

Note: 4 AAC 07.010 **mandates** districts to adopt policies regarding student rights and responsibilities including substantive and procedural matters related to student behavior, treatment, and discipline. 4 AAC 07.010 further **mandates** a uniform discipline policy throughout the district and prohibits the use of corporal punishment. 4 AAC 07.050 requires Board review of these policies every three years.

The School Board believes that one of the major functions of the public schools is the preparation of youth for responsible citizenship. The district shall foster a learning environment, which reinforces the concepts of self-discipline and the acceptance of personal responsibility. Students are expected to progress from being adult-directed to self-directed with minimal application of disciplinary measures.

The Board recognizes that there must exist certain disciplinary policies and regulations relating to student conduct which delineate acceptable behavior and provides the basis for sound disciplinary practices within each school in the district in order to maintain an environment conducive to learning. These policies and regulations will be enforced fairly and uniformly and consistently without regard to race, creed, color or sex.

*(cf. 5131 et seq. - Student Conduct)*

The administration, teachers and classified staff share mutual responsibility for the enforcement of district policies and regulations pertaining to student conduct and safety. The Board shall give reasonable support and assistance to employees with respect to student discipline. The Board shall review its policies related to student rights and responsibility at least once every three years and shall modify its policies as needed in accordance with law.

The Board recognizes that not all students will adhere to district rules for appropriate behavior. Sufficient support services shall be provided so that continually disruptive students will not be returned to regular classes without some modification of behavior. Students may be assigned to other alternative programs or be subject to removal from school.

Note: The following optional paragraph is based on material developed by the Anchorage School District and may be revised or deleted as desired.

### **In-School Suspension**

In an effort to establish disciplinary procedures that are effective in reducing student truancy and misbehavior and do not interrupt the educational process, the School Board, Superintendent, or designee may authorize in-school suspension as an alternative to out-of-school suspension. In-school suspension removes the student from the school social scene while still requiring him/her to maintain the same basic school day schedule and to keep up with required academic assignments. Failure to serve in-school suspension or removal from the in-school suspension program for disciplinary reasons shall result in out-of-school suspension or additional time assigned.

*(cf. 5144.1 - Suspension and Expulsion)*

Each Principal/Head Teacher shall publish school rules for student discipline, which describe the school's behavior management plan and consequences for student misconduct. Special care shall be taken when developing school rules to solicit the views of the school community, including administrators, teachers, school security personnel, parents/guardians and students.

School site rules must be strictly based on district policy, regulation and state and federal laws and be enforced fairly and uniformly. The Superintendent or designee shall establish procedures for the approval of such rules.

Note: 4 AAC 07.030 requires districts at the beginning of the school year to make available to parents/guardians, students, and staff copies of district policies regarding student rights and responsibilities and to post such policies in accessible locations throughout the year.

At the beginning of each school year, the Superintendent or designee shall ensure that every student and his/her parents/guardians are notified in writing of the availability of Board policies and administrative regulations related to student rights and responsibilities. Such policies shall be posted in accordance with law. (4 AAC 07.030)

### **Corporal Punishment**

Note: The use of corporal punishment is prohibited in Alaska's schools. 4 AAC 07.010. Corporal punishment is defined as the application of physical force to the body of a student for disciplinary purposes. 4 AAC 07.900. In 2000, the state enacted a law requiring school districts to adopt standards relating to when a teacher, teacher's assistant, or other person responsible for students is authorized to use reasonable and appropriate force to maintain classroom safety and discipline as described in a criminal statute, AS 11.81.430(a)(2). That statute provides for the use by a supervising teacher of reasonable and appropriate non-deadly force if authorized by school regulations adopted by the school board. AS 14.33.120(a)(4). The following standards are based upon guidelines found in AS 11.81.430 and 4 AAC 07.900, which excludes certain reasonable and necessary physical restraint from the definition of corporal punishment.

Corporal punishment is prohibited by law as a disciplinary measure against any student. School administrators and teachers shall employ other means of disciplining students.

The prohibition on corporal punishment does not prevent the use of reasonable and appropriate force by a teacher or other supervising employee, which is necessary to maintain order or protect student welfare. Reasonable and necessary force or physical restraint against a student may be used to protect the student, or others, from physical injury; to obtain possession of a weapon or other dangerous object; to maintain reasonable order in the classroom or on school grounds; or to protect property from serious damage or destruction. The force shall not be greater than necessary to control the misconduct or dangerous situation. In no event may deadly force be used against a student.

*(cf. 3514 - Safety)*

*(cf. 4158 - Employee Security)*

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### Reporting to Law Enforcement

Note: Effective January 1, 2001, a teacher, teacher's assistant, administrator, or other employee responsible for students who, during the course of employment, observes a student committing a crime must report the crime to local law enforcement. AS 14.33.130. The obligation to report to law enforcement resides with the staff member observing the crime. "Crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor. AS 11.81.900.

In addition to subjecting a student to discipline, any crime committed by a student while at school, on school grounds, or during any school sponsored activity on or off campus shall be reported to law enforcement. Criminal proceedings are independent of actions taken by the School District. The District may impose discipline for misconduct regardