

NIAGARA FALLS
CITY
SCHOOL DISTRICT

CODE OF CONDUCT

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Superintendent of Schools

ADOPTED: JUNE 2001

**REVISED: JUNE 2002 -
JUNE 2018**

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I. PREFACE

The Board of Education is committed to providing every student in its schools the physical environment within which to study, learn and grow to the best of his/her ability. The Board also recognizes the right of every student to receive and every member of the school staff to deliver quality educational services in an atmosphere that is orderly, safe and conducive to his/her putting forth best efforts. The Education Law of the State of New York grants to teachers and administrators the power to control discipline in carrying out the education process.

The Niagara Falls City School District has a long-standing set of expectations for conduct on school property and at school functions. These expectations are based on principles of civility, mutual respect, citizenship, character, tolerance, cooperation, honesty and integrity. The intent of this Code of Conduct is to clearly define these expectations and to establish and promote standards for responsible behavior that will enable students, parents, teachers, administrators and community members to know what is acceptable behavior and ensure that deviations from these standards will be handled promptly and fairly.

It is the belief of the Niagara Falls City School District that respect both for individual rights and for the rights of the group is basic to sound discipline. Good discipline therefore must recognize the inherent dignity and rights of every human being and must be considered in terms of helping the learner change unacceptable behavior into acceptable conduct while emphasizing humanitarian principles and ideals such as justice and equality.

Unless otherwise indicated, this Code applies to all students, school personnel, parents and other visitors when on school property or attending a school function.

This document shall be reviewed annually by a special committee appointed for that specific purpose.

II. DEFINITIONS

The following definitions will apply throughout this Code of Conduct:

Parent - Shall refer to the biological, adoptive or foster parent, legal guardian or person in parental relation to a student.

School Grounds – Shall mean any building, structure and surrounding outdoor grounds contained within a school’s legally defined property boundaries as registered in the Niagara County Clerk’s Office.

School Property - Shall mean in or within any buildings, structure, classrooms, storage places, lockers, locker rooms, playgrounds, athletic fields, parking lots, and any other locations or land contained within the real property boundary line of a public elementary or secondary school; personal property owned by the School District; **or**

Orleans Niagara BOCES or in/on a school bus as defined in section 142 of the Vehicle and Traffic Law.

School Function - Shall mean a school sponsored extra-curricular event and/or any other school sponsored activity.

School Bus – Shall mean every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or, privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

Disability – Shall mean (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment.

Employee – Shall mean any person receiving compensation from a school district or employee of a contracted service provider or worker placed within the school.

Sexual Orientation – Shall mean actual or perceived heterosexuality, homosexuality, or bisexuality.

Gender – Shall mean actual or perceived sex and includes a person's gender identity or expression.

Harassment – Shall mean the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

Weapon - Shall mean Firearms (as defined in section 921 of Title 18 of the United States Code) - any weapon 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 such weapon; any firearm muffler or silencer; or any destructive device (excluding antique firearms). It shall also include, but not be limited to: any other gun, pistol revolver, shotgun, rifle, machine gun, antique firearm, pellet gun, air gun, BB gun, electronic dart gun, electronic stun gun, paint gun, flare gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, box cutter, metal knuckle knife, cane sword,

other knives of any shape size or make, brass knuckles **or other similar hand-held weapons**, sling shots kung fu star, mace, pepper spray or other noxious spray, explosive or other incendiary devices, clubs, bats, metal pipes, chains, laser pointers or any other device, instrument material or substance that can cause serious physical injury or death when used as a weapon.

Disruptive Student - Shall mean a student under the age of 21 or a student over 21 who is currently completing requirements to obtain a high school diploma who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

Violent Student - Shall mean a student under the age of 21 or a student over 21 who is currently completing requirements to obtain a high school diploma who:

1. Commits an act of violence upon a teacher, administrator or other school employee
2. Commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function;
3. Possesses, while on School District property, or at a school district function, a weapon as defined in this code of conduct;
4. Displays while on School District property, or at a school function, what appears to be a weapon as defined in this Code of Conduct.
5. Threatens while on School District property, or at a School District function, to use a weapon as defined in this code of conduct or any instrument that appears capable of causing physical injury or death.
6. Knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon School District property or attending a School District function;
7. Knowingly and intentionally damages or destroys School District property.

III. STUDENT RIGHTS AND RESPONSIBILITIES

Preamble

Every student has the rights of citizenship granted by the Constitution of the United States and the State of New York. All those enjoying the rights of citizenship in the school community must accept the responsibilities of citizenship. A basic responsibility of those who enjoy the rights of citizenship is to respect the laws of the community and the rights of the other members of the community.

The rights of the individual are preserved only by the protection and preservation of the rights of others. A student is responsible for the way he/she exercises his/her rights and he/she must accept the consequences of his/her actions and recognize the boundaries

of his/her rights. Each exercise of an individual's rights must demonstrate respect for the rights of others. To achieve this goal of a democratic society, staff, students and parents must work cooperatively to ensure that the primary function of education is to give children equal opportunities to mature in the ethical, intellectual, creative, emotional, social, and physical areas of their lives. The development of self-discipline and the acceptance of individual responsibility therefore, should be stressed throughout school life.

A. Student Rights

All District students have the right to:

1. A positive, safe, healthy, orderly, and civil student environment.
2. Freedom of Speech, Publication and Assembly to the extent that it does not become disorderly, interfere with the freedom of others to express themselves or with the educational process, or in relation to computer use, to the extent that it does not violate conditions of the Acceptable Use Policy.
3. Take part in all District activities on an equal basis regardless of race, color, weight, national origin, ethnic group, religion, religious practice, disability, and gender (including gender identity and expression).
4. Have access to school rules and, when necessary, receive an explanation of those rules from school personnel.
5. Due process prior to deprivation of any of their rights, meaning that students and their parents shall be notified of pending disciplinary action and shall have the opportunity to present their version of the relevant events to school personnel authorized to impose a disciplinary penalty.

B. Student Responsibilities

All district students have the responsibility to:

1. Accept responsibility for their actions.
2. Contribute to establishing and maintaining a safe and orderly school environment that is conducive to learning and generates mutual respect and dignity for all.
3. Respect the rights of others, including the right to secure an education in an environment that is orderly and disciplined.
4. Be familiar with and abide by all district policies, rules and regulations dealing with student conduct.
5. Attend school every day unless they are legally excused and be in class, on time, with proper working materials and prepared to learn.
6. Work to the best of their ability in all academic and extra-curricular pursuits and strive toward their highest level of achievement possible.
7. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner recognizing that the school staff may discipline students for inappropriate behavior from the time of

- departure from home until arrival at home as well as during any school function.
8. Work with teachers, administrators and counselors to develop mechanisms to control their anger.
 9. Ask questions when they do not understand.
 10. Seek help in solving problems that might lead to disciplinary action.
 11. Dress appropriately for school and school functions and maintain habits of personal cleanliness.
 12. Conduct themselves as representatives of the District when participating in or attending school functions and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
 13. Work with oneself and the school to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, and gender (including gender identity and expression).
 14. Report any alleged incidents of harassment and discrimination to staff members in charge at school.
 15. Help promote a positive school climate.

IV. ROLES OF ESSENTIAL PARTNERS

The maintenance of an environment that is positive, safe, orderly and conducive to study and learning is a responsibility of the total school community. It is necessary that this community, which is comprised of students, parents, teachers, administrators, other school personnel and the board of education assumes responsibility by reviewing past policies, rules and regulations, work towards changes and implement this Code of Conduct of the Niagara Falls City School District.

A. Parents

A cooperative relationship between home and school is essential to each student's successful development and achievement. To achieve this wholesome relationship, parents are expected to:

1. Exemplify an enthusiastic and supportive attitude toward school and education.
2. Build a good working relationship among themselves, their children, the teachers, and school staff. Inform school officials of changes in the home situation that may affect student conduct or performance.
3. Teach children self-respect, respect for the law, respect for others, and respect for public property.
4. Insist on regular school attendance.
5. Ensure that students are promptly delivered to and picked-up from school.
6. Prepare written excuses for student absences and tardiness.
7. Participate and assist in maintaining communication with the school by insisting that their children promptly bring home all communications from

school.

8. Cooperate with the school in jointly resolving any school-related problems and in implementing the rules and regulations of the District.
9. Listen to the views and observations of all parties concerned before reaching a decision.
10. Recognize that school staff deserve the same consideration and respect that parents expect from their children.
11. Set realistic standards of behavior for their children and be firm, fair and consistent in applying them by putting forth a continuous effort to listen, consult, understand and trust their children.
12. Help their children deal effectively with peer pressure.
13. Provide a place conducive for study and ensure the completion of homework assignments.
14. Work with school personnel, community agencies, and on-going committees and organizations dealing with school matters.
15. Provide for their children's health, personal cleanliness, acceptable grooming, and suitable dress. And further model proper behavior by adhering to Education Law section prohibiting tobacco use on school grounds
16. Work with their family and others to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).
17. Report any alleged incidents of student harassment and discrimination to staff members in charge at school.

B. Teachers

Teachers recognize their charge in educating children of the community. To meet this responsibility, all district teachers are to:

1. Promote a climate of mutual respect and dignity which will strengthen the student's positive self-image.
2. Plan and conduct a program of instruction that will make learning attractive and interesting by coming to class prepared and devoting the entire class period to good teaching.
3. Seek to develop close cooperative relationship with parents for the educational benefit of the student by keeping open communication with parents and by sending communications home promptly.
4. Distinguish between minor student misconduct best handled by the teacher and major problems requiring the assistance of the principal or designee.
5. Teach the common courtesies by rule and example.
6. Handle infractions individually and avoid punishing the group for the misbehavior of one or two.
7. Help students cope with negative peer pressure.
8. Be sensitive to changing behavior patterns.

9. Enable students to discuss their problems by listening to students remaining open-minded, and consulting and acting on student recommendations in the decision-making process.
10. Report to the building administrator any students who jeopardize their own safety, the safety of other students, or who seriously interfere with the instructional program of the school.
11. Guide students to attain their full potential.
12. Serve as a surrogate parent in matters of behavior and discipline as may Be required by New York State Education Law.
13. Help students learn how to use cooperatively developed and agreed upon procedures to bring about change.
14. Model proper behavior by adhering to Education Law section prohibiting tobacco use on school grounds by not engaging in visible possession or use of tobacco or tobacco products.
15. Participate with the building committee and principal in formulating rules which relate to the school.
16. Be available in the halls for supervision of students during class changes.
17. Work with oneself, one's students, and one's associates to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).

C. **Counselors**

In recognizing the role counselors play in providing professional guidance to students, they are to:

1. Seek teacher-student-counselor conferences and parent-teacher-student-counselor conferences about problems when necessary.
2. Adjust student schedules as directed by the building administration to correct situations resulting in discipline problems.
3. Help students to understand and work out their problems.
4. Seek to understand the student's position.
5. Recognize that students may have specific interest areas and encourage them to select classes which enhance their interests.
6. Coordinate pupil personnel staff and/or other agencies and services on behalf of the student and/or the student's family.
7. Assist building administrator in providing intervention to those students who violate school rules.
8. Model proper behavior by adhering to Education Law section prohibiting tobacco use on school grounds by not engaging in visible possession or use of tobacco or tobacco products.
9. Work with oneself, one's students, and one's fellow associates to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious

- practice, disability, sex, sexual orientation, or gender (including gender identity and expression).
10. Handle human relations in the area of harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression). This includes using counseling methods and meeting with students as needed.

D. School Administrators

As the educational leaders of the school, administrators set the educational and disciplinary climate: They are to:

1. Seek to develop a sound and healthful atmosphere of mutual respect within the school.
2. Evaluate the program of instruction in the school to achieve a meaningful education program.
3. Help the staff evaluate their own procedures and attitudes in relation to the interactions within their classes.
4. Provide the opportunity for students and staff to approach the principal directly for redress of grievances.
5. Provide teachers with relief of serious problems as soon as possible and support all building personnel maintaining appropriate and effective discipline.
6. Assist staff members in resolving problems that may occur by communicating with them the action taken by the principal on disciplinary matters.
7. Work closely with parents to establish a wholesome relationship between home and school by sending communications home promptly.
8. Utilize all appropriate auxiliary staff and community agencies to help parents and students identify problems and seek solutions.
9. Establish necessary building security.
10. Assume responsibility for the dissemination and enforcement of the District's discipline policy and ensure that all cases are resolved promptly.
11. Ensure fairness, reasonableness, and consistency in the policies of the school.
12. Comply with pertinent State laws governing hearings, suspensions, and students' rights.
13. Enable students to discuss their problems by listening to students, remaining open-minded, consulting, and acting on student recommendations in the decision-making process.
14. Teach common courtesies by rule and example.
15. Model proper behavior by adhering to Education Law section prohibiting tobacco use on school grounds by not engaging in visible possession or use of tobacco or tobacco products
16. Initiate and provide for regular in-service programs for staff members.

17. Identify the line of administrative authority in the school during the absence of the principal.
18. Respect the feelings of all students, parents, and school personnel.
19. Obtain suggestions from students, teachers and parents regarding the formulation of building rules and regulations.
20. Work with oneself, one's students, and one's staff to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).
21. Serve as the Dignity for All Students Act Coordinator to ensure that student harassment and discrimination by other students or employees is prohibited. Any reported incident of harassment and discrimination will be investigated by school administrators or designees (ie: deans). Disciplinary action will be taken if any student violates the Code of Conduct in accordance of the disciplinary consequences set forth in this document.

E. Superintendent

As the chief executive officer of the School District and the educational system, the Superintendent has the responsibility to define, coordinate, interpret and implement the education policies of the district. To meet this responsibility, he/she is to:

1. Take such steps as are necessary to develop and publicize rules and regulations for students, and make sure that they are carried out.
2. Work with school administrators, law enforcement officials and other agencies to make certain that the rules and responsibilities of each are understood and make plans for cooperative working arrangements.
3. Consider and act upon recommendations for suspensions in keeping with the Board of Education policy.
4. Review with the principals the policies of the Board of Education and State laws relating to discipline.
5. Listen and respond to the views of the total community.
6. Inform the Board of Education of educational trends relating to discipline.
7. Provide for the development of innovative educational programs which will help to minimize problems of misconduct and which will be sensitive to the needs of faculty groups instituting these programs.
8. Make himself/herself available to principals, advise them on serious discipline matters, and support them so long as the latter has acted in accordance with the discipline policies of the School District and the laws of the State of New York.
9. Be well informed about the programs and the problems in the various schools and work with the principals in offering leadership.
10. Work with District administrators in enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.
11. Model proper behavior by adhering to Education Law section prohibiting

- tobacco use on school grounds by not engaging in visible possession or use of tobacco or tobacco products
12. Work with himself/herself, his/her staff, and the students in recognizing and eliminating harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).

F. Board of Education

A primary responsibility of the Board of Education is to establish district policy. To meet this responsibility the Board is to:

1. Adopt and support a clearly defined discipline policy and Code of Conduct for the School District.
2. Approve a procedure for hearing grievances relating to disciplinary action which will protect the rights of all parties to the action.
3. Provide adequate members and kinds of personnel and sufficient building space, so that conditions within every school in the District are conducive to a positive learning environment.
4. Listen and respond to the views of the total community.
5. Employ qualified personnel who are understanding and sensitive to minority groups and genuinely interested in young people.
6. Provide time for regularly scheduled in-service training for all school employees.
7. Model proper behavior by adhering to Education Law section prohibiting tobacco use on school grounds by not engaging in visible possession or use of tobacco or tobacco products
8. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a Code of Conduct that clearly defines expectations for the conduct of students, district personnel and visitors on school property and at school functions.
9. Adopt and review at least once a year the District's Code of Conduct to evaluate the Code's effectiveness and the fairness and consistency of its implementation.
10. Work within itself, its staff, and the students to recognize and eliminate harassment and discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sex, sexual orientation, or gender (including gender identity and expression).

V. STUDENT APPEARANCE CODE

The Niagara Falls School Community believes that the students' appearance should at all times be appropriate for school and school functions. The student's individual dress and appearance is primarily the responsibility of the student and his/her parents. The student's appearance should be clean and neat and should not be distracting to other members of the school community or a safety or health risk to the student or others. All District personnel should exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the school setting.

Consequences; please see appendix I page 65

The following minimal standards are enforced:

1. Headgear should not be worn in the building or classroom except for a medical or religious purpose. All hoods should be down during school day.
2. Footwear must be worn at all times. Certain footwear that poses a hazard will not be allowed.
3. All underwear must be completely covered with outer clothing and all apparel should be fastened appropriately.
4. Above the waist apparel must cover all of one's person except the arms and a modest opening at the neck and may not be of transparent materials. Blouses, shirts and sweaters are to cover shoulders, back, chest and stomach.
5. Extremely brief garments such as tube tops, net tops, halter tops, spaghetti straps and plunging necklines are not appropriate and may not be worn.
6. Sleeveless team jerseys cannot be worn without a tee-shirt with arms worn under it.
7. All fashions should be no more than three inches above the top of the knee when the student is in a standing position.
8. If a student chooses to wear layered fashions, each and all layers shall comply with the student appearance code.
9. All articles which advertise, display or represent items depicting such themes as alcoholic beverages, tobacco, items with abusive, suggestive, controversial or gang-related themes or colors are prohibited.
10. Bandanas are not to be worn/displayed on any part of the body including head, neck, wrist, leg or worn hanging from a pocket or attached to any object.
11. All articles that carry messages that are suggestive, vulgar, obscene, libelous or denigrate others on account of race, color, religion, ancestry, national origin, sex, sexual orientation or disability are prohibited.
12. Appropriate physical education clothing (i.e.) gym shorts may be worn in physical education classes only.
13. During the school day, all coats, hats, jackets, scarves, backpacks, gym bags, athletic equipment, walkman, ipods, mp3 players, radios, cellular telephones, beepers and other electronic equipment of any kind are to be kept in lockers and deactivated. (Within the discretion of school

administrators students may be permitted to carry drawstring single pocket and /or mesh bags). See below for disciplinary procedures for unauthorized use of cellular telephones/wireless communication devices.

14. Any other mode of dress or personal appearance not covered by the above, which is dangerous, disruptive, distracting and/or disturbing to the progress of the educational program or activity, is prohibited.

Each Principal shall be responsible for informing students and their parents of the Student Appearance Code at the beginning of the school year and any revisions to the Appearance Code made during the school year.

Students who violate the Student Appearance Code shall be required to modify their appearance by covering or removing the offending item. Students who are unable to do so shall be retained until the end of the day or until a parent or designee brings an acceptable change of clothing to the school.

Students who refuse to comply with the Student Appearance Code shall be subject to discipline up to and including independent study room for the day. Any student who repeatedly fails to comply with the appearance code shall be subject to further discipline, up to and including out of school suspension.

VI. CELL PHONES AND OTHER ELECTRONIC DEVICES

Grade level guidelines:

Elementary Level (K-6)

Disciplinary action for the unauthorized use of cellular telephones, wireless communication devices, or any other electronic device include but are not limited to: displaying the phone/device, having the phone/device on, making and/or receiving calls, making and/or receiving audio/video content, and sending and/or or receiving text messages during the school day, during examinations or at school time events, field trips or school functions.

Prep Level (7-8)

Disciplinary action for the unauthorized use of cellular telephones, wireless communication devices, or any other electronic device include but are not limited to: displaying the phone/device, having the phone/device on, making and/or receiving calls, making and/or receiving audio/video content, and sending and/or or receiving text messages during the school day, during examinations or at school time events, field trips or school functions.

High School Level (9-12)

Students are permitted to possess cellular devices, wireless communication devices or any other electronic device. These devices may be utilized on a limited basis in the following areas of the school:

- Cafeteria
- Hallways
- Classroom, Library and Study Hall (Only with permission of teacher)

Headphones are permitted in the hallways and cafeterias, however a 'one-ear bud' policy will be implemented. For safety purposes, students are required to have the ability to hear directions or instructions from staff.

However, if the use of the device is deemed to be dangerous, disruptive, and/or hindering to the progress of the educational program or school environment by teachers, school administrators or other school employees responsible for students, disciplinary action may be taken against the student.

Using recording devices (including but not limited to cameras, video cameras, tape recorders, cell phones or i-pods) to record incidents or individuals while anywhere in the school building or on school grounds without authorization is prohibited. Irrespective of authorization, it is never permissible to use such devices in lavatories, locker rooms or changing areas.

Disciplinary procedures:

First Infraction – Immediate confiscation of the cellular telephone, wireless communication device, or any other electronic device from the student. Returned to identified owner by the main office and/or the dean's office at the conclusion of the school day. Parent/guardian to be notified and informed regarding penalties for repeat offenses.

Second Infraction-Immediate confiscation of the cellular telephone, wireless communication device, or any other electronic device. Parent/guardian to be notified and informed regarding penalty for repeated offense. Cellular telephone, wireless communication device, or any other electronic device returned to the parent/guardian of the student upon their request and retrieval.

Third Infraction or repeated infractions- At the discretion of the administrator, student is subject to TOSH or a short-term suspension not to exceed five days. Cellular telephone, wireless communication device, or any other electronic device returned to the parent/guardian of the student upon their request and retrieval. Parent/guardian to again be notified and informed regarding penalty for repeat offense.

VII. PROHIBITED STUDENT CONDUCT

The Board of Education expects students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, District personnel and other members of the school community, and for the care of school facilities and equipment.

The Code of Conduct and the Board of Education policies on school discipline have been developed and predicated on the belief that appropriate behavior should be the goal for each student. The Board of Education recognizes that the best discipline is self-imposed, and students must learn to assume and accept responsibility for their own behavior as well as the consequences of their misbehavior. As a result, when other methods of correcting student behavior have proved ineffective, it is sometimes in the student's best interest that he/she be suspended from school for varying lengths of time.

The authority of the Board of Education to authorize suspensions and to make reasonable rules and regulations regarding discipline is granted under Section 3214 of the New York State Education Law and under Board Policy JDD. A board of education may invoke such action as suspension after avenues of recourse to redress a problem have been tried and school personnel feel that a student's behavior is such that either the student population or the student himself/herself would be better served by the student's removal from school.

The Board of Education recognizes the need to make its expectations for student conduct specific and clear while students are on school property or engaged in a school function. The Board of Education, therefore, hereby establishes the following categories of misconduct as those which may result in disciplinary action up to and including suspension from the Niagara Falls City Schools. The examples listed are generally descriptive of the most obvious types of misconduct falling within the categories of disorderly conduct, insubordination, disruptive conduct, violent conduct, and endangerment. Students who will not accept responsibility for their own behavior and who violate these school rules will be required to accept the penalties for their conduct.

The following are not to be construed as exhaustive lists, or as a limitation upon the authority of school officials to deal appropriately with other types of conduct which interfere with the good order of the school system or the proper functioning of the education process.

A. **Disorderly Conduct**

1. Running in hallways.
2. Making unreasonable noise.
3. Using language or gestures that are profane, lewd, vulgar or abusive.
4. Obstructing vehicular or pedestrian traffic.
5. Engaging in any willful act that disrupts the normal operation of the school community.
6. Trespassing. Students are not permitted in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building. Accessing unauthorized areas of an assigned school (i.e elevator) is also trespassing. After school hours, students are not permitted in any school building, without permission from the administrator in charge of the building.
7. Violation of District On-Line Services or Internet Use Policies including but not limited to unauthorized use of computers and accessing or creating

- inappropriate websites, visiting non-educational websites or creating inappropriate social media accounts or fraudulent social media accounts.
- Using recording devices (including but not limited to cameras, video cameras, tape recorders, cell phones or i-pods) to record incidents or individuals while anywhere in the school building or on school grounds without authorization is prohibited. Irrespective of authorization, it is never permissible to use such devices in lavatories, locker rooms or changing areas.

B. Insubordination/ Disruptive Conduct

- Failing to comply with the reasonable/lawful directions of teachers, school administrators or other school employees in charge of students or otherwise demonstrating disrespect which may be reported by students and/or staff
- Tardiness or, missing or leaving school without permission. (See Section E).
- Lying to school personnel.

C. Endangerment

- Stealing the property of other students, school personnel or any other person lawfully on school property or attending a school function.
- Acts of sexual harassment or misconduct as defined in the District's sexual harassment policy.
- Selling, using or possessing obscene material.
- Possessing and/or smoking/using any tobacco, or tobacco substitute, product including but not limited to tobacco cigarettes, cigars, pipes, chewing or spit tobacco, e-cigarettes, vapors, and any other product containing nicotine or a nicotine substitute in any form.
- Possessing, consuming, selling, distributing or exchanging alcoholic beverages, illegal substances, or any other drug paraphernalia, or being under the influence of either. "Illegal substances" include inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, any substances commonly referred to as "designer drugs", and/or legal substances intended for un-prescribed use/abuse, including synthetic cannabinoid products labeled as incense, herbal mixtures, or potpourri.
- Inappropriately possessing, using or sharing prescription and over-the-counter drugs.
- Discrimination, which includes the use of race, color, creed, national origin, religion, gender, sexual orientation or disability as a basis for treating another in a negative manner.
- Defamation, which includes making false or unprivileged statements or representations about a teacher, an individual, or identifiable group of individuals that harm the reputation of the person or the identifiable group by demeaning them.
- Intimidation, which includes engaging in actions or statements that put an individual in fear of harm through any means including the use of technology

such as computers and cellular telephones (cyber-bullying). See also section on Cyberbullying.

10. Hazing, which includes any intentional or reckless act directed against another for the purpose of initiation into, affiliating with, or maintaining membership in any school sponsored activity, organization, club, or team.
11. Gambling, exclusive of authorized fundraisers.
12. Gang activity, a gang is an organized group of some duration, sometimes characterized by turf concerns, symbols, special dress and colors. An incident is gang related if it is gang motivated, if gang membership caused the incident or was a contributing factor.
13. Indecent exposure, exposure to sight of the private parts of the body or undergarments in a lewd or indecent manner including the transmission or possession of sexually explicit messages/pictures through the use of technology such as computers and cellular telephones.
14. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
15. Arson and/or any incident of igniting material or involving the possession of igniting material with the purpose of starting a fire through the utilization of lighters, matches, or other materials.
16. All interscholastic athletic equipment deemed inappropriate (baseball bats, lacrosse sticks, hockey sticks) should be stored in a secure location upon entering the building. At dismissal a designed staff member will return athletic equipment.

D. Violence

1. Committing an act of violence (such as pushing, shoving, hitting, kicking, punching, and scratching) upon a teacher, administrator or other school employee.
2. Committing an act of violence (such as pushing, shoving, hitting, kicking, punching, and scratching) upon another student or any other person lawfully on school property.
3. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on school property or at a school function. "Weapon" means a gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, any type of ammunition, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, metal knuckle knife, box cutters, cane sword, electronic dart gun, martial arts star, electronic stun gun, pepper spray or other noxious sprays, laser pointer, explosive or incendiary bomb, or other dangerous instrument that can cause physical injury or death.
4. Possessing and/or displaying what appears to be a weapon.
5. Threatening to use any weapon.
6. Intentionally damaging or destroying the personal property of a teacher, administrator, other District employee, other student or any person lawfully on school property, including graffiti or arson.

7. Intentionally damaging or destroying school district property including but not limited to littering and other acts of vandalism.
8. Committing a reckless act, including but not limited to, throwing objects, pushing, shoving or contributing or creating an unsafe condition, which can result in injury to a student(s) or staff member(s).

E. **Truancy**

1. Truancy is the unauthorized absence from, or tardiness to, school or assigned classes without the knowledge or approval of the parent or guardian, or if the absence or tardiness is contrary to Board attendance policies (i.e. baby-sitting or vacation on school days). If the student is under the age of sixteen (16) or turns sixteen (16) after July 1 of the school year, truancy is a violation of the Compulsory School Attendance Law. All students sixteen (16) years of age and over are subject to the attendance procedures and policies of the school they are attending.
2. Habitual violations by students over the age of sixteen (16) may result in the student being referred to a transition hearing for an alternative program. Any student under sixteen (16) found to be truant a third time during the same school year will be deemed a habitual truant, and at the request of the school principal, the school's attendance office or designated personnel will refer the student to the Family Court Intake Division for Supervision by filing a PINS petition (Person in Need of Supervision).

Attendance Policy Summary

The overall objectives of the Niagara Falls City School District Attendance Policy are: to increase school completion for all students; to raise student achievement and close gaps in student performance; to know the whereabouts of every student for safety and other reasons; to improve student attendance; to verify that individual students are complying with education laws relating to compulsory attendance; to determine the District's average daily attendance for state aid purposes; to identify attendance patterns in order to assist those students who are identified as chronic truants, and, to develop an attendance program that students, parents, and staff will accept and value.

PowerSchool:

Daily attendance shall be collected by way of the district's adopted official attendance tracking software (PowerSchool). PowerSchool is an effective avenue for communication with administration, teachers, staff, parent/guardians and students to foster learning that extends beyond the classroom; electronic web based attendance tracking can occur instantaneously by way of Parent Portal.

Parent Portal:

A sub element of PowerSchool offers parents/guardians the opportunity to track student grades and attendance. Parent portal provides instantaneous feedback regarding student attendance (daily and class period). Parent portal is accessible on the Niagara Falls City School District webpage and a mobile app is available for download.

Attendance Taking Procedures for Power-School

a. Maintenance of Electronic Register of Attendance – Each student attending the Niagara Falls City School District shall have an individual register of attendance containing information required by law and regulations.

b. Recording Attendance Grades K-6

Each pupil's presence or absence shall be recorded after taking attendance once per school day.

c. Recording Attendance Grades 7-12

- i. Each pupil's presence or absence shall be recorded after the taking of attendance in each period of scheduled instruction.
- ii. If pupils do not change classrooms for each period of scheduled instruction, each pupil's presence or absence shall be recorded after taking attendance once per school day.

d. Persons Responsible

- i. Entries in register of attendance shall be made by a teacher or employee designated by the school building administrator.
- ii. Building administrators shall designate a teacher or other District employee to supervise the keeping of the register of attendance.

Excused Absences – The Board of Education acknowledges the following reasons for excused pupil absences, tardiness, and early departures from school relating to a full or part of the school day:

1. Sickness
2. Serious illness or death in the family
3. Suspension
4. Medical or dental appointments
5. Impassable roads or extreme weather conditions
6. Approved educational trips
7. Approved college visits
8. Religious observances
9. Music lessons
10. Attendance in health clinics
11. Required court appearances
12. Military obligations
13. Approved cooperative work program
14. Emergency situations as approved by the building administrator

Unexcused Absences – The following are examples of pupil absences, tardiness, and early departures that will be considered unexcused:

1. Vacation with or without parents
2. Haircut
3. Obtain Learner's Permit
4. Oversleeping
5. Babysitting
6. Hunting/Fishing
7. Unlawful detention
8. Truancy

The Niagara Falls City School District will not deny course credit based on attendance.

To encourage student attendance, the District will develop and implement grade-appropriate/building-level strategies and programs.

Unexcused absences, tardiness and early departures will result in disciplinary sanctions as described herein. Consequences may include, but are not limited to, assignment to T.O.S.H, denial of participation in interscholastic and extracurricular activities, referring a compulsory age student to the Family Court Intake Division for Supervision by filing a PINS (Person in Need of Supervision) Petition, and referring a student over the compulsory age to the Superintendent for a transition hearing.

Students who illegally miss school or classes will have their parent or guardian notified by telephone by building attendance personnel.

Attendance personnel will send home a copy of the PowerSchool

attendance report and a form letter to the parents or guardians of any student who illegally misses school days and/or classes. The letter will request a meeting with the student, parents or guardians and a guidance counselor when appropriate. At the meeting, various strategies will be developed or presented to assist the student in attending school and/or classes.

To effectively intervene where an identified pattern of unexcused absences, tardiness or early departures occur, designated District personnel will pursue various intervention strategies as outlined in District Policy.

The Board of Education shall annually review the building level student attendance records and if such records show a decline in student attendance, the Board shall make any revision to the policy and plan deemed necessary to improve student attendance.

F. Use/Abuse of Alcohol and/or Other Substances By Students

The Niagara Falls School District has adopted a policy (Board Policy JCDABR) concerning the use/abuse of alcohol and other substances for students. The intent of the policy is to prevent or delay the onset of alcohol, tobacco, and other substance use by students. An ongoing staff development component will ensure policy implementation. The Niagara Falls School District is also committed to achieving a drug-free work and learning environment as stated in Board Policies.

1. The Board of Education of the Niagara Falls City School District is committed to the prevention of alcohol, tobacco, and other substance use/abuse.
2. No student may use, possess, sell, or distribute alcohol or other substances, nor may use or possess drug paraphernalia on school grounds or at school sponsored events, except drugs as prescribed by a physician. The terms "alcohol and other substances" shall refer to the use of all substances including, but not limited to, alcohol, tobacco, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alikes, and any of those substances commonly referred to as "designer drugs." The inappropriate use or possession of prescription and over-the-counter drugs shall also be prohibited, and/or any other legal substances intended for un-prescribed use/abuse, including synthetic cannabinoid products labeled as incense, herbal mixtures, or potpourri.
3. The School District will provide a program of prevention and intervention designed to eliminate any existing use/abuse of alcohol and other substances, and provide supportive services to all students.

G. Harassment in accordance with Dignity for All Students Act (DASA)

The Niagara Falls Board of Education prohibits harassment and discrimination against any student, whether by students or employees on school property or at a school function. This is in accordance of the Dignity for All Students Act (DASA).

No student shall be subjected to harassment by employees or students on school property or at a school function; nor shall any student be subjected to discrimination based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex by students or school employees on school property or at a school function.

1. DEFINITIONS

Discrimination is the act of denying rights, benefits, justice, equitable treatment or access to facilities available to all others, to an individual or group of people because of the group, class or category to which the person belongs.

Harassment is the creation of a hostile environment by conduct, with or without physical conduct and/or verbal threats, intimidation or abuse, of such a nature that:

- has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being
- reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety

The behavior may be based on any characteristics, including but not limited to a person's actual or perceived:

- race
- color
- weight
- national origin
- ethnic group
- religion
- religious practice
- disability
- sex
- sexual orientation
- gender (including gender identity and expression)

2. REPORTING AND INVESTIGATION

Alleged incidents involving possible student harassment are to be reported to those in charge, such as teachers and administrators. All reported complaints will be investigated as set forth in this Code of Conduct.

Incidents may be reported in verbal or written form. Alleged incidents will be reviewed in a timely manner by designated school staff members.

3. ACTION

Each school building shall have trained staff members in prevention and intervention in the areas of student harassment and discrimination. The responses shall aim to correct the problem behavior, prevent another occurrence or the behavior, and protect the target of the act.

Counselors at each school will be trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression), and sex as required by the Dignity for All Students Act. They will use counseling and other methods to meet with students.

There will be a trained staff member at each school to serve as the Dignity Act Coordinator. This individual will ensure that reported incidents of student harassment or discrimination are investigated. If reported incidents are determined to be valid after proper investigation, student disciplinary action will be taken in accordance with the penalties and procedures outlined in the Disciplinary Action section of the Code of Conduct.

*Refer to the Niagara Falls City School District's Website for each schools DASA coordinator. (www.nfschools.net)

5. RESOURCES

Resources will be available on the District website to help promote a positive school climate. Information will be provided for parents, students, and staff members on recognizing and responding to student harassment and bullying. The District will continue its Character Education Program. Resources including the monthly traits of Character Education will be available on the District website and promoted at each school. Buildings will continue to use their school-wide positive behavior plans.

H. **Sexual Harassment/Misconduct**

DEFINITIONS

1. Conduct of a Sexual Nature

Conduct of a sexual nature may include, but is not limited to, verbal or physical sexual advance (coming on to), including subtle pressure for sexual activity; touching, pinching, patting, or brushing against; comments regarding physical or personality characteristics of a sexual nature; sexually-oriented "kidding," "teasing," jokes, and any harassing conduct to which an employee or student would not be subjected but for such person's sex.

2. Unwelcome conduct of a Sexual Nature

- (a) Verbal or physical conduct of a sexual nature may constitute sexual misconduct when the allegedly harassed employee or student has indicated, by his or her conduct, that it is unwelcome.
- (b) An individual who may have initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct be deemed unwelcome.
- (c) The Board of Education prohibits any conduct of a sexual nature directed toward students by teachers or others to whom this policy applies, and shall presume that any such conduct is unwelcome.

3. Sexual Abuse

Sexual abuse takes place when a person subjects another person to sexual contact without the latter's consent.

Sexual contact means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim as well as the touching of the victim by the actor, whether directly or through clothing.

4. Sexual Harassment

- a. For the purposes of this policy, unwelcome sexual advances or requests for sexual favors, and other unwelcome conduct of a sexual nature, constitute prohibited sexual harassment if:
 - (1) Submission to the conduct is made either as an explicit or as implicit condition of employment, or as an award of grades or other measures of student achievement;
 - (2) Submission to or rejection of the conduct is used as a basis for a decision affecting a student; or
 - (3) The conduct substantially interferes with any employee's or student's performance, or creates an intimidating, hostile, or

offensive work or school environment.

The Niagara Falls Board of Education is committed to safeguarding the right of all students within the School District to an environment that is free from all forms of sexual harassment. Therefore, it condemns all unwelcome behavior of a sexual nature which is designed to exhort sexual favors from a student as a term or condition of education or which has the purpose or effect of creating an intimidating, hostile or offensive environment.

Sexual harassment, as defined above, may include, but is not limited to:

- i. Verbal comments - sexual name calling.
- ii. Press for sexual activity or sexual favors.
 - iii. Making obscene or sexually suggestive gestures, movement or body motions.
- iv. Unwelcome touching, pulling on clothes, or constant brushing against another's body.
- v. Posting or exhibiting of sexually explicit materials, photographs, posters, or cartoons.
- vi. Suggesting or demanding sexual involvement accompanied by implied or explicit threats concerning one's grades, employment status, or similar personal concerns.

Any person who alleges sexual harassment by any staff member or student in the School District, whether that harassment occurs on school premises or off school premises, should complain directly to those in charge; student to teacher, teacher to administrator, administrator to Superintendent of Schools. If the alleged employee is anyone in higher authority, the report shall be made to the Superintendent of Schools.

All reports of sexual harassment will be held in confidence. Any filing of a grievance will not reflect upon the individual's status or affect future employment, work assignments or grades.

In cases where a student is the complainant, the same procedures are to be followed.

Sexual Misconduct

The policy of the Board of Education forbids discrimination against any employee, applicant for employment, or student, on the basis of sex. The Board will not tolerate sexual misconduct by any of its employees or students. This policy similarly applies to non-employee volunteers or any other persons who work subject to the control of school authorities.

1. Administrators and Supervisors
 - (a) It is sexual misconduct for a manager or supervisor to use his or her

authority to solicit sexual favors or attention from subordinates when the subordinate's failure to submit will result in adverse treatment, or when the subordinate's acquiescence will result in preferential treatment.

- (b) Administrators and supervisors who either engage in sexual misconduct or tolerate such conduct by other employees shall be subject to sanctions, as described in the regulations.

2. Non-managerial and Non-supervisory Employees

- (a) It is sexual misconduct for a non-administrative and non-supervisory employee to subject any other employee to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described in the regulations.

3. Employees

- (a) It is sexual misconduct for an employee to subject a student or another employee to any conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described in the regulations.

4. Students

- (a) It is sexual misconduct for a student to subject another student or an employee to any conduct of a sexual nature. Students who engage in such conduct shall be subject to student disciplinary actions as described in the regulations.
- (b) Sexual misconduct training will be incorporated into the student handbook, student orientation and the health curriculum.
- (c) Complaints should be filed without fear of retaliation. Instances of retaliation should be reported and will be dealt with to the fullest extent of the law or disciplinary procedures.

I. **Bus Conduct**

The Niagara Falls City School District will provide transportation for eligible bus students only. It is crucial for students to behave appropriately while riding on District buses to ensure their safety and that of other passengers, and to avoid distracting the bus driver. Students are required to conduct themselves on the bus in a manner consistent with established standards for classroom behavior. Entering and exiting the bus without permission, excessive noise, pushing, shoving and fighting will not be tolerated. Students waiting for buses when not on school

property are expected to conduct themselves in accordance with the District's Code of Conduct.

Students are the responsibility of the District while they are on the school bus. Since the school bus is an extension of the classroom, the Board of Education shall require students to conduct themselves on the bus in a manner consistent with established standards for classroom behavior, and shall, therefore, approve rules and regulations regarding school bus transportation (Board Policy JCDAD). School bus regulations shall be enforced by bus drivers, bus associates, and the Student Services Office in coordination with the school principal. Students who become serious disciplinary problems may have their riding privileges suspended or revoked. In such cases, the parents of the children shall be duly notified and will become responsible for the transportation of their children to and from school (Board Policy JCDAD).

J. Academic Misconduct

It is crucial for students to behave appropriately during academic activities. Examples of academic misconduct may include:

1. Plagiarism.
2. Cheating.
3. Copying
4. Altering records.
5. Assisting another student in any of the above actions.
6. Violating Computer Acceptable Use Agreement and/or other misuse/abuse of computer privileges including the Laptop Distribution Policy.

K. Bullying

1. DEFINITION

Bullying may be a single act or repeated acts of aggressive behavior by one or more students in order to intentionally hurt another person, physically or emotionally.

2. CHARACTERISTICS

Characteristics of bullying may include but are not limited to:

- Intentional harm-doing
- Repeated over time
- A relationship in which there is an imbalance of power or a perceived imbalance of power

3. POSSIBLE EXAMPLES

Direct Bullying:

- Hitting, kicking, shoving, spitting
- Taunting, teasing, racial slurs, verbal harassment
- Threatening physical harm, obscene gestures

Indirect Bullying:

- Spreading rumors
- Defamation of character
- Cyberbullying

The examples above are not meant to be a conclusive list.

The Niagara Falls Board of Education is committed to provide a school environment free of discrimination and harassment. Alleged incidents involving possible student bullying are to be reported to those in charge, such as teachers or administrators.

L. **Cyberbullying**

1. DEFINITION

Cyberbullying is willful harm inflicted either as a single act or repeated acts through the use of computers, cell phones, and other electronic devices.

2. FORMS OF CYBERBULLYING

Possible forms of Cyberbullying include:

- Emails or Instant Messages at a specific person
- Websites/Social Network Sites
- Cell phones/text messages
- Chat rooms

3. INTERVENTION

The Niagara Falls Board of Education is committed to provide a school environment free of discrimination and harassment. Alleged incidents involving possible cyberbullying are to be reported to any staff members.

The Commissioner of Education has held that a school district can discipline a student for off-campus conduct that “adversely affects the educative process or endangers the health, safety or morals of students.” A local law entitled “Prohibiting Cyberbullying in Niagara County” was enacted by the Niagara County Legislature to ban cyberbullying in Niagara County.

School officials can generally intervene/discipline if conduct/speech:

- Substantially or materially disrupts learning
- Interferes with the educational process or school discipline
- Utilizes school technology to harass
- Threatens other students or infringes on their civil rights

Acceptable Use Policy: Student Use Of Computerized Information Resources

The Board of Education will provide access to various computerized information resources through the District's computer system ("DCS" hereafter) consisting of software, hardware, computer networks, and electronic communications systems. This may include access to electronic mail, so-called "on-line services," and the "Internet." It may include the opportunity for some students to have independent access to the DCS from their home or other remote locations. All use of the DCS, including independent use off school premises, shall be subject to this policy and accompanying regulations. Further, all such use must be in support of education and/or research and consistent with the goals and purposes of the School District.

One purpose of this policy is to provide notice to students and parents/guardians that, unlike most traditional instructional or library media materials, the DCS will allow student access to external computer networks not controlled by the School District where it is impossible for the District to screen or review all of the available materials. Some of the available materials may be deemed unsuitable by parents/guardians for student use or access. This policy is intended to establish general guidelines for acceptable student use. However, despite the existence of such District policy and accompanying guidelines and regulations, it will not be possible to completely prevent access to computerized information that is inappropriate for students. Furthermore, students may have the ability to access such information from their homes or other locations off school premises. Parents/guardians of students must be willing to set and convey standards for appropriate and acceptable use to their children when using the DCS or any other electronic media or communications.

Standards of Acceptable Use

Generally, the same standards of acceptable student conduct, which apply to any school activity, shall apply to use of the DCS. This policy neither attempts to articulate all required and/or acceptable uses of the DCS, nor is it the intention of this policy to define all inappropriate usage. Administrative regulations will further define general guidelines of appropriate student conduct and use as well as proscribed behavior.

District students shall also adhere to the laws, policies and rules governing computers including, but not limited to, copyright laws, rights of software publishers, license agreements, and student rights of privacy created by federal and state law.

Students who engage in unacceptable use may lose access to the DCS in accordance with applicable due process procedures, and may be subject to further discipline under the District's school conduct and discipline policy and the District Code of Conduct. The District reserves the right to pursue legal action against a student who

willfully, maliciously or unlawfully damages or destroys property of the District. Further, the District may bring suit in civil court against the parents/guardians of any student who willfully, maliciously or unlawfully damages or destroys District property pursuant to General Obligations Law Section 3-112.

Student data files and other electronic storage areas will be treated like school lockers. This means that such areas shall be considered to be School District property subject to control and inspection. The Administrator for Information Services may access all such files and communications to ensure system integrity and that users are complying with the requirements of this policy and accompanying regulations. Students should **NOT** expect that information stored on the DCS will be private. There is no expectation of privacy.

Niagara Falls City School District – Student Computer Use Agreement

Notification/Authorization

The District's Acceptable Use Policy and accompanying Regulations will be disseminated to parents and students in order to provide notice of the school's requirements, expectations, and student's obligations when accessing the DCS.

Student use of the DCS is conditioned upon written agreement by all students and their parents/guardians that student use of the DCS will conform to the requirements of this policy and any regulations adopted to ensure acceptable use of the DCS. All such agreements shall be kept on file in the School Office. Regulations will be established, as necessary, to implement the terms of this policy.

Expectations of students include, but are not limited to, the following:

1. Student Personal Safety

- a) All student computer use must be supervised.
- b) Guidelines for Publication of Student Work on the Net

The District is obligated to protect the privacy of its students from outsiders. Therefore, when District employees publish student work through use of the District Network Access, the following guidelines shall be followed:

1. First name or initials shall identify students. No personally identifiable information about students shall be published.
2. Pictures of students shall not provide information identifying any student.
3. Student phone numbers, home addresses, and e-mail addresses shall not be published.
4. The only address, phone number, or e-mail address, which may be published, is that of the school in care of the sponsoring teacher or the teacher's e-mail address at school.
5. If personally identifiable information is to be released concerning a particular student, it will only be released after the parent signs a consent form to allow the release.

2. Illegal or Destructive Activities

- a) Students shall not go beyond their authorized access to the District network or other computer equipment or software including the files or accounts of others.
- b) Students shall not disrupt or attempt to damage or disrupt any computer, system, system performance, or data.
- c) Students shall not use District equipment to engage in illegal acts.

3. System Security

- a) Students are responsible for the security of their computer equipment, files, and passwords. They shall not share their user IDs or passwords.
- b) Students shall promptly notify a teacher of security problems.

4. Inappropriate Conduct

The following conduct is prohibited when using any technical resource:

- a) Obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language;
- b) Potentially damaging, dangerous, or disruptive material;
- c) Personal or generalized harassment in violation of District policies; and
- d) False or defamatory information.

5. Plagiarism and Copyright Infringement

- a) Works may not be plagiarized.
- b) The rights of copyright owners are to be respected. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by copyright. If a student is unsure whether or not a work can be used, the copyright owner should be contacted for permission.
- c) Software copyrights and software licenses must be strictly respected.

6. Inappropriate Access to Material

- a) Technical resources shall not be used with material that is profane, obscene (pornographic), or advocates illegal acts, violence, or discrimination.
- b) Personal messages are not permitted. Students shall not use the District access to the Internet (including e-mail), nor shall they use any District created or District related web site to advertise any private commercial ventures in which they have a financial or proprietary interest, or in which members of their families have financial or proprietary interests.
- c) The use of Internet games, web chats, unauthorized software, or other instant messaging software (e.g. SnapChat, iMessage, etc.) is prohibited except when specifically authorized by the District Superintendent (or designee).
- d) Inadvertent inappropriate access shall be reported immediately to a student's teacher.

7. Expectation of Privacy

- a) Students have no expectation of privacy in files, disks, or documents that have been created in, entered in, stored in, downloaded from, or used on District equipment or resources.

8. Services and Assumption of Risks

- a) Niagara Falls City School District makes no warranties of any kind, whether express or implied, for services provided and is not responsible for any damages suffered while on the system to include loss of data and inaccurate or poor quality information obtained from the system. Users are responsible for backing up data stored on the hard drive of any computer assigned to them.

9. Discipline

- a) Students who engage in unacceptable use may lose access to the District Computer System and may be subject to further discipline under the law or in accordance with the School Code of Conduct.
- b) Deliberate violations of this agreement (e.g., malicious acts or omissions; searching for, viewing or otherwise visiting pornographic or sexually explicit sites) are cause for disciplinary action.

10. Unacceptable Uses

The following uses will be regarded as not acceptable:

- a) Illegal or malicious use, including downloading or transmitting of copyright material.
- b) Use of racial, sexual, or other harassment in violation of district policy.
- c) To access, view, or transmit pornographic or obscene material.
- d) To solicit personal information with the intent of using such information to cause emotional or physical harm.
- e) To disrupt the work of other users. This includes the propagation of computer viruses and use of the Internet to make unauthorized entry to any other Internet resource.
- f) Use for private commercial purposes.
- g) To promote political views.
- h) For personal use, for example, plan vacations, check personal stocks, gamble, casual surfing of the web, and on-line personal shopping, to name a few.

11. Etiquette

The following general principles should be adopted:

- a) Be polite; do not be abusive in messages to others.
- b) Use appropriate language. Remember that you are a student representative of Niagara Falls City School District and that you are using a public network.
- c) Do not disrupt the use of the Internet for other users.

12. District Hardware and Software

- a) Students assigned District hardware must take care of the equipment, ensuring its security when not in use. Students will be charged for damage to District hardware if it is determined care was not exercised. This includes laptops, printers, iPods or any other electronic hardware issued to the student. Appropriate serial numbers and identification of the assigned equipment will be obtained prior to student use. Informational services staff responsible for maintaining accurate records.
- b) Only approved District software may be loaded on the District equipment.

VIII. REPORTING VIOLATIONS

All students are expected to promptly report violations of the Code of Conduct to a teacher, guidance counselor, the principal or his or her designee. Any student observing a student possessing a weapon, alcohol or illegal substance on school property or at school function shall report this information immediately to a teacher, the principal, the principal's designee or the Superintendent.

All District staff who are authorized to impose disciplinary sanctions are expected to do so in a prompt, fair and lawful manner. District staff who are not authorized to impose disciplinary sanctions are expected to promptly report violations of the Code of Conduct to their supervisor, who in return shall impose an appropriate disciplinary sanction, if authorized, or refer the matter to a staff member who is authorized to impose an appropriate sanction.

Any weapons, alcohol or illegal substances found shall be confiscated immediately, followed by notification of the parent of the student involved and the appropriate disciplinary action taken, up to and including permanent suspension and referral for to appropriate police authorities for prosecution.

The building principal or his or her designee must notify the appropriate law enforcement agency of those code violations that constitute a crime which substantially affects the order and security of a school as soon as practical, but in no event later than the close of business the day the principal or his or her designee learns of the violation. The notification may be made by telephone, followed by a letter made on the same day the telephone call is made. The notification must identify the student(s) and explain the

conduct that violated the Code of Conduct and constituted a crime.

IX. DISCIPLINARY PENALTIES

It is the belief of the Niagara Falls City School District that discipline must emphasize humanitarian principles and ideals such as justice and equality. It must recognize the inherent dignity and rights of every human being and must include self-direction and self-discipline. Good discipline is most effective when it deals directly with the problem at the time and place it occurs and in a way that students view as fair and impartial. Therefore, it should always be considered in terms of helping the learner and not solely as punishment; of helping the learner change unacceptable behavior into acceptable conduct.

Respect for both individual rights and for the rights of the group are basic to sound discipline. When necessary, disciplinary action will be firm, fair and consistent so as to be the most effective in changing student behavior. It is the intention of the Niagara Falls Board of Education that all staff be knowledgeable regarding how to effectively implement the Code of Conduct. All staff new staff members receive a copy of the Code of Conduct and a presentation highlighting pertinent policies at an orientation conducted prior to the beginning of each school year. Building administrators are expected to inform and update current staff members regarding the Code of Conduct and proper implementation of policies at faculty meetings and/or conference days. Additionally, the Teacher Resource Center from time to time offers courses on effective disciplinary techniques and strategies. Further, it is expected that in determining the appropriate disciplinary action, school personnel authorized to impose disciplinary penalties will consider the following:

1. The student's age.
2. The nature of the offense and the circumstances which lead to the offense.
3. The student's prior disciplinary record.
4. The effectiveness of other forms of discipline.
5. Information from parents, teachers and/or others as appropriate.
6. Whether the conduct of a student is related to a disability or suspected disability. If this is the case, the student shall be referred to the Committee on Special Education and discipline, if warranted, shall be administered consistent with the separate requirements of this Code of Conduct for disciplining students with a disability. A student identified as having a disability shall not be disciplined for behavior related to his/ her disability
7. Other extenuating circumstances.

Restorative Justice

Restorative justice is a philosophy based on a set of principles that guide the response to conflict and harm. The Niagara Falls City School District is will begin the process of exploring 'Restorative Justice' practices beginning in the 2017/2018 school year.

Restorative justice's three main goals are:

Accountability: Restorative justice strategies provide opportunities for wrongdoers to be accountable to those they have harmed, and enable them to repair the harm they caused to the extent possible

School Community safety: Restorative justice recognizes the need to keep the school community safe through strategies that build relationships and empower the community to take responsibility for the well-being of its members.

Competency development: Restorative justice seeks to increase the pro-social skills of those who have harmed others, address underlying factors that lead youth to engage in delinquent behavior, and build on strengths in each young person

Youth Court:

Youth Court is a voluntary alternative to traditional school discipline as a result of an acknowledged violation of the Code of Conduct. The goal of Youth Court is to intervene in early anti-social, delinquent, and criminal behavior to reduce the incidence and prevent the escalation of such behavior. Youth Court strives to promote feelings of high self-esteem, a desire for self-improvement and to foster a healthy attitude toward rules and authority.

A. Penalties and Procedures

Students who are found to have violated the District's Code of Conduct may be subject to the following penalties, either alone or in combination with one another. The school personnel identified after each penalty are authorized to impose that penalty consistent with the student's right to due process.

The amount of due process a student is entitled to before a penalty is imposed depends upon the type of penalty imposed. In all cases, the school personnel authorized to impose the penalty must let the student know what misconduct the student is alleged to have committed and must investigate the facts surrounding the alleged misconduct. All students will have the opportunity to present their version of the facts to the school personnel imposing the disciplinary penalty in connection with the imposition of the penalty. Students who are to be given penalties other than verbal warning, written warning, or written notification to their parents will be entitled to additional rights as identified after each penalty.

1. Verbal warning

Any member of the District Staff.

2. Written warning to student
Superintendent, Administrator, Teachers, hall and lunch monitors, safety officers, school resource officers, bus drivers.
3. Written notification to parent
Superintendent, Administrator, Teachers.
4. Referral to Student Teacher Action Response Team (START)
School administrator.

START is a problem-solving group that meets to determine strategies for dealing with day-to-day problems within the school.

The school administrator may refer a student to START to:

- (a) solve problems that are occurring within the building
- (b) review an existing case
- (c) screen for possible CSE review

5. Exclusion on Physician's Recommendation

Exclusion from school may result when the findings of a medical or clinical examination indicate that a student cannot benefit from a normal school experience or when a placement other than school is recommended. In cases where it appears that a student cannot function effectively within the normal school environment, the principal with consent of the School Medical Inspector and the Coordinator of Health Services, will determine possible courses of action to be taken.

6. Suspension from Transportation

- a. May be imposed by:
Superintendent
Administrator
- b. Definition: If a student does not conduct himself/herself properly on the bus, the bus driver is expected to bring this to the attention of the building administrator and the Director of student services. Students who become a serious disciplinary problem may have their riding privileges suspended by the building administrator or the Superintendent. In such cases the student's parent is responsible for seeing that the student gets to and from school safely.
- c. Procedure: A suspension from transportation may be imposed after the following procedures have been followed:
 - i. Reasonable efforts shall be made by the bus driver to resolve

problems through personal conference with the student.

- ii. A hearing pursuant to section 3214 of the Education Law may be held at the discretion of the principal but is not mandatory for a student subjected to a suspension from transportation. However, the student and the student's parents will be provided with a reasonable opportunity for an informal conference with the building principal or the principal's designee to discuss the conduct and the penalty involved.
 - iii. Should a suspension from transportation amount to a suspension from attendance, the District is to make appropriate arrangements to provide for the student's education.
7. Suspension from Athletic participation, social/extracurricular activities and other school functions. (See page 61).
- a. May be imposed by:
Superintendent
Building administrator
 - b. Definition: Suspension from Athletic participation, social/extracurricular activities and other privileges is the denial of a student's right to participate in a selected activity or a revocation of a specific privilege.
 - c. Procedure:
 - i. Reasonable efforts shall be made to resolve problems through personal conference with the student.
 - ii. A temporary suspension from athletic participation, social/extracurricular activities and other privileges may be imposed by a building administrator after a conference with the student in which the student shall be informed of the charges against him or her and the evidence in support thereof, and shall be given the opportunity to state his or her defense. Reasonable efforts shall be made to promptly inform the parents or guardian by telephone, if possible, of the student's suspension from athletic participation, social/extracurricular activities and other privileges and the reasons thereof.
 - iii. Suspension from athletic participation, social/extracurricular the remainder of social/extracurricular activities and other

privileges for the remainder of the school year may be imposed if the temporary suspension does not resolve the problem. Reasonable efforts shall be made to promptly inform the parents or guardian by telephone, if possible, of the student's suspension from Athletic participation, social/extracurricular activities and other privileges and the reasons thereof.

- iv. A hearing pursuant to section 3214 of the Education Law may be held at the discretion of the principal but is not mandatory for a student subjected to a suspension from Athletic participation, social/extracurricular activities and other privileges. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the building principal or the principal's designee to discuss the conduct and the penalty involved.

8. Time Out Study Hall (TOSH)

- a. The Board authorizes the Principals or their designees to place students who would otherwise be suspended from school as the result of a Code of Conduct violation in a Time Out Study Hall.
- b. Definition: Assignment to a Time Out Study Hall is the action of removing a student from a scheduled class and placing him/her in an alternate, closely-supervised environment. This consequence is generally used when the school administrator has become involved with a substantially disruptive student. Unlike the time-out concept, those students attending the TOSH, will be required to do assignments given by their teachers. This is an alternative disciplinary action to placing students on out-of-school suspension.
- c. Guidelines:
 - i. The student must be informed of the reason for his/her assignment to the TOSH.
 - ii. The room is monitored by certified personnel.
 - iii. The student does independent academic work in silence.
 - iv. If the student disrupts the Time Out Study Hall, the monitor may consider one or more of the following strategies as they apply to the situation:
 - time-out
 - contracting-the student may be assigned additional hours in the TOSH
 - teacher contact
 - parent contact

- referral to school administrator or designee
- v. The student must eat alone and is escorted to and from the restrooms.
- vi. If the student misbehaves after returning to the classroom, he/she may be sent again to the TOSH.
- vii. Notification to the parents, in writing, by the school administrator regarding TOSH, must be immediate.
- viii. Prior to reinstatement a parent conference may be held with an administrator or designee. The school administrator may consider a referral to the START

b. Emergency Situations:

A method for removing severely disruptive students should be planned ahead of time by the school administrator and staff members. Crisis intervention techniques may be a strategy used in de-escalating inappropriate behavior.

9. Teacher disciplinary removal of disruptive students

a. Generally - A student's behavior can affect a teacher's ability to teach and can make it difficult for other students in the classroom to learn. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include practices that involve the teacher directing a student to briefly leave the classroom to give the student an opportunity to regain his or her composure and self-control in an alternative setting. Such practices may include but are not limited to:

- (1) short-term "time out" in an administrator's office;
- (2) sending a student to the principal's office for the remainder of the class time only;
- (3) sending a student to a guidance counselor or other district staff member for counseling.

Time-honored classroom management techniques such as these do not constitute disciplinary removal for purposes of this code.

b. Definition - On occasion, a student's behavior may become disruptive. For purposes of this Code of Conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom. A substantial disruption of the educational process or substantial interference with a teacher's authority occurs when a student demonstrates a persistent unwillingness to comply with the teacher's instructions or repeatedly violates the teacher's classroom behavior rules.

c. Procedure- A classroom teacher may remove a student from class for up to two days if the teacher determines that the student is disruptive. The removal

from class applies to the class of the removing teacher only. The following procedures will be followed:

- i. The teacher makes a judgment that the student's behavior is substantially disruptive according to the School District's Code of Conduct. Although teachers may attempt to modify the student's behavior prior to a removal, depending on the severity of the behavior, a teacher could remove a student without attempting to implement a behavior management strategy.
- ii. If the disruptive student does not pose a continuing danger or ongoing threat of disruption to the academic process, the teacher must provide the student with an explanation for why he or she is being removed before the student is removed. The student must also be given the opportunity to present his or her version of the relevant events. Only after the informal discussion may a teacher remove a student from class. If the student does pose a continuing danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must however explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24-hours.

Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he or she is permitted to return to the classroom.

- iii. The teacher must notify the principal in writing of the reasons for removal by completing the district referral form. The notice to the principal should provide substantial evidence to document the need for removal and include the amount of time the student will be removed from the classroom consistent with the disciplinary measures in the code.

The teacher must thereafter meet with the principal or his or her designee as soon as possible, but no later than the end of the school day to explain the circumstances of the removal and to present the referral forms. If the principal or designee is not available by the end of the same school day, the teacher must leave the form with the principal's designee and meet with the principal or designee prior to the beginning of classes on the next school day.

- iv. Notice - Within 24-hours after the student's removal, the Principal or another school district administrator designated by the Principal, must notify the student's parents, in writing, that the student has been removed from class and the reason for removal. The notice must also inform the parent that he or she has the right, upon request, to meet informally with the principal or the principal's designee to discuss the reasons for the removal. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice with 24-hours of the student's removal at the last known address for the parents. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents.

- iv. Informal meeting - If requested by the parent or student, the Principal or another School District Administrator designated by the principal must hold an informal meeting within 48-hours of the student's removal. The principal or his or her designee may require the teacher who ordered the removal to attend the informal conference if the conference is held during the teacher's normal work day at a time other than time that has been designated as planning time for the teacher. If requested in writing by the parent, the timing of the informal meeting may be extended and scheduled by mutual agreement of the parent, teacher and principal. If at the informal meeting the student denies the charges, the principal or the principal's designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events.

- v. Principal's determination - The principal or his or her designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference, if a conference is requested (within 72 hours of the student's removal). The principal or designee may only overturn the removal of a student from class if the principal finds any one of the following:
 - 1. The charges against the student are not supported by substantial evidence.
 - 2. The student's removal is otherwise in violation of law, including the District's Code of Conduct.
 - 3. The conduct warrants further suspension from school pursuant to Education Law section 3214 and a

suspension will be imposed.

- vi. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the Principal makes a final determination, or the period of removal expires, whichever is less.
- vii. Each teacher must keep a complete log on the District provided form for all cases of removal of students from class. The Principal must also keep a log of all removals of students from class.
- viii. Removal of a student with a disability may, under certain circumstances, constitute a change in the student's placement. Accordingly, no teacher may remove a student with a disability from his or her class until he or she has verified in a timely manner with the principal or the chairperson of the Committee on Special education that the removal will not violate the student's rights under state or federal law or regulation.

10. Suspension from School

The Board of Education retains its authority to suspend students from school, but places primary responsibility for the suspension of students with the Superintendent and the Principals.

Any staff member may suggest to the Principal that a student be subject to discipline. All staff members must immediately report and refer a violent student to the Principal for a violation of the Code of Conduct. All suggestions and referrals should be made in writing unless the conditions underlying the suggestion or referral warrant immediate attention. Upon receiving a suggestion or referral for suspension and/or when processing a case for suspension, the Principal (referred to as the Suspending Authority) shall gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

a. Short Term School Suspension

- i. Who may impose:
 - Board of Education
 - Superintendent
 - Building Principal
- ii. Definition - A short term school suspension is the denial of a student's right to attend school or any school function for a period of five days or less

- iii. Procedure - A short-term suspension may be imposed only after the following procedures have been followed:

The suspending authority must immediately notify the student orally. If the student denies the misconduct, the suspending authority must provide an explanation of the basis for the proposed suspension.

The suspending authority must notify the student's parents in writing that the student may be suspended from school. The written notice must be provided by personal delivery, express mail delivery, or some other means reasonable calculated to assure receipt of the notice within 24 hours of the decision to propose suspension at the last known address for the parents. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents.

The notice shall provide a description of the charges against the student and the incident for which the suspension is proposed and shall inform the parent of the right to request an immediate informal conference with the principal. Both the notice and the informal conference shall be in the dominant language or mode of communication used by the parents.

At the conference, which shall, if possible be attended by the complaining witness and or other school personnel familiar with the facts relating to the charges, the principal or designee shall inform the student of the charges against him/her and the evidence supporting the charge. The parents shall be permitted to ask questions of complaining witnesses.

The notice and opportunity for an informal conference shall take place before the student is suspended unless the student's presence in school poses a continuing danger to persons or property or an on-going threat of disruption to the academic process. If the student's presence does pose such a danger or threat of disruption, the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

Appeal - The principal shall advise the parents that if they are not satisfied with the decision and wish to pursue the matter, the procedure for review of a decision of a principal to suspend a student is an appeal in writing within five business days to the Superintendent of Schools unless they can show

extraordinary circumstances precluding them from doing so. The Superintendent shall issue a written decision regarding the appeal within 10 business days of receiving the appeal. If the parents are not satisfied with the Superintendent's decision, they must file a written appeal to the Board of Education with the District Clerk within 10 business days of the date of the Superintendent's decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board of Education may be appealed to the Commissioner of Education within 30 days of the decision.

b. Long Term School Suspension

i. Who may impose:

Board of Education
Superintendent
Building Principal

ii. Definition - A long-term suspension is the denial by the Board of Education of a student's right to attend school or any school function in excess of five (5) school days.

iii. Procedure - When the Superintendent or Building Principal determines that a short term suspension is not an adequate discipline, he/she shall, using the form provided by the district, give reasonable notice to the student and the student's parents of the charges against the student and their right to a fair hearing. The student and the student's parents will be afforded the opportunity to make a knowing, voluntary and intelligent waiver of the right to a hearing with the understanding that should they in fact waive the hearing, they will be accepting the disciplinary action proposed by the School District.

If after following all appropriate procedures, the student and/or parents do not voluntarily decide to waive the right to a hearing and accept the disciplinary action proposed by the School District, the principal shall call for a Superintendent's hearing.

The Superintendent's hearing shall be scheduled and/or held within five (5) school days from the date of suspension. Every effort shall be made to assure the presence at the hearing of all persons having knowledge of the facts supporting the charges.

The student and the student's parent(s) shall be provided written notice of the hearing informing them of the date, time

and place of the hearing and the charges against the student. The notice shall also inform the student and the student's parent(s) of the right to be represented by counsel, the right to question witnesses against him or her and the right to present witnesses or other evidence on his or her behalf.

The Superintendent shall personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The Superintendent's hearing officer shall be authorized to issue subpoenas in conjunction with the proceeding before him or her, administer oaths, and determine the sufficiency and admissibility of the evidence. The hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs, but irrelevant, immaterial or unduly repetitious evidence may be excluded. Effect may be given to the rules of privilege recognized by law. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record and a copy prepared upon request of the student, parent(s) or an authorized representative.

The Superintendent's Hearing Officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the Superintendent. The recommendation of the Hearing Officer shall be set forth in writing, stating the reasons thereof and sent to the Superintendent for final determination. The report of the hearing officer shall be advisory only, and the Superintendent may accept all or any part thereof or reject in total. Upon final determination of the Superintendent, the parent(s) will be notified in writing of the action to be taken.

Superintendent's Suspension may result in:

- Additional school days of suspension.
- Placement in the alternative school.
- Referral to Adult Education program if applicable.
- Placement in an alternative program.
- Referral to Family Court.
- Referral to outside agency for support.
- Permanent Suspension.

Appeal - An appeal of the decision of the Superintendent may be made to the Board of Education. The Board of Education will make its decision based solely upon the record before it. All

appeals to the Board must be in writing and submitted to the district Clerk within 10 business days of the date of the Superintendent's decision, unless the parent(s) can show that extraordinary circumstances precluded them from doing so.

The Board may adopt in whole or in part the decision of the Superintendent. Final decisions of the Board may be appealed to the Commissioner of Education within 30 days of the decision.

B. Minimum Periods of Suspension

1. Students who bring a weapon to school

Any student, other than a student with a disability, found guilty of bringing a firearm onto school property will be subject to suspension from school for at least one calendar year. A firearm is defined consistent with section 921 of Title 18 of the United States Code - any weapon 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 such weapon; any firearm muffler or silencer; or any destructive device excluding antique firearms. For purposes of this section of the Code of Conduct, the definition of a firearm shall also include but not be limited to any other gun, pistol revolver, shotgun, rifle, machine gun, antique firearm, pellet gun, air gun, BB gun, electronic dart gun, electronic stun gun, paint gun, and flare gun)

Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law section 3214. The Superintendent has the authority to modify the one-year suspension on a case by case basis. In deciding whether to modify the penalty, the Superintendent may, but is not obligated to consider the following:

1. The student's age.
2. The student's grade in school.
3. The student's prior disciplinary record
4. The superintendent's belief that other forms of discipline may be more effective.
5. Input from parents, teachers and/or others.
6. Other extenuating circumstances.

A student with a disability may be suspended only in accordance with the requirements of State and federal law.

2. Students who bring weapons other than firearms to school or commit violent acts other than bringing a weapon to school

Any student other than a student with a disability, who is found to have brought a weapon other than firearms to school or who is found to have committed a violent act other than bringing a weapon onto school property, shall be subject to suspension from school. If the proposed penalty is the

short term suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all student's subject to a short-term suspension. If the proposed penalty exceeds a five day suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all students subject to a long term suspension. The Superintendent has the opportunity to modify the minimum suspension on a case by case basis. In deciding whether to modify the penalty, the Superintendent may consider the same factors considered in modifying a one-year suspension or possessing a firearm.

3. Students who are repeatedly substantially disruptive of the educational process or repeatedly substantially interfere with the teacher's authority over the classroom

Any student, other than a student with a disability, who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom will be subject to be suspended from school. For purposes of this Code of Conduct, "repeatedly is substantially disruptive" means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law section 3214 (3-a) and this Code on four or more occasions during a semester or three or more occasions during a trimester. If the proposed penalty is a short term suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all student's subject to a short-term suspension. If the proposed penalty exceeds a five day suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all students subject to a long term suspension. The Superintendent has the opportunity to modify the minimum suspension on a case by case basis. In deciding whether to modify the penalty, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a firearm

C. Referrals

1. Counseling

The Guidance office shall handle all referrals of students to counseling.

2. PINS Petitions

The District may file a PINS petition (Person In Need of Supervision) in Family Court on any student under the age of 18 who demonstrates that he she requires treatment by:

- a. Being habitually truant and not attending school as required by part one of Article 65 of the Education Law.

- b. Engaging in an ongoing or continual course of conduct which makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.
 - c. Knowingly and unlawfully possesses marijuana or any other illegal substance in violation of Penal Law section 221.05. A single violation of section 221.05 will be sufficient basis for filing a PINS petition.

3. Juvenile Delinquents and Juvenile Offenders

Juvenile Delinquents

The Superintendent may refer the following students to the District Attorney for a juvenile delinquency proceeding before the Family Court:

- a. Any student under the age of 16 who is found to have brought a weapon to school, or
 - b. Any student 14 or 15 years of age who qualifies for juvenile offender status under Criminal Procedure Law section 1.20 (42):

Juvenile Offenders

The Superintendent is required to refer students age 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

A student 14 or 15 years old who possesses a firearm, machine gun or loaded firearm as defined in section 265.00 of the Penal Law on School grounds qualifies for juvenile offender status under Criminal Procedure Law section 1.20 (42):b.

X. ALTERNATIVE INSTRUCTION

When a student of any age is removed from class by a teacher or a student of compulsory attendance age is suspended from school pursuant to Education Law section 3214, the District will take immediate steps to provide alternative means of instruction for the student.

Students who are on suspension shall be offered an opportunity to continue their education. Such opportunities may include make-up work, home teaching, alternative schools, or transfer to another school. The Superintendent or designee shall inform the parents or guardian of all such opportunities.

In addition, alternative instruction may be made available to any student over the

compulsory attendance age who presents a sincere desire to complete his/her high school education.

Students on suspension shall not be permitted to be on school property or to attend school functions for any reason. Additionally, said students may not participate in extra-curricular activities during the period they are suspended from school. Any student who is found to be on school property while on suspension may be subject to charges for criminal trespass.

A. The Alternative School

The Alternative school is a program offered by the district for students having difficulty functioning in a regular school setting and who have not responded to other school related corrective measures. The Alternative school offers instruction for students in grades nine (9) through twelve (12) referred through a Superintendent's hearing. The school is an extension of the District's mission to meet the needs of all students. Those with severe problems in the regular school setting have a second chance to become productive members of society through the alternative program. In addition to instruction in basic curricula, the program has community service requirements. Students who demonstrate continued satisfactory academic, social and behavioral progress may be reassigned to a regular school setting after meeting set school guidelines and agreement is reached among school officials and the student's parents or guardian.

B. Persons Requiring Individually Designed Education (PRIDE)

The PRIDE program is an extension of the District's mission to meet the needs of all students. Those with severe problems in the regular school setting have a second chance to become productive members of society through the PRIDE program that takes place after regular school hours. In addition to instruction in basic curricula, the program has academic requirements and enrichment activities similar to the regular school day. Students who demonstrate continued satisfactory academic, social and behavioral progress may be reassigned to a regular school setting after meeting set school guidelines and agreement is reached among school officials and the student's parents or guardian.

XI. DISCIPLINE OF STUDENTS WITH DISABILITIES

Special Education Students are those students who have been identified by the Committee on Special Education (CSE) and are receiving special educational programs due to their academic, social physical or emotional needs.

The Board of Education recognizes that it may be necessary to suspend, remove or otherwise discipline special education students to address disruptive or problem behavior. The Board also recognizes that special education students possess certain procedural protections whenever school authorities intend to impose discipline upon them. The Board is committed to ensuring that the procedures followed for suspending removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable laws and regulations.

The intent of the Board of Education is to ensure that students are taught to assume responsibility for their behaviors while also acknowledging that individual students should not be disciplined for failing to meet behavioral expectations which are unreasonable for that individual. In essence this code of conduct attempts to establish an equitable balance between the enforcing of reasonable standards and the recognition of individual limitations and needs of the special education student. It affords special education students subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state law and regulations.

A. Authorized Suspensions or Removals of Students with Disabilities

1. For purposes of this section of the Code of Conduct, the following definitions apply:

Suspension - a suspension means a suspension pursuant to Education Law section 3214.

Removal - a removal means a removal for disciplinary reasons from the student's current educational placement other than a suspension and a change in placement to an interim alternative educational setting (IAES) ordered by an impartial hearing officer because the student poses a risk of harm to himself/herself or others.

IAES - Interim Alternative Educational Setting means a temporary educational placement for a person of up to 45 days, other than the student's current placement at the time the behavior precipitating the IAES placement occurred, that enables the student to continue to progress in the general curriculum, although in another setting, to continue to receive those services and modifications including those described on the student's current individualized education program (IEP), that will enable the student to meet the goals set out in such IEP, and include services and modifications to address the behavior which precipitated the IAES placement that are designed to prevent the behavior from recurring.

2. School personnel may order the suspension or removal of a special education student from his or her current educational placement as follows:

- a. The Board, the Superintendent of Schools or the Principal may order the placement of a special education student into an IAES, another setting or suspension for a period not to exceed five consecutive school days and not to exceed the amount of time a non-special education student would be subject to suspension for the same behavior.

- b. The Superintendent may order the placement of a student with a disability into an IAES, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has

been suspended or removed under subparagraph (a) above for the same behavior, if the Superintendent determines that the student has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non- special education students would be subject to suspension for the same behavior.

c. The Superintendent may order additional suspensions of not more than ten consecutive school days in the same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.

d. The Superintendent may order the placement of a special education student in an IAES to be determined by the Committee on Special Education (CSE), for the same amount of time that a non-special education student would be subject to discipline, but not more than 45 calendar days, if the student carries or possesses a weapon to school or to a school function, or the student knowingly possesses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

(1) Weapon means the same as "dangerous weapon" under 18 U.S.C. section 930 (g)(w) which includes "a weapon, device, instrument, material, substance, animate or inanimate, that is used for or is readily capable of causing death or serious bodily injury, except...{for} a pocket knife with a blade of less than 2 1/2 inches in length."

(2) "Controlled Substance" means a drug or other substance identified in certain provisions of the federal Controlled Substances Act specified in both federal and state law and regulations applicable to this policy.

(3) "Illegal Drugs" means a controlled substance except for those legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any authority under the controlled substances act or any other federal law.

3. Subject to specified conditions required by both federal and state law and regulations, an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 days at a time, if maintaining the student in his or her current educational placement poses a risk of harm to the student or others.

B. Change of Placement Rule

1. A disciplinary change of placement means a suspension or removal from a student's current educational placement that is either:
 - a. for more than 10 consecutive school days; or

- b. for a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.
2. School personnel may not suspend or remove a student with disabilities if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal.

However, the District may impose a suspension or removal, which would otherwise result in a disciplinary change in placement, based on a pattern of suspensions or removals if the CSE has determined that the behavior was not a manifestation of the student's disability, or the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances.

C. Special Rules Regarding the Suspension or Removal of Students with Disabilities

1. The District's Committee on Special Education shall do the following:
 - a. Conduct functional behavioral assessments to determine why a student engages in a particular behavior, and develop or review behavioral intervention plans whenever the district is first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes a disciplinary change in placement, including a change in placement to an IAES for misconduct involving weapons, illegal drugs or controlled substances.

If subsequently, a special education student who has a behavioral intervention plan and who has been suspended or removed from his or her current educational placement for more than 10 school days in a school year is subject to suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more members of the CSE believe that modifications are necessary, the school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.
 - b. Conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to disciplinary action whenever a decision is made to place a student in an IAES either for misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his or

her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension that constitutes a disciplinary change in placement.

- c. The District shall provide parents with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his/her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement.

2. Short Term School Suspension

Special education students are not immune from this disciplinary alternative. However, certain procedures must be followed to determine whether the student's behavior is a manifestation of the handicapping condition. When a student's behavior appears to be related to his/her handicapping condition and the student's behavior does not present a serious danger to self or others, generally, he/she should not be short term suspended. Rather a parent conference should be held to discuss alternatives. Short term suspension is appropriate when the behavior is not related to the handicapping condition and/or the student's behavior represents a serious danger to self or others.

The following procedures should be followed:

- a. Whenever the student's inappropriate behavior is not a one time occurrence, the principal or designee will refer the matter to the building level student teacher action response team (START) for review, START will then recommend to the principal whether a referral to the CSE is warranted. A referral must be made to the CSE when a student has been suspended for 10 ten cumulative school days. Upon request of the principal, the CSE will examine the specific behavior in relation to the special educational needs included in the student's IEP. The CSE shall notify the parent advising them of their rights and due process afforded them as parents of a special education student. If the CSE determines that the behavior is a direct manifestation of the handicapping condition, then a revision may be appropriate. This revision may include additional support services or a modification in program. If the CSE determines that the behavior is not a direct manifestation of the handicapping condition, then all provisions of the established discipline code apply to the special education student.
- b. If a student is short-term suspended, the parents shall be provided with the same opportunity for an informal conference available to parents of non-disabled students under the Education Law and outlined in this Code of Conduct. The student's teacher, the building principal or designee and a representative from the PST may attend this conference. The purpose of this conference will be to discuss in-school strategies designed to prevent similar situations.

- c. If a student is suspended a second time, the principal should refer the case to START for formal review. The purpose of this review would be to determine whether a referral to CSE is warranted. Another parent conference must be held unless the second suspension occurred within ten (10) school days from the original suspension for the same type of behavior and the student's special education teacher certifies that there has not been enough time since the parent conference held after the first suspension to implement the recommended plan.
- d. In a situation described above where the teacher and principal want more time to implement the plan from the parent conference, the formal PST referral may be postponed for up to thirty (30) school days.
- e. In each case where short term suspension is considered, the school administrator must determine whether or not the student's behavior is due to the student's handicap. It is not permissible to suspend a student who is acting out his/her handicap unless the student is an imminent threat to himself/herself or others. An administrator may convene the START for assistance in this determination or consult with the school psychologist, special education teacher or special education classroom for further information.
- f. The administrator or designee should complete and send the form letter for suspension of disabled students to the parent and the CSE on every occasion a disabled student is suspended.
- g. A record of the suspension must be kept at the school building on a form provided by the Central Office. In addition, details of parent conferences will be maintained.

3. Long Term School Suspension Referrals

The District's suspension procedures allow that special education pupils may be suspended on the same basis as non-special education students, except in those instances in which it is determined that the handicapping condition was a factor in causing the behavior for which the pupil was suspended.

Superintendent hearings on disciplinary charges against special education students subject to a suspension of more than five school days shall be separated into a guilt phase and a penalty phase in accordance with the procedures set forth in the Regulations of the Commissioner of Education and incorporated into this policy.

- Step 1: When the principal determines that short-term suspension is not an adequate discipline, he/she shall, after following all appropriate procedures, place the student on short-term suspension and request a Superintendent's Hearing. A notice regarding the proposed long term suspension shall be mailed to the parents of the student and the CSE.

Step 2: A Superintendent's Hearing will be held for the purpose of ascertaining the facts surrounding the incident. The hearing will take place within five (5) school days from the date of the suspension. During the guilt phase of the hearing the same procedure will apply as previously set forth in this Code of Conduct for non-special education students. Every effort shall be made to assure the presence at the hearing of all persons having knowledge of the facts supporting the charges. Such persons may be required to testify under oath or affirmation and be subjected to cross examination. At the conclusion of the guilt phase, the Superintendent or designee will make findings as to the appropriateness of the suspension.

Step 3: The CSE must convene, with written notice to the parents within 10 days of the suspension to review whether:

The student's alleged misconduct was caused by her/his disability - the Nexus or manifestation determination

Whether there should be some level of re-evaluation of the student's current educational placement; and

Whether an interim or temporary placement should be implemented pending the outcome of such evaluations.

A yes or no decision must be made whether the behavior was a manifestation of the student's disability.

Step 4: NEXUS EXISTS (conduct related to disability)

No disciplinary action will ensue. The CSE makes a determination as to the appropriate placement and IEP of the student.

The CSE may place a student who has brought a weapon to school in an IAES for up to 45 calendar days.

If the Superintendent determines there is an emergency situation in which the student will be a continuing danger to himself/herself or others, he/she may recommend that the District apply to court to enjoin the stay-put requirements.

Step 5: NEXUS DOES NOT EXIST (conduct unrelated to disability)

Disciplinary action may be taken as with non-special education students.

The Superintendent or hearing officer shall make findings of fact and recommendations for the Superintendent's final determination as to the appropriate measure of discipline in the

same manner as previously set forth in this Code of Conduct for non-special education students.

4. The removal of a student with disabilities other than a suspension or placement in an IAES shall be conducted in accordance with the due process procedures applicable to such removals of non special education students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless the CSE has determined that the behavior is not a manifestation of the student's disability.

5. During any period of suspension or removal, including placement in an IAES, special education students shall be provided services as required by the Regulations of the Commissioner of Education incorporated into this policy.

D. Referral to Law Enforcement and Judicial Authorities

In accordance with the provisions of IDEA and its implementing regulations:

1. The District may report a crime committed by a special education student to appropriate authorities, and such action will not constitute a change of the student's placement.
2. The Superintendent shall ensure that copies of special education and disciplinary records of a special education student are transmitted for consideration to the appropriate authorities to whom a crime is reported.

XII. CORPORAL PUNISHMENT

Definition - Corporal Punishment is any act of physical force upon a student for the purpose of punishing that student. Corporal punishment of any student by any district employee is strictly forbidden.

However, in situations where alternative procedures and methods that do not involve the use of physical force cannot reasonably be used, reasonable physical force may be used to:

1. Protect oneself, another student, teacher or any person from physical injury.
2. Protect the property of the school or others.
3. Restrain or remove a student whose behavior interferes with the orderly exercise and performance of school district functions, powers and duties, if that student has refused to refrain from further disruptive acts.

The District will file all complaints about the use of corporal punishment with the Commissioner of Education in accordance with the Commissioner's Regulations.

XIII. STUDENT SEARCHES AND INTERROGATIONS

The Board of Education is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary penalty on a student may question a student about an alleged violation of the District Code of Conduct. Students are not entitled to any sort of "Miranda"-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, school officials will tell all students why they are being questioned.

The Board authorizes the Superintendent of schools and Principals and/or designees, to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the district code of conduct. An authorized school official may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the school official has a legitimate reason for the very limited search.

A search based upon the reasonable belief that the health or safety of those in our schools is seriously and immediately threatened may be conducted with as much speed as is required to protect persons and property.

Reasonable suspicion to conduct a search shall be based upon: the prevalence and seriousness of the problem to which the search is directed; the urgency necessitating an immediate search; and the probative value and reliability of information used as justification for the search.

An authorized school official may search a student or the student's belongings based upon information received from an informant.

A. Procedures

1. The request for a search of a student shall be directed to the school principal or designee, who shall attempt to obtain an admission from the student of possession of the illegal matter or a voluntary consent to the search. The search shall be limited to the extent necessary to locate the illegal matter.
2. Upon reasonable suspicion that a student is engaging in illegal activity or it is believed that student is in possession of matter that otherwise constitutes a threat to the health, safety, welfare or morals of pupils attending our schools, a search should be conducted. Whenever practicable, searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched.
3. No search which requires a student to remove any and/or all clothing may be conducted (with the exception of a search of outer coats and jackets) unless probable cause exists and the same has been authorized in advance by the Superintendent and/or the school district attorney. Such searches shall be conducted by an administrator or designee of the same gender as the student in the presence of another District professional employee who is

also of the same gender.

B. Documentation of Searches

The school principal or designee shall be responsible for the prompt recording in writing of each student search. Such writing shall include the following information about each search:

1. Name age and grade of student searched.
2. Reasons for the search.
3. Name of any informant(s)
4. Purpose of the search (that is, what item(s) were being sought)
5. Type and scope of search.
6. Person conducting the search and his or her title and position.
7. Witnesses, if any, to the search.
8. Time and location of the search.
9. Results of the search (that is, what item(s) were found).
10. Disposition of inappropriate items found.
11. Time, manner and results of parental notification.

The Principal or designee shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The Principal or designee shall retain control of the items, unless the items are turned over to the police. The Principal or designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

C. Police Involvement in Searches and Interrogations of Students.

District officials are committed to cooperating with police officials and other law enforcement authorities to maintain a safe school environment. Police officials however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work.

Except for School assigned Resource Officers no police officer shall be allowed to enter school property or a school function to question or search a student or to conduct a formal investigation unless they have:

1. A search or an arrest warrant.
2. Probable cause to establish that the commission of an illegal act has been committed or is occurring on school premises.
3. Been invited by school officials.

