.

12. Weapons: Dangerous Instruments: A student will not possess, handle, transmit, or use a dangerous instrument capable of harming another person. A "dangerous instrument" means any device intended to cause injury or bodily harm, any device used in a threatening manner that could cause injury or bodily harm, or any device that is primarily used for self-protection. Dangerous instruments include, but are not limited to, chemical mace, pepper gas or like substances, stun guns, BB guns, pellet guns, razors, or box cutters.
13. Weapons: Dangerous Weapons: A student will not possess, handle, transmit, or use as a dangerous weapon an instrument capable of harming another person. A "dangerous weapon" means a firearm, dagger, dirk, stiletto, knife with a blade over three inches in length, pocketknife opened by a mechanical device, iron bar, or brass knuckles [MCL 380.1313].

Note that under Michigan law, school boards are not required to expel a student for weapons possession if the student can establish in a clear and convincing manner at least one of the following:

- The object or instrument possessed by the student was not possessed for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.
- The weapon was not knowingly possessed by the student.
- The student did not know or have reason to know that the object or instrument possessed by the student constituted a dangerous weapon.
- The weapon was possessed by the student at the suggestion, request or direction of, or with the express permission of school or police authorities.

14. Weapons: Use of Legitimate Tools as Weapons: A student will not use a legitimate tool, instrument, or equipment as a weapon with the intent to harm another. These items include, but are not limited to, pens, pencils, compasses, or combs.

A student who is expelled for possessing a weapon in a weapon-free school zone or commits arson or criminal sexual conduct at school or on school grounds is expelled from all Michigan public schools unless the school district operates or participates in an alternative education program appropriate for expelled students. At the school district's discretion, the district may admit the student to that program or a "strict discipline academy." The Michigan State Board of Education encourages school districts to provide alternative education opportunities for excluded students. It encourages schools to explore the Michigan Department of Education's list of alternative education providers on its Michigan Safe Schools website at <http://www.michigan.gov/safeschools/0,4665,7-181-49444-232580--,00.html> with the goal of keeping suspended and/or expelled students engaged in learning.

Insert the school district's information, educational options and alternative programs available for students suspended or expelled here. (see Section III, Page 11)

In the event a student is expelled for possession of a dangerous weapon in a weapon-free school zone, arson in a school building or on school grounds, or criminal sexual conduct in a school building or on school grounds, the school board shall ensure that within three days after the expulsion an official of the school district refers the individual to the appropriate county Department of Human Services or county Department of Community Mental Health agency, and notifies the individual's parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral [MCL 380.1311(4)].

The school district may request an emotional, behavioral, and/or chemical dependency evaluation and treatment and/or counseling recommendation with special attention given to applicable special education rights afforded children with disabilities. The intervention strategy or discipline may require the student to follow any or all treatment recommendations of the evaluation. The evaluation must be a source approved by school district administration.

SECTION V: OTHER STUDENT RESPONSIBILITIES

The school community encourages student responsibility in terms of attendance, technology, and property. The expectations for these issues are defined below.

Attendance

The school district emphasizes the value of regular attendance in enabling students to benefit from the school's education programs. Michigan law places responsibility on each student to attend school on a daily basis, and on each parent or guardian to send their child to school on a daily basis. More important, however, is the effect of regular and punctual attendance on the student's scholastic achievement. Not only is each day's lesson important to the individual student, the student's participation in class contributes to the education of others. Frequent absences and tardiness, for any reason, are certain to adversely affect the student's schoolwork. Each student is expected to be in school every day except when illness, injury, or some providential condition beyond the student's control prevents attendance.

The USED links school attendance with academic success and links exclusionary discipline with lower school performance and higher rates of students' academic failure. Recognizing exclusionary discipline's negative impact, the school community will prioritize getting suspended or expelled students back into school and will not count a student's suspension days as unexcused absences or truant days, but rather as disciplinary absences.

Recognizing that grades should reflect learning rather than behavior, when suspension is used, students have the right to complete, turn in, and receive any credit earned on assignments and tests scheduled during their disciplinary absences.

Insert the school district's attendance policy here.

Technology

The student will respect school district technology by adhering to the district's technology use policy.

An Acceptable Use Policy (AUP) is a written agreement in the form of guidelines, terms and conditions of technology use, rules of online behavior, and access privileges. It is often included in a school district's Code of Student Conduct.

The Regional Educational Media Center Association of Michigan offers useful information and resources for integrating technology into learning at <http://www.remc.org/resources/>.

Property

The student will respect the school-district-provided lockers by adhering to the district's policy. The Model Policy on Searches of Pupils' Lockers and Locker Contents is included as Attachment 1.

Adopted August 12, 2014

This model policy for locker searches was developed by the Michigan Department of Education, in collaboration with other state and local agencies, pursuant to the Revised School Code, 380.1306(5), 2000 PA 87.* It may be adopted by Michigan school districts and public school academies for the purposes of this legislation, and may be modified to adequately reflect local school district policy and procedure.

MODEL POLICY ON SEARCHES OF PUPILS' LOCKERS AND LOCKER CONTENTS

Lockers Are School Property

All lockers assigned to pupils are the property of the school district. At no time does the school relinquish its exclusive control of its lockers. The public school principal or his/her designee shall have custody of all combinations to all lockers or locks. Pupils are prohibited from placing locks on any locker without the advance approval of the public school principal or his/her designee.

Legitimate Use of School Lockers

The school assigns lockers to its pupils for the pupils' convenience and temporary use. Pupils are to use lockers exclusively to store school-related materials and authorized personal items such as outer garments, footwear, grooming aids, or lunch. Pupils shall not use the lockers for any other purpose, unless specifically authorized by school board policy or the public school principal or his/her designee, in advance of pupils bringing the items to school. Pupils are solely responsible for the contents of their lockers and should not share their lockers with other pupils, nor divulge locker combinations to other pupils, unless authorized by the public school principal or his/her designee.

Search of Locker Contents

Random searches of school lockers and their contents may have a positive impact on deterring violations of school rules and regulations, ensure proper maintenance of school property, and provide greater safety and security for pupils and personnel. Accordingly, the board authorizes the public school principal or his/her designee to search lockers and locker contents at any time, without notice, and without parent/guardian or pupil consent.

The public school principal or his/her designee shall not be obligated to but may request the assistance of a law enforcement officer in conducting a locker search. The public school principal or his/her designee shall supervise the search. In the course of a locker search, the public school principal or his/her designee shall respect the privacy rights of the pupil regarding any items discovered that are not illegal or against school policy and rules.

Seizure

When conducting locker searches, the public school principal or his/her designee may seize any illegal or unauthorized items, items in violation of board policy or rules, or any other items reasonably determined by the public school principal or his/her designee to be a potential threat to the safety or security of others. Such items include, but are not limited to, the following: firearms, explosives, dangerous weapons, flammable material, illegal controlled substances or controlled substance analogues or other intoxicants, contraband, poisons, and stolen property. Law enforcement officials shall be notified immediately upon seizure of such dangerous items or seizure of items that schools are required to report to law enforcement agencies under the Statewide School Safety Information Policy. Any items seized by the public school principal or his/her designee shall be removed from the locker and held by school officials for evidence in disciplinary proceedings and/or turned over to law enforcement officials. The parent/guardian of a minor pupil, or a pupil eighteen (18) years of age or older, shall be notified by the public school principal or his/her designee of items removed from the locker.

Notice of Policy

A copy of the local school board policy regarding locker searches shall be provided annually to each pupil and parent/guardian of the pupil assigned a school locker.

References

The Revised School Code, 380.1306, 2000 PA 87 (Locker Searches)
New Jersey v. T.L.O., 469 U.S. 325 (1985), U.S. Constitution, Amendment IV

*If the board of a school district, local public school district, or intermediate school district or board of directors of a public school academy operates a school that has pupil lockers, the board or board of directors shall adopt a policy on searches of pupils' lockers and locker contents. The board or board of directors shall provide a copy of this policy to each pupil at a school that has lockers and to the parent or legal guardian of each of those pupils. The board . . . shall also provide a copy of the policy to the department upon request by the department [380.1306(2)].

INSTRUCTIONS TO PARENTS/GUARDIANS: Please sign, detach, and return this page to your child's homeroom teacher after reading this Code of Student Conduct, discussing it with your child, and obtaining your child's signature.

BOARD OF EDUCATION

CODE OF STUDENT CONDUCT PARENT REVIEW

Homeroom Teacher: _____

Name of Student: _____

Distribution Date: _____

As the parent/guardian of _____, I have read and discussed the Code of Student Conduct with my child.

Parent/Guardian Signature Date: _____

Parent/Guardian Signature Date: _____

Student Signature Date: _____

This Petition for Reinstatement was developed by the Michigan Department of Education pursuant to *the Revised School Code*, MCL 380.1311(78) and MCL 380.1311a(7). This form may be adopted or modified at the option of local school districts or petitioners.

PETITION FOR STUDENT TO RETURN TO SCHOOL

DATE: _____

TO: Board of Education of _____

FROM: _____, Petitioner

1. Status of Petitioner:

- Parent(s) or Legal Guardian(s) of the Expelled Individual
- Expelled Individual (18 years of age or older)
- Expelled Individual (as an Emancipated Minor). *A copy of the court order of emancipation must be attached.*

2. This Petition for Reinstatement is made on behalf of:

Name: _____ Age: _____ Telephone #: _____

Address: _____

3. Parent(s) or Legal Guardian(s) of the Expelled Individual (include names, addresses, and telephone numbers of both parents/legal guardians, if appropriate):

- Parent(s) Legal Guardian(s)

Name(s): _____ Telephone #: _____

Address: _____

- Parent(s) Legal Guardian(s)

Name(s): _____ Telephone #: _____

Address: _____

4. Date of Expulsion: _____
5. Grade Level of Expelled Individual: _____
6. Expelling School District: _____

Telephone: _____

7. Briefly describe the incident that caused the expulsion:

8. Has the expelled individual received assistance from a state or county social services agency?

Yes No Refuse to Answer*

If yes, attach all written documentation prepared by the agency regarding assistance the individual received from the date of expulsion to the date of this Petition.

Decline to Provide Documentation*

9. Has the expelled individual received assistance from a state or county community mental health agency?

Yes No Decline to Answer*

If yes, attach all written documentation prepared by the agency regarding assistance the individual received from the date of expulsion to the date of this Petition.

Decline to Provide Documentation*

10. Has the expelled individual received assistance from a private mental health professional from the date of expulsion to the date of this Petition?

Yes No Decline to Answer*

If yes, attach a detailed report from the mental health professional setting forth any findings, including results of all tests and examinations performed, diagnosis, conclusions, and treatments provided from the date of expulsion to the date of this Petition.

Decline to Provide Documentation.*

* Refusal to answer or produce documentation may be considered by the Board in its decision whether or not to reinstate the individual.

11. Was any criminal or juvenile court action initiated against the expelled individual as a result of the incident that caused the expulsion?
 Yes No

Date	Charge	Case No.	Court, Address and Telephone #	Status of Case

12. Was the expelled individual convicted as:
 an adult, or adjudicated as a juvenile offender as a result of the incident that caused the expulsion?
 Yes No (If yes, attach a copy of the judgment of sentence or order of disposition, and information regarding their probation officer.)

Probation officer: Name and Title: _____

Address: _____ Telephone #: _____

13. Other than the incident that caused the expulsion, was the expelled individual charged or convicted of any criminal offense in any court in the United States since the expulsion date?
 Yes No

Date	Charge	Court, Address and Telephone #	Status of Case

14. Describe the expelled individual's attitude concerning the incident that caused the expulsion.

15. a. Describe the expelled individual's behavior since the expulsion.

b. List aspects of the expelled individual's prior school record that the Board should take into consideration.

16. What is the likelihood the expelled individual will be successful if reinstated to public education in the school district?

17. Attach 1-2 letters of reference from persons who are not related to the expelled individual (encouraged but not required).

I understand that I am required to inform the Board of Education of _____ School District, in writing, of any change of circumstances from those recorded in this Petition or its attachments. I understand that if I fail to keep the Board of Education informed, that failure may be cause to revoke or deny reinstatement.

I understand that any false, incomplete or inaccurate information recorded in this Petition for Reinstatement or its attachments may result in the denial of this Petition, or revoke the individual's reinstatement to public school.

Signed: _____

Dated: _____

Attachment 4

SAMPLE NOTICE OF NONDISCRIMINATION

[Insert the school district's name] does not discriminate on the basis of race, color, religion, sexual orientation, gender and gender identity, disability, age, and national origin (Title VI of the Civil Rights Act of 1964), gender (Title IX of the Education

Amendments of 1972), disability (Section 504 of the Rehabilitation Act of 1973), or age (Age Discrimination Act of 1975) in its programs or activities. The following person(s) have been designated to handle inquiries regarding the nondiscrimination policies:

Name and/or Title
Address
Telephone Number

Name and/or Title
Address
Telephone Number

Note on use of the above sample notice: The United States Department of Education Office of Civil Rights has indicated that it is acceptable to identify the coordinator of its civil rights programs through the coordinator's position title alone. An acceptable nondiscrimination notice should provide information on how to contact the responsible employee. If a school district designates two different people to coordinate compliance with Section 504 and Title IX, both names or titles should be included in the notice.

For further information on notice of nondiscrimination, see the following website:
<http://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>.