In the case of a police officer presenting a search warrant, before police officials are permitted to question or search any student, the school principal shall first attempt to inform the parents of the police demand to search to afford the parents an opportunity to be present at the search. In the event that the parents cannot be contacted prior to a search or questioning, the parent shall be informed of the search or questioning

in writing by the school principal as soon thereafter as is practical. The principal or designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school. This means:

1. They must be informed of their legal rights.
2. They may remain silent if they so desire.
3. They may request the presence of an attorney.

D. Metal Detector Searches

The Niagara Falls City School District Metal Detector Policy expressly forbids all employees, students, non-employee volunteers or any other persons that work subject to the control of school authorities as well as all visitors to school buildings or on school property, from carrying weapons as previously defined in this code, either on their person or in their bags, backpacks, parcels or lockers on school property.

The Board of Education will implement the procedures put forth in the Metal Detector Policy when in the opinion of the Superintendent of Schools, or designee, these procedures are necessary for the maintenance of a safe and orderly environment in the schools.

NOTE

Notice of the existence of the Metal Detector Policy contained in this Code of Conduct constitutes Notice to all School District students and parents that persons may be subject to Metal Detector searches upon entering the school buildings of the Niagara Falls City School District.

E. Student Lockers, Desks and other School Storage Places

Students are assigned storage places (lockers, desks, etc.) during the school year for the sole purpose of storing supplies, clothing and other items essential to their daily needs while in attendance at school.

Under law, students have no reasonable expectations of privacy in school lockers, desks or other storage places with respect to school authorities. The school principal or designee shall give notice to all students that lockers, desks and other school storage places may be subject to inspection at any time by school officials.

The request for a search of a student's possessions shall be directed to the school principal or designee, who shall attempt to obtain an admission from the student of possession of the illegal matter or a voluntary consent to the search. The search shall be limited to the extent necessary to locate the illegal matter. Wherever practical, the student should be present when his/her possessions are being searched.

F. Canine Narcotics Searches

The Board of Education expressly forbids all employees, students, non-employee volunteers or any other persons that work subject to the control of school authorities as well as all visitors to school buildings, from using possessing selling or distributing alcohol, drugs or drug paraphernalia in any form on school property, in school buildings or at school sponsored events, except drugs as prescribed by a physician.

The Board of Education will implement the procedures put forth in the Canine Narcotics Search policy when in the opinion of the Superintendent of schools or designee the procedures are necessary for the maintenance of a safe and drug free environment in the schools.

For purposes of this policy drugs/drug paraphernalia shall include but not be limited to: alcohol, tobacco, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alikes, substances commonly referred to as "designer drugs", canisters, containers, pipes, paper and/or other legal substances intended for un-prescribed use/abuse, or any other items which facilitate the use concealment or distribution of the aforementioned.

NOTE

Notice of the existence of the Canine Narcotics Search Policy contained in this Code of Conduct constitutes Notice to all School District students and parents that persons may be subject to Canine Narcotics Searches upon entering the school buildings of the Niagara Falls City School District.

G. Child Protective Services Investigations

Consistent with the District's commitment to keep students safe from harm and the obligation of school officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, the district will cooperate with local child protective services workers who wish to conduct interviews of students on school property relating to allegations of suspected child abuse and/or neglect or custody investigations.

All requests by Child Protective Services to interview a student on school property shall be made directly to the building principal. The building principal shall set the time and place of the interview. The building principal shall decide if it is necessary and appropriate for a school official to be present during the interview, depending on the age of the student being interviewed and the nature of the allegations. If the nature of the allegations is such that it may be necessary for the student to remove any of his or her clothing in order for the Child Protective Services worker to verify the allegations, the school nurse or other district medical personnel must be present during that portion of the interview. No student may be required to remove his or her clothing in front of a child protective services worker or a school district official of the opposite sex.

A Child Protective Services worker may not remove a student from school property without a court order, unless the worker reasonably believes that the student

would be subject to danger of abuse if he or she were not removed from school before a court order can reasonably be obtained. If the worker believes the student would be subject to danger of abuse, the worker may remove the student without a court order and without the parent's consent.

XIV. VISITORS TO THE SCHOOLS

The Board encourages parents and other district citizens to visit the district's schools and classrooms to observe the work of students, teachers and other staff. Since schools are a place of work and learning however, certain limits must be set for such visits. Violation of good school order sometimes occurs when persons pay unauthorized visits to school building or grounds. The following procedures shall apply to visitors to the schools:

1. All visitors, students and non-students alike must report to the school office upon entrance to indicate their reasons for being in the building and to receive approval.
2. Principals are directed to post, at entrances, signs stating that all visitors must check in at the school office upon entrance. Visitors who do not have legitimate business and have refused to leave school premises upon request may be charged with trespassing.
3. Parents or citizens who wish to observe a classroom while school is in session are required to arrange such visits in advance with the classroom teacher(s) so that class disruption is kept at a minimum. Teachers are not expected to take class time to discuss individual matters with visitors.
4. All visitors are expected to abide by the rules for public conduct on school property contained in this code of conduct.
5. The principal or staff member in charge is not expected to forcibly eject persons from a building. When persons have been requested to leave and after they have refused or failed to leave the building, the police will be called. Staff members should cooperate to make identifications and to provide required information.

XV. PUBLIC CONDUCT ON SCHOOL PROPERTY

The District is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on school property and at school functions.

The restrictions on public conduct on school property and at school functions contained in this code are not intended to limit freedom of speech or peaceful assembly. The district recognizes that free inquiry and free expression are indispensable to the objectives of the district. The purpose of this code is to maintain public order and prevent abuse of the rights of others.

A. PROHIBITED CONDUCT

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten to do so.
2. Intentionally damage or remove district property.
3. Disrupt the orderly conduct of classes, school programs or other school activities.
4. Distribute or wear materials on school grounds or at school functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the school program.
5. Intimidate, harass, or discriminate against any person on the basis of race, color, nationality, religion, age, sex, sexual orientation or disability.
6. Enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed.
7. Obstruct the free movement of any person in any place to which this code applies.
8. Violate the traffic laws, parking regulations or other restrictions on vehicles;
9. Possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.
10. Possess, utilize, sell, distribute or exchange tobacco or tobacco products on school property or at a school function. And/or refuse to comply with the request to abstain from using any form of tobacco on school property or at a school function
11. Possess or use firearms, items with an appearance of an actual firearm, or other weapons such as air guns, pistols, rifles, shotguns, ammunition, explosives, box cutters, knives, gas canisters, pepper spray or other noxious spray in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by the school district.
12. Loiter on or about school property.
13. Gamble on school property or at school functions.
14. Refuse to comply with any lawful order of identifiable school district officials performing their duties.
15. Willfully incite others to commit any of the acts prohibited by this code.
16. Violate any federal or state statute, local ordinance or board policy while on school property or while at a school function.

B. PENALTIES

Persons who violate this code shall be subject to the following penalties:

1. Visitors. Their authorization, if any, to remain on school grounds or at the school function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to ejection.

2. Students. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant, including any of the penalties listed in the "Penalties" section of this code of conduct, in accordance with the due process of law requirements.
3. Tenured faculty members. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant in accordance with Education Law section 3020-a or any other legal rights that they may have.
4. Staff members in the classified service of the civil service entitled to the protection of Civil Service Law section 75. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant in accordance with Civil Service Law section 75 or any other legal rights that they may have.
5. Staff members other than those described in subdivisions 3 and 4. They shall be subject to immediate ejection and to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

C. ENFORCEMENT

The Superintendent shall be responsible for enforcing the conduct required by this Code. The Superintendent may designate other district staff who are authorized to take action consistent with the code.

When the Superintendent or his/her designee sees an individual engaged in prohibited conduct, which his or her judgment does not pose any immediate threat of injury to persons or property, the designated school official shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The school official shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the prohibited conduct, or if the person's conduct poses an immediate threat of injury to persons or property, the designated school official shall have the individual removed immediately from school property or the school function. If necessary, the local law enforcement authorities will be contacted to assist in removing the person.

The District shall initiate disciplinary action against any student or staff member, as appropriate, with the "Penalties" section above. In addition, the district reserves its right to pursue a civil or criminal legal action against any person violating the code.

D. Athletic Spectator Expectations

This Athletic Spectator Expectations Form must be shared with the parents / guardians of every NFCSD student-athlete who anticipates representing NFCSD in athletic competition. The expectations articulated within this document will be strictly adhered to and implemented by NFCSD administration, athletic coaching staff, and school based personnel attending any / all athletic sporting events.

It is the school's expectation that all students, parents / guardians, and any other athletic spectators consistently demonstrate positive sportsmanship toward players, athletic

coaches, game officials, school staff, and other spectators. Students are to abide by the Athletic Code of Conduct of the Niagara Falls City School District.

All NFCSD spectators at athletic contests / competitions are expected to:

1. Treat NFCSD and opposing student-athletes, athletic coaches, school personnel, and officials with the respect that is due them as guests and neighbors in the education community.
2. Take victory and defeat without undue emotionalism that impacts the integrity of the game.
3. Control tempers and emotional reactions at all times.
4. Promote a culture of positivity with officials, free from criticism or unnecessary remarks.
5. Cooperate with athletic coaches and school personnel to promote sportsmanship.
6. Refrain from swearing or making insulting remarks to the opponents before, during or after any athletic contest / competition.
7. Let student audiences know that inappropriate behavior reflects poorly on the school, the athletic coach, the team, and our school community.
8. Take pride in our student-athletes, coaches, and other members of our school community. We are the constant model of sportsmanship and respect for our young adults

Examples of unacceptable behavior include but are not limited to the following:

1. Threatening actions or verbal abuse of players, fans, athletic coaches, school personnel, and/or game officials.
2. Unauthorized entry onto the playing area, team bench area, or locker room area before, during or after any sanctioned or non-sanctioned athletic contest or scrimmage.
3. Verbal chants or cheers that insult, embarrass, humiliate or could potentially be negatively received by an opposing student-athlete, athletic coach, member of their staff or member of their cheering section.
4. Throwing objects or any other materials onto the playing area, team bench area, at any student-athlete, athletic coach, school personnel, official or any other spectator.

Inappropriate spectator behavior at athletic contests will result in immediate removal and permanent exclusion from all such contests.

XVI. DISSEMINATION AND REVIEW

A. DISSEMINATION OF CODE OF CONDUCT

The Board will work to ensure that the community is aware of this Code of Conduct by:

1. Posting the Code of Conduct on the School District Website.
2. Providing copies of a summary of the code to all students at a general assembly held at the beginning of each school year.
3. Mailing a summary of the code of conduct written in plain language to all parents of District students before the beginning of the school year and making this summary available later upon request.
4. Providing all current teachers and other staff members with a copy of the Code and a copy of any amendments to the Code as soon as practicable after adoption.
5. Providing all new employees with a copy of the current Code of Conduct when they are first hired.
6. Making copies of the Code available for review by students, parents and other community members.

On an annual basis, the Code of Conduct will be publicized and explained to all students and distributed, in writing, to parents and guardians of students. A copy of the code will be filed in each school building, where it will be available for review by any individual.

The Board of Education will review this Code of Conduct every year and update it as necessary. In conducting the review, the Board will consider how effective the code's provisions have been and whether the code has been applied fairly and consistently.

The Board may appoint an advisory committee to assist in reviewing the Code and the District's response to Code of Conduct violations. The committee will be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

Before making any revisions to the Code, the Board will hold at least one public hearing at which school personnel, parents, students and any other interested party may participate.

The Code of Conduct and any amendments to it will be filed with the Commissioner of Education no later than 30 days after adoption.

EXPECTED STUDENT BEHAVIOR

In Niagara Falls public schools all students are expected to:

Behavior-Related Offenses and Consequences

The following range of consequences should apply in most circumstances. In unusual or extreme cases, this range may not be appropriate. For cases involving absence, truancy, class cutting, tardiness to school or to class, the intention is not to remove the student from the school or the classroom setting except in extreme circumstances.

I Staff/Admin. Response	II Parent/Guardian Involvement	III Reallocation of Student's Time	IV Exclusion from Normal School Time Activities	V Expulsion
<p>OPTIONS</p> <ul style="list-style-type: none"> . Warning . Verbal reprimand . Teacher removal . Time-out or out of classroom . Loss of privileges . Teacher/admin./counselor conference with student . Contact with parent 	<p>OPTIONS</p> <ul style="list-style-type: none"> . Phone call to parent/guardian . Written notification . Conference with parent/guardian/admin./teacher/counselor 	<p>OPTIONS</p> <ul style="list-style-type: none"> . Time Out. . Study Hall . Parent/guardian notification . Restorative Practices 	<p>OPTIONS</p> <ul style="list-style-type: none"> . Time Out . Study Hall . Suspend student privileges . Alternative placement . Parent/guardian notification required . Restorative Practices 	<p>OPTIONS</p> <ul style="list-style-type: none"> . Parent/guardian notification required

Restitution for loss or damage may be required in addition to any of the above consequences. Where appropriate, law enforcement officials will be involved.

OFFENSE	DEFINITION	RANGE
Absence-Unlawful	An absence for a day or any portion of a day for any reason other than those cited as lawful and/or failure to bring a note written by a parent/guardian to verify a lawful absence.	I to IV
Alcohol Violation	Possession or use of any alcohol substance, Including possession with intent to sell, give, deliver, or distribute.	II to V
Arson/Fire	Attempting to, aiding in, or setting fire to a building or other property.	II to V
Bus Misbehavior	Any violation of school system policy, or bus driver rules or policy occurring on a school bus.	I to IV
Cellular Phone	Carrying, wearing or using an unauthorized portable electronic communication device.	I to IV
Cheating/Academic Dishonesty	Copying; plagiarizing; altering records; or assisting another in such actions.	I to IV
Computer/ Electronic Communication Misuse	Any unauthorized use of computers, software, or internet/intranet account to access internet/intranet; accessing inappropriate websites; misuse of a website, internet/intranet account or internet/intranet resource.	I to V
Cutting Class	Unlawful absence from a class or school activity.	II to IV
Defamation	False or unprivileged statements or representations about an individual or identifiable group of individuals that harm the reputation of the person or the identifiable group by demeaning them.	II to IV
Destruction of Property/Vandalism	Damage, destruction or defacement (graffiti) of property belonging to the school or others.	I to IV
Discrimination	Use of race, color, creed, national	II to V

	origin, religion, physical or mental disability, age, gender, marital status, physical traits or sexual orientation as a basis for treating another in a negative manner.	
Disrespect toward adults	Inappropriate comments or physical gestures to teachers, staff members, or other adults in the school community.	I to IV
Disruption, classroom	Behavior that interferes with the learning of others in any learning environment.	I to IV
Disruption, inciting and/or participating	Behavior disturbing the atmosphere or order.	I to V
Disruption, school	Behavior that interferes with the safe and orderly environment of the school.	I to IV
Drug Violation	Possession or use of (including possession with the intent to sell, give, deliver, or distribute) any inhalants or other intoxicants; controlled dangerous substances including prescription drugs, over-the-counter medicines, look-a-likes, and substances represented as controlled dangerous substances; or drug paraphernalia.	II to V
Failure to Serve Assigned Consequences	Failure to serve suspension or other assigned consequences or school activity.	I to IV
False Alarms/ Bomb Threats	Initiating a report warning of fire, or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.	II to V
Fighting	A hostile confrontation with physical contact involving two or more students.	II to V
Fireworks or Explosives	Possession, use and/or threat to use firecrackers, smoke bombs, flares, combustibles or explosive substances or combination of substances or articles.	II to V

Gambling	Wagering money or property.	I to IV
Gang Activity	Participation in activity relating to an organized group characterized by turf concerns, symbols, special dress and colors	II to V
Harassment	A sufficiently severe action or persistent pervasive pattern or actions or statements directed at an identifiable individual or group which are intended to be, or which a reasonable person would perceive as ridiculing or demeaning.	II to V
Hazing	Intentional or reckless act directed against another for the purpose of initiation into, affiliating with or maintaining membership in any school sponsored activity, organization, club, or team.	II to V
Indecent Exposure	Exposure to sight of the private parts of the body in a lewd or indecent manner.	II to V
Insubordination	Refusing to follow reasonable directions of teachers, staff, administration, including failure to identify self.	III to V
Intimidation	Engaging in actions or statements that put an individual in fear of bodily harm.	I to IV
Leaving school grounds without permission	Leaving school grounds during regular school hours without written or verbal permission from parent/guardian or someone listed on the emergency procedure card.	III to V
Pager	Carrying, wearing or using an unauthorized portable electronic communication device.	II to IV
Physical Attack on Staff	Aggressive action directed at school staff, with physical contact, while on school grounds or at a school-sponsored event, including a situation where a staff member is intervening in a fight or other disruptive activity.	II to V

Physical Attack on Students or Others	Aggressive action, with physical contact, directed at another person, student or non-student, on school grounds or at a school-sponsored event.	II to V
Profanity	Using vulgar or abusive language, cursing, swearing.	I to V
Sexual Harassment	Unwanted and inappropriate verbal, written, or physical conduct of a sexual nature directed towards others.	II to V
Stalking	A malicious course of conduct that includes approaching or pursuing another person with the intent to place that person in a reasonable fear of serious bodily injury or death; or that a third person will likely suffer serious bodily injury or death.	II to V
Tardiness	Lateness to school or class; tardiness to class of 20 minutes or more equals one class absence; three incidents of unexcused tardiness of less than 20 minutes equals one class absence.	I to IV
Theft	Taking or obtaining property of another without permission or knowledge of the other.	II to V
Threat to Staff, Physical or Verbal	Expression, conveyed by word or action, of intent to do physical harm to a staff member.	II to V
Threat to Student Physical or Verbal	Expression, conveyed by word or action, or intent to do physical harm to another student.	II to V
Tobacco	Possession or use of any tobacco or tobacco products; including possession with the intent to sell, give, deliver, or distribute.	II to V
Trespassing	Unauthorized presence on school property including while on a restrictive trespass, suspension, or expulsion.	II to V
Truancy	Unlawful absence without parental knowledge.	III to V

Uncooperative Behavior	Intentional failure to follow reasonable directions of staff members or participate cooperatively in a school or class activity.	I to IV
Weapons Violations	Possession of an object or implement capable of causing harm or used in such a way to cause harm to another. This includes all guns, including pellet and BB guns, knives, and any implement, visible or concealed, possessed under a circumstance which would reasonably lead a person to believe it was a weapon.	IV to V

CONSEQUENCES FOR VIOLATIONS OF BEHAVIOR AND DISCIPLINE POLICIES

The professional staff at a school has the responsibility for taking appropriate actions when a student is involved in a situation which disrupts the learning environment of a school. When determining the consequences, they take the following into consideration:

- . The severity of the incident.
- . A student's previous violations and/or consequences for the same or a related offense.
- . If the offense interfered with the responsibility/rights/property of others.
- . If the offense posed a threat to the health or safety of others.
- . If the student has an Individualized Education Plan or a 504 Plan.
- . The logical relationship between the offense and the consequence.
- . The age-appropriateness of the consequence.

Corporal Punishment

The Board of Education prohibits, in any manner, the use of corporal punishment in the disciplining of any student. Corporal punishment is defined as physical punishment or undue physical discomfort inflicted on the body of a student for the purpose of maintaining discipline or to enforce school rules.

Suspension

Suspension is the denial of a student's right to attend school for violation of school system policy. A principal may suspend a student for 5 days or less. Suspension in excess of 5 days must be issued by the Superintendent or his/her designee.

Expulsion

Expulsion is the removal of a student from school, either for a specified period of time or permanently, as determined by the Superintendent or his/her designee.

Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Education Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. These rights are:

(1) The right to inspect and review the student's education records within 45 days of the day the School receives a request for access.

Parents or eligible students should submit to the School principal [or appropriate school official] a written request that identifies the record(s) they wish to inspect. The School official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate.

Parents or eligible students may ask the School to amend a record that they believe is inaccurate. They should write the School principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it is inaccurate. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

(3) The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the School has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll.

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School District to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

Notification of Rights Under the Protection of Pupils Rights Amendment (PPRA)

The Protection of Pupils Rights Amendment (PPRA) affords parents certain rights regarding our conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include the right to:

*Consent before students are required to submit to a survey that concerns one or more of the following protected areas ("protected information survey") if the survey is funded in whole or in part by a program of the U.S. Department of Education (ED) –

1. Political affiliations or beliefs of the student or student's parent;
2. Mental or psychological problems of the student or student's family;
3. Sex behavior or attitudes;
4. Illegal, anti-social, self-incriminating, or demeaning behavior;
5. Critical appraisals of others with whom respondents have close family relationships;
6. Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
7. Religious practices, affiliations, or beliefs of the student or parents; or
8. Income, other than as required by law to determine program eligibility.

*Receive notice and an opportunity to opt a student out of –

1. Any other protected information survey, regardless of funding;
2. Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
3. Activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.

*Inspect, upon request and before administration or use –

1. Protected information surveys of students;
2. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
3. Instructional material used as part of the educational curriculum.

These rights transfer to from the parents to a student who is 18 years old or an emancipated minor under State law.

The School District of the City of Niagara Falls, New York, will develop and adopt policies, in consultation with parents, regarding these rights, as well as arrangements to protect student privacy in the administration of protected information surveys and the collection,

disclosure, or use of personal information for marketing, sales, or other distribution purposes. The School District of the City of Niagara Falls, New York, will directly notify parents of these policies at least annually at the start of each school year and after any substantive changes. The School District of the City of Niagara Falls, New York, will also directly notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys noted below and will provide an opportunity for the parent to opt his or her child out of participation of the specific activity or survey. The School District of the City of Niagara Falls, New York, will make this notification to parents at the beginning of the school year if the District has identified the specific or approximate dates of the activities or surveys at that time. For surveys and activities scheduled after the school year starts, parents will be provided reasonable notification of the planned activities and surveys listed below and be provided an opportunity to opt their child out of such activities and surveys. Parents will also be provided an opportunity to review any pertinent surveys. Following is a list of the specific activities and surveys covered under this requirement:

*Collection, disclosure, or use of personal information for marketing, sales or other distribution.

*Administration of any protected information survey not funded in whole or in part by ED.

*Any non-emergency, invasive physical examination or screening as described below.

Parents who believe their rights have been violated may file a complaint with:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5901

NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE SCHOOL DISTRICT

The Niagara Falls Board of Education is committed to providing an environment free from discrimination and harassment. Accordingly, the Board prohibits discrimination and harassment on the basis of disability, race, color, religion, national origin, sex, sexual orientations, age, or other legally protected category. Such actions and occurrences are prohibited regardless of whether they take place on School District premises or at school-sponsored events, programs, or activities held at other locations.

Prohibited Conduct

Determinations as to whether conduct or occurrences constitute discrimination or harassment for the purposes of this Policy will be made consistent with applicable law. Such determinations may depend upon a number of factors, including but not limited to: the particular conduct or occurrence at issue, the ages of the parties involved, the context in which the conduct or occurrence takes place, the relationship of the parties to one another, the category or characteristic that is alleged to have been the basis for the action or occurrence, and other considerations as are necessary and consistent with law. The characterizations and examples below are intended to serve as a general guide for individuals in determining whether to file a complaint of discrimination or harassment, and should not be construed to add or limit the rights individuals and entities possess as a matter of law.

Discrimination is, generally, the practice of conferring or denying privileges on the basis of membership in a legally protected class. Discriminatory actions may include, but are not limited to: refusing to promote or hire an individual on the basis of his/her membership in a protected class, denying an individual access to facilities or educational benefits on the basis of his/her membership in a protected class or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Harassment generally consists of subjecting an individual, on the basis of his/her membership in a protected class, to conduct and/or communications that are sufficiently severe, pervasive, or persistent as to have the purpose or effect of: creating an intimidating hostile, or offensive environment; substantially or unreasonably interfering with an individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities.

Harassment can include unwelcome verbal, written, or physical conduct which offends, denigrates, or belittles an individual because of his/her membership in a protected class. Such conduct includes, but is not limited to: derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting, or the display or circulation of written materials or pictures.

Civil Rights Compliance Officer

The District will designate one or more individuals to serve as a Civil Rights Compliance Officer. The Civil Rights Compliance Office will be responsible for coordinating the District's efforts to comply with and carry out its responsibilities regarding non-discrimination and anti-harassment, including investigations of complaints alleging discrimination, harassment, or the failure of the District to comply with its obligations under relevant non-discrimination and anti-harassment laws and regulations (e.g., the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973).

Prior to the beginning of each school year, the District shall issue an appropriate public announcement or publication which advises students, parents/guardians, employees and other relevant individuals of the District's established grievance procedures for resolving complaints of discrimination and harassment. Included in such announcement or publication will be the name, address, telephone number, and email address of the Civil Rights Compliance Officer(s).

The Civil Rights Compliance Officer for the District is:

Administrator for Human Resources

Ms. Maria Massaro

630 – 66th Street

Niagara Falls, New York 14304

(716) 286 – 4225

mmassaro@nfschools.net

Investigation of Complaints and Grievances

The School District will act to promptly, thoroughly, and equitably investigate all complaints, whether verbal or written, of discrimination and/or harassment based on any of the characteristics described above, and will promptly take appropriate action to protect individuals from further discrimination or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

It is essential that any individual who is aware of a possible occurrence of discrimination or harassment immediately report such occurrence. All reports will be directed or forwarded to the District's designated Civil Rights Compliance Officer(s). Such complaints are recommended to be in writing, although verbal complaints of discrimination or harassment will also be promptly investigated in accordance with applicable law and District policy and procedure. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent of Schools.

To the extent possible, all complaints will be treated as confidential as possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. Also, a written record of the investigation and any action taken will, however, be established. Additionally, parents of students accused of or subjected to possible discrimination and/or harassment may be notified by the appropriate administrator of such occurrence and/or allegations as appropriate. The complainant, the alleged perpetrator, and any witness will be directed to refrain from talking about the investigation while it is pending.

If an investigation reveals that discrimination or harassment has occurred, the District will take immediate corrective action as warranted. Such action will be taken in accordance with applicable laws and regulations, as well as any and all relevant codes of conduct, District policies and administrative regulations, collective bargaining agreements, and/or third-party contracts.

If the complainant attempts to withdraw his/her complaint, the Civil Rights Compliance Officer will determine, with the assistance of any individual or entity designated to investigate the complaint, whether the withdrawal request was caused by retaliatory behavior, harassment, undue pressure, or fear of such actions. In the event the Civil Rights Compliance Officer determines the withdrawal request was not prompted by the above factors, he/she will document the complainant's reasons for the withdrawal, ask the complainant to sign the documentation, and terminate the investigation, provided such action is not inconsistent with the District's legal

obligations. If the request to withdraw the complaint is the result of retaliatory behavior, harassment, undue pressure, or the fear of such actions, or if the investigation must be carried out to ensure compliance with relevant District obligations, the investigation will continue and interim measures will be taken to protect the alleged victim, the complainant, and witnesses, as appropriate.

Complaint and Grievance Procedures

All complaints of discrimination and/or harassment will be investigated in a prompt, thorough, and equitable fashion, consistent with the following procedures.

- 1) An employee, student, or any third party who believes that he/she has been subjected to any type of discrimination or harassment, or has knowledge of an occurrence of discrimination or harassment, may file a complaint with his/her immediate supervisor, the school principal or other individual in charge of his/her building, or the District's Civil Rights Compliance Officer. All complaints will ultimately be directed to the Civil Rights Compliance Officer, who will coordinate the District's investigation into the allegations of discrimination and/or harassment. If the Civil Rights Compliance Officer is the individual suspected of engaging in discrimination or harassment, the complaint will be directed to another Civil Rights Compliance Officer, if the District has designated an additional individual to serve in such capacity, or to the Superintendent.

The District recognizes that discrimination and harassment of students is a sensitive issue and that students may choose to inform any trusted staff member of suspected discrimination or harassment. Staff members who receive such complaints will immediately inform the Civil Rights Compliance Officer. Where appropriate, the Civil Rights Compliance Officer may seek the assistance of the relevant Dignity Act Coordinator in investigating, responding to, and remedying student complaints of discrimination and/or harassment.

Complaints of discrimination and/or harassment may be made verbally or in writing. Complainants will be encouraged to fill out a complaint form provided by the District. The District will, however, investigate all complaints of discrimination and/or harassment regardless of the form in which those complaints are made. Victims and/or witnesses should attempt to provide as much detail as possible when making such complaints.

- 2) Where appropriate, the District may appoint legal counsel or other appropriate third parties to participate in the investigation of a complaint. The appointment of such individuals or entities does not relieve the Civil Rights Compliance Officer from his/her obligation to coordinate the District's compliance with relevant laws and regulations.
- 3) Within three (3) business days of receiving the complaint, the Civil Rights Compliance Officer will notify the complainant, in writing, that his/her complaint has been received. The designated Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or

harassment, will begin such investigation promptly.

- 4) In conducting an investigation, the Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will, as appropriate: collect and review all relevant documents; interview the complainant, the accused, and any witnesses presented by either the complainant or the accused; review relevant files and video; and collect and review other evidence as appropriate. Interviews of the complainant, the alleged victim, and the accused will be conducted separately.
- 5) Upon completing the investigation, the Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will promptly submit a written report detailing his/her/its findings to the Superintendent. While timelines for investigating complaints of discrimination and/or harassment will vary depending upon the scope and complexity of the matter, it is anticipated that most reports will be submitted within approximately sixty (60) calendar days from the receipt of the complaint.
- 6) The Civil Rights Compliance Officer, or the individual or entity assigned to investigate the allegations of discrimination and/or harassment, will inform the Superintendent if extenuating circumstances require more than sixty (60) calendar days for the investigation to be completed. Written notification will also be provided to all parties regarding the need for additional time.
- 7) Within thirty days after the written report is sent to the Superintendent, the complainant and the accused will be informed, in writing, of the investigator's findings as to whether or not discrimination and/or harassment occurred. If complainant and the accused disagree with the District's findings, they may file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), 32 Old Slip, 26th Floor, New York, NY 10005-2500.
- 8) At any time in the complaint process, an employee, student or any third party may choose to file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), 32 Old Slip, 26th Floor, New York, NY 10005-2500.
- 9) If the investigation results in a finding that discrimination and/or harassment did occur, the appropriate school official will take prompt action in accordance with the terms of District

Policy and regulations, the District Code of Conduct, federal and state law and regulations, and/or any applicable contract or collective bargaining agreement.

After an investigation has concluded, either party may submit to the Civil Rights Compliance Officer additional information that was previously unavailable and would materially impact the investigator's findings. The District, in its sole discretion, will determine whether and to what extent such information will be considered, and whether additional action should be taken.

The Superintendent will inform the Board of Education of the results of each investigation of discrimination and/or harassment.

The above procedures do not prohibit the District from taking interim steps to prevent discrimination and/or harassment. Such steps may include, but are not limited to; separating the complainant and/or the alleged victim from the accused in a way minimizes the burden on the complainant and the alleged victim. Moreover, the filing of a complaint, and/or the rendering of a decision regarding the complaint shall in no way prohibit, prevent or limit an individual from taking appropriate legal action in accordance with state and federal law.

All investigations will be conducted in a manner consistent with state and federal law and regulation, applicable collective bargaining agreements, and the District Code of Conduct.

Finding That Discrimination and/or Harassment Occurred: Corrective Action

If the District's investigation reveals that an individual or entity was discriminated against or harassed, immediate corrective action will be taken. Should the offending individual be a school employee, appropriate remedial and/or disciplinary measures will be applied, including but not limited to termination of the offender's employments, in accordance with contractual and legal guidelines. Should the offending individual be a student, appropriate remedial and/or disciplinary measures will be applied, including but not limited to suspension, in accordance with applicable law, regulation, and the Code of Conduct.

Vendors/contractors and other individuals who do business with the District, who have been found to violate the terms of this policy by engaging in prohibited conduct will be subject to appropriate sanctions up to and including loss of District business. School volunteers who are found to have violated this policy may face loss of volunteer status.

Should the offending individual be a visitor, guest or other third party, any corrective action deemed appropriate will be taken, including but not limited to expulsion from District premises and/or school activities/events under the control and supervision of the District.

Knowingly Makes False Accusations

Any employee or student who *knowingly* makes false accusations against another individual as to allegations of discrimination or harassment will face appropriate disciplinary action.

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination and/or harassment. Complaints of retaliation may be directed to the Civil Rights Compliance Officer. In the event the Civil Rights Compliance Officer is the alleged offender, the report will be directed to another Civil Rights Compliance Officer, if the District has designated another individual to serve in such a capacity, or to the Superintendent.

Where appropriate, follow-up inquiries will be made to ensure that discrimination and/or harassment has not resumed and that those involved in the investigation have not suffered retaliation.

Additional Provisions

In order to promote familiarity with issues pertaining to discrimination and harassment in the schools, and to help reduce incidents of prohibited conduct, the District will provide appropriate information and/or training to staff and students. As may be necessary, special training will be provided for individuals involved in the investigation of discrimination and/or harassment complaints.

A copy of this policy will be available upon request and will be posted and/or published in appropriate locations and/or school publications.

This policy should not be read to abrogate other District policies and/or regulations or the District Code of Conduct prohibiting other forms of unlawful discrimination, harassment, and/or inappropriate behavior within this District. It is the intention of the District that all such policies and/or regulations be read consistently to provide protection from unlawful discrimination and harassment. However, different treatment of any individual which has a legitimate, legal and nondiscriminatory reason shall not be considered a violation of District policy.

Age Discrimination in Employment Act, 29 USC Section 621

Americans with Disabilities Act, 42 USC Section 12101 et seq.

Section 504 of the Rehabilitation Act of 1973, 29 USC Section 794 et seq.

Title VI of the Civil Rights Act of 1964, 42 USC Section 2000d et seq.

Title VII of the Civil Rights Act of 1964, 42 USC Section 2000e et seq.

Title IX of the Education Amendments of 1972, 20 USC Section 1681 et seq.

Education Law Section 2801(1)

Executive Law Section 290 et seq.

Harassment Complaint Form
City School District of the City of Niagara Falls
(District Human Resources Office)

Please complete the Harassment Complaint Form and forward, with supporting documentation as requested to the District's Civil Rights Compliance Officer, Maria A. Massaro, 630 - 66th Street, Niagara Falls, New York 14304, (716) 286-4225, mmassaro@nfschools.net. Attached to this form is District Policy #3420, Non-Discrimination and Anti-Harassment in the School District.

Name of complainant:

Position of complainant:

Address:

Contact Information: (Circle the number preferred)

Home Phone: _____

Cell Phone: _____

Work Phone: _____

Date complaint filed:

Name and/or description of alleged harasser:

___ An employee, holding the position of _____ at

___ A student, grade _____ at _____ (school or location)

___ A parent or community member

___ Other (Specify person's relationship with the District)

Basis of this complaint:

___ Race, color, creed, national origin/ethnicity

___ Disability

___ Sex, gender

___ Marital Status

___ Sexual Orientation

___ Partnership Status

___ Sexual Harassment

___ Military/Veteran Status

___ Religion

___ Age

___ Other Harassment

___ Retaliation

Description of alleged harassment/discrimination incident: (If available and pertinent to this claim attach documentation i.e. emails, letters, notes, text messages, phone records, recordings, videos,etc.)

Date and place of violation(s):

Witnesses (if any) or others who should be contacted with knowledge important to this investigation, including contact information for each:

Others you may discussed this complaint/incident with, including contact information for each:

Has this incident/discrimination been previously reported: Yes No

If yes, to whom and when? Whom: _____

When: _____

Describe the remedy, outcome or resolution:

Remedy sought by complainant:

Date

Signature of Complainant

Notice of Non-Discrimination

The Niagara Falls City School District does not discriminate on the basis of an individual's disability, actual or perceived race, color, creed, religion, religious practice, national origin, ethnic group, sex (including sexual harassment and sexual violence), gender identity, sexual orientation (the term "sexual orientation" means heterosexuality, homosexuality, bisexuality, or asexuality), political affiliation, age, marital status, military status, veteran status, weight, domestic violence victim status, arrest or conviction record, genetic information or any other basis prohibited by New York state and/or federal non-discrimination laws in admission or access to, or treatment or employment in its programs and activities, and provides equal access to designated youth groups.

The following person has been designated to handle inquiries concerning the application of regulations prohibiting discrimination on the basis of disability and/or all other non-discrimination policies:

Ms. Maria Massaro
Administrator of Human Resources/504 Coordinator
630-66th Street
Niagara Falls, NY 14304
716-286-4225
mmassaro@nfschools.net

You also have the right to inquire of/file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR).

The regional office is located at:

U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Telephone: (646) 428 – 3800
Facsimile: (646) 428 – 3843
Email: OCR.NewYork@ed.gov
Website: www.ed.gov.ocr

Headquarters
U.S. Department of Education
Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202 -1100
Customer Service: (800) 421 – 3481
Facsimile: (202) 453 – 6012
TTY: (800) 877 – 8339
Email: OCR@ed.gov

SEXUAL HARASSMENT IN THE WORKPLACE

The District believes in the dignity of the individual and recognizes the rights of all people to equal employment opportunities in the workplace. In this regard, the District is committed to a policy of protecting and safeguarding the rights and opportunities of all people to seek, obtain and hold employment without subjugation to harassment or discrimination in the workplace. It is the District's policy to provide an employment environment free from harassment and discrimination based on race, color, gender, religion, religious creed, sex, familial or marital status, age, national origin or ancestry, physical or mental disability, genetic information/predisposition or carrier status, military or veteran status, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender, pregnancy (including childbirth and related medical conditions, and including medical conditions related to lactation), citizenship, domestic violence victim's status or any other characteristics protected by applicable federal, state or local law. This policy addresses sexual harassment in the workplace and is one component of the District's commitment to a discrimination-free work environment. The District will provide this policy to all employees in writing. The District will post this policy prominently throughout the District to the extent practicable.

This policy applies to all instances of sexual harassment perpetrated against a "covered person," regardless of immigration status, by anyone in the workplace, including a co-worker, supervisor, or third-party such as a non-employee, paid or unpaid intern, vendor, building security, visitor, volunteer, parent, or student. For purposes of this policy, a "covered person" includes:

- a) Employees;
- b) Applicants for employment;
- c) Paid or unpaid interns; and
- d) Non-employees, which include anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace.

Sexual harassment in the workplace can occur between any individuals, regardless of their sex or gender. Unlawful sexual harassment is not limited to the physical workplace itself. Sexual harassment can occur on school grounds, school buses or District vehicles, and at school-sponsored events, programs, or activities, including those that take place at locations off school premises. It can also occur while employees are traveling for District business. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment, even if they occur away from school grounds, on personal devices, or during non-work hours.

Definitions

"Prohibited Discrimination of Employees"

Prohibited discrimination of employees can take the form of any adverse employment action against an employee, by either a District employee or official or a third party engaged in activities sponsored by the District which is based upon the employee's protected characteristic. Prohibited discrimination of employees also includes harassment based on a protected characteristic even where there is no tangible impact upon the employee's employment opportunities and/or employment benefits. The phrase "prohibited discrimination" as used in this policy includes all forms of prohibited discrimination and harassment based on a protected characteristic, including "Sexual Harassment" as defined below.

“Harassment”

Harassment is strictly prohibited and includes, but is not limited to, conduct that is unwelcome and has the purpose or effect of unreasonably interfering with a person’s work performance, or creating an intimidating, hostile or offensive working environment. Such harassment of employees is prohibited by this policy if it is based on a protected characteristic or directed at an individual because of a protected characteristic. In this regard, individuals subject to this policy should be mindful that conduct or behavior that is acceptable, amusing or inoffensive to some individuals may be viewed as unwelcome, abusive or offensive to others.

“Sexual Harassment”

Sexual harassment is strictly prohibited. It is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identify and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- a) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- b) Such conduct is made either explicitly or implicitly a term or condition of employment; or
- c) Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any covered person who feels harassed should report the conduct so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

The following describes some actions that may constitute unlawful sexual harassment and that are strictly prohibited:

a) Physical

Physical acts of a sexual nature, such as:

1. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and
2. Rape, sexual battery, molestation or attempts to commit these assaults.

b) Verbal

Unwanted sexual advances or propositions, such as:

1. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments; and
2. Subtle or obvious pressure for unwelcome sexual activities.

c) Non-verbal

1. Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
2. Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
3. Sexual or discriminatory displays or publications anywhere in the workplace, such as pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

a) Other

Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:

1. Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
2. Sabotaging an individual's work; and
3. Bullying, yelling, or name-calling.

Sexual harassment is a form of employee misconduct, a violation of District policy, and unlawful. Employees of every level who engage in sexual harassment, including supervisory personnel who engage in sexual harassment, who knowingly allow such behavior to continue, or fail to report suspected sexual harassment will be subject to remedial and/or disciplinary action by the District. Sexual harassment may also subject the District to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability.

All employees, including but not limited to, District officials and supervisory personnel, are responsible for ensuring a work environment free from prohibited harassment and discrimination. All employees will be held responsible and accountable for avoiding or

eliminating inappropriate conduct that may give rise to a claim of harassment or discrimination. Employees are encouraged to report violations to a supervisor, administrator, or the Compliance Officer, Maria Massaro, listed in this policy in accordance with the Complaint Procedure set for in this policy.

Supervisory Responsibilities

All supervisors, administrators, and school principals who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the CRCO, Maria Massaro.

Furthermore, if any employee believes that any member of management has violated this policy or has not properly responded to and/or handled a report or concerns of discrimination or harassment, the employee should immediately contact the District's designated Compliance Officer. In the event the CRCO is the alleged harasser, the report will be directed to the Superintendent of Schools.

Prohibition of Retaliatory Behavior (Whistle-Blower Protection)

Unlawful retaliation can be any action that could discourage a covered person from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

The District prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participate in the investigation of a complaint of sexual harassment. Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- a) Made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- b) Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- c) Opposed sexual harassment by making a verbal or informal complaint of harassment to a supervisor, administrator, school principal, or Maria Massaro, Civil Rights Compliance Officer (CRCO);
- d) Reported that another employee has been sexually harassed; or
- e) Encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Employees who engage in retaliation against any employee for making a good faith complaint of harassment or discrimination, for opposing in good faith any practices forbidden by applicable anti-discrimination laws or for filing a good faith complaint with, or otherwise participating in any manner in an internal workplace investigation or an external investigation, proceeding or hearing conducted by any federal or state agency charged

with enforcing employment discrimination laws shall be subject to discipline, up to and including termination of employment.

Complaints of retaliation or discrimination should be brought directly to the Compliance Officer. Such complaints will be promptly investigated. If retaliation is found, the person retaliating will be subject to corrective action up to and including termination from employment, or in the case of a non-employee, an appropriate remedy up to and including termination of the business relationship.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The District cannot prevent or remedy sexual harassment unless it knows about it. Any covered person who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, administrator, school principal, or the CRCO, Maria Massaro. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior as well.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this policy and posted on the District website, and all covered persons are encouraged to use this complaint form. Persons who are reporting sexual harassment on behalf of another person should use the complaint form and note that it is being submitted on another person's behalf.

Because an accurate record of the allegedly objectionable behavior is necessary to resolve a complaint of prohibited discrimination or harassment, the District encourages employees to place complaints in writing, even if originally made orally. If an employee has any questions or difficulty filling out the complaint form, she/he can obtain assistance from the Compliance Officer or the supervisor to which she/he complained. All complaints should include: the name of the complaining party, the name of the alleged offender(s), date(s) of the incident(s), description of the incident(s), names of witnesses to the incident(s) and the signature of the complaining party.

Once the complaining party has completed and dated a complaint, with or without the assistance of the District's Compliance Officer or a supervisor, the written complaint, or oral complaint as the case may be, should be promptly forwarded to the District's Compliance Officer.

Complainants are expected to cooperate with the District's investigation procedures by providing all relevant information relating to the complaint, as are other supervisory and non-supervisory employees having relevant or related knowledge or information.

Any person who believes they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors, administrators, and school principals will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors, administrators and school principals will also be subject to discipline for engaging in any retaliation.

Time for Reporting a Complaint

Prompt reporting of all complaints is strongly encouraged. All employees should be aware that appropriate resolution of complaints and effective remedial action oftentimes is possible only when complaints are promptly filed.

Confidentiality and Privacy

The District shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees. To the extent complaints made under this policy implicate criminal conduct, the District may be required by law to contact and cooperate with the appropriate law enforcement authorities.

Acknowledgement of Complaint

Upon receipt of an oral or written complaint, the Compliance Officer should endeavor to contact promptly the complainant to confirm that the complaint has been received. If the complainant does not receive such confirmation promptly, she/he is encouraged to contact the Compliance Officer or her/his supervisor or the supervisor to whom the complaint was made to ensure its receipt. The purpose of this acknowledgment procedure is to ensure that all complaints are received by authorized individuals, carefully processed and promptly investigated.

Investigating Complaints

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. Disclosure may, however, be necessary to complete a thorough investigation of the charges and/or notify law enforcement officials. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, and in accordance with any applicable collective bargaining agreements to protect their rights to a fair and impartial investigation.

The District will not tolerate retaliation against anyone who files complaints, supports another's complaint, or participates in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- a) Upon receipt of a complaint, the CRCO will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. In the event that the CRCO is the alleged harasser, the complaint will be directed to another CRCO or District designee for investigation.
- b) If a complaint is verbal, encourage the individual to complete the complaint form, which is available on the District website, in writing. If he or she refuses, prepare a complaint form based on the verbal reporting.

- c) If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- d) Request and review all relevant documents, including all electronic communications.
- e) Interview all parties involved, including any relevant witnesses. If a student is involved, the District will follow all applicable District policies and procedures regarding questioning students.
- f) Create written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - 1. A list of all documents reviewed, along with a detailed summary of relevant documents;
 - 2. A list of names of those interviewed, along with a detailed summary of their statements;
 - 3. A timeline of events;
 - 4. A summary of prior relevant incidents, reported or unreported; and
 - 5. The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- g) Keep the written documentation and associated documents in a secure and confidential location.
- h) Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- i) Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

If an investigation reveals that discrimination or harassment has occurred, the District will take immediate corrective action as warranted. This action will be taken in accordance with applicable laws and regulations, as well as any and all relevant codes of conduct, District policies and administrative regulations, collective bargaining agreements, and/or third-party contracts.

While disciplinary action may be appropriate in certain instances, punitive measures are not the exclusive means for responding to prohibited discrimination or harassment. During the pendency of any investigation being conducted pursuant to this policy, remedial measures may be taken if appropriate and necessary.

Record Keeping

The District shall maintain a written record of all complaints of discrimination and/or harassment for a period of at least three years. The District shall also document the steps taken with regard to investigations, as well as conclusions reached and remedial action taken, if any. The District shall also maintain separate and apart from personnel records in a secure and confidential location.

Annual Training

The District will provide a sexual harassment prevention training program to all employees on an annual basis. The training will be interactive and will include:

- a) An explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- b) Examples of conduct that would constitute unlawful sexual harassment;
- c) Information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment;
- d) Information concerning employees' rights of redress and all available forums for adjudicating complaints; and
- e) Information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by the District but is also prohibited by state, federal, and, where applicable, local law.

Aside from the District's internal process, individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, an individual may seek the legal advice of an attorney.

In addition to those outlined below, individuals may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects covered persons, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file with DHR, they can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the District does not extend your time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. Individuals may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 USC § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An individual alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Title IX

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any federally funded education program or activity. The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX of the Education Amendments of 1972.

For more information about how to file a complaint, contact OCR at 800-421-3481 (TDD 800-877-8339) or visit: <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. The website contains information about filing the complaint online, by mail, or by email.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

Questions

Any questions by employees of the District about this policy or potential harassment or discrimination should be brought to the attention of the District's Compliance Officer. The name, address, and telephone number of the District's Compliance Officer is listed immediately below.

Compliance Officer

Maria A. Massaro
Adm. for Human Resources
630 – 66th Street
Niagara Falls, NY 14304
Telephone: (716) 286 – 1260

Superintendent of Schools

Mark Laurrie
Superintendent of Schools
630 – 66th Street
Niagara Falls, NY 14304
Telephone: (716) 286 - 4205

Effective Date and Policy Dissemination

The effective date of this policy shall be October 9, 2018. The Superintendent of Schools shall ensure that this policy is adequately disseminated and made available to all employees of the District. This policy shall be distributed at the beginning of each year with or as part of the annual assignment letter to employees that may be appropriate. In addition, copies of this policy and complaint form shall be maintained in the office of the Compliance officer as well as the District's Policy Book that is available on the District website at www.nfschools.net.

Upon the effective date of this policy, the provisions of this policy shall supersede and replace the following prior District policies and regulations regarding employee discrimination and harassment.

CITY SCHOOL DISTRICT OF THE CITY OF NIAGARA FALLS

COMPLAINT FORM

In order to assist City School District of the City of Niagara Falls in investigating your allegations of harassment, discrimination or retaliation in a prompt and thorough fashion, please complete this form to the best of your abilities and with as much detail as you are able. Once completed, please submit this form to the District Compliance Officer identified in the District's Policy Against Discrimination and Harassment. If additional space is needed in order to respond to any question below, please attach additional pages as necessary and identify which question corresponds to the information set forth in the additional pages. Any questions regarding this form may be directed to the District Compliance Officer. No individual will be retaliated against for filing a complaint.

Name of Complainant: _____ Date Submitted: _____

Job Title: _____

Address: _____

Home phone: _____ Cell: _____ Work: _____
(Please circle the number you'd prefer us to call)

Email: _____

Name of Victim (if different than Complainant): _____

Basis of this complaint (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Race/color | <input type="checkbox"/> Gender expression |
| <input type="checkbox"/> Age | <input type="checkbox"/> Gender identity |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Transgender status |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Genetic predisposition |
| <input type="checkbox"/> Sex/gender | <input type="checkbox"/> Military/veteran status |
| <input type="checkbox"/> Sexual harassment | <input type="checkbox"/> Citizenship |
| <input type="checkbox"/> Pregnancy | <input type="checkbox"/> Religion/Religious creed |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Domestic violence victim status |
| <input type="checkbox"/> Familial Status | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> Other/Not Sure |

If checked "Other/Not Sure," please briefly explain:

Time(s) and date(s) the incident(s) took place:

Name(s) and office address of the individual who allegedly engaged in the harassment, discrimination or retaliation. If more than one, list all.

Name: _____

Location: _____

Describe the incident(s) which occurred with as much detail as you are able, including why you believe the incident(s) constitutes harassment, discrimination or retaliation (please attach any documentation or evidence you believe is relevant to the incident):

Describe briefly what you would consider to be appropriate resolution of the conduct described above: (Please note that City School District of the City of Niagara Falls retains the sole discretion and authority to determine the appropriate disciplinary and/or corrective action to be taken with regard to meritorious complaints. This question should not be construed in any way to constitute a forfeiture of that discretion or authority.)

Identify all persons who witnessed the incident(s) described above:

_____	_____
_____	_____
_____	_____

Please identify any other persons you believe have knowledge important to the incident(s) in question, including his/her contact information and a brief description of the knowledge held by each person:

Have you filed a complaint or charge with a Federal, State, or Local Government agency related to the incident(s) identified above?

Yes _____ No _____

Has this incident or occurrence been previously reported to City School District of the City of Niagara Falls?

[] Y [] N. If yes, when and to whom?

If the incident or occurrence has been previously reported, please describe the remedy, outcome or resolution:

I swear or affirm that I have read the above complaint and that it is true to the best of my knowledge, information and belief.

Complainant's Signature

Date

Received by:

Signature
Print Name:

Date

For Employer Use Only – To be Completed Upon Receipt

Recipient of Complaint (print): _____

Date, Time and Manner (e.g. personal delivery, mailbox, etc.) of Receipt: _____

Notes: _____

CITY SCHOOL DISTRICT OF THE CITY OF NIAGARA FALLS

COMPLAINT FORM

In accordance with the Sexual Harassment Policy of the City School District of the City of Niagara Falls Board of Education, I have given my written assurance that the unwelcome behavior will stop.

The incident is deemed closed. However, I realize the complaint may be reopened for investigation if a recurrence of sexual harassment or retaliatory action are reported.

Signature of Alleged Harasser

Immediate Supervisor/
School Administrator

Date

Date

_____ I am satisfied with the resolution to the above sexual harassment incident. The incident is deemed closed. However, the complaint may be reopened for investigation if a recurrence of sexual harassment is reported.

Signature of Complainant

Date

_____ I am not satisfied with the resolution and require a formal complaint to be filed.

Signature of Complainant

Date

Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.
Title IX of the Education Amendments of 1972, 20 USC § 1681 et seq.
29 CFR § 1604.11(a)
34 CFR Subtitle B, Chapter I
Civil Service Law § 75-B
Executive Law Article 15
Labor Law § 201-g

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the District
#6122 -- Employee Grievances
#7551 -- Sexual Harassment of Students

Adoption Date: 10/18/2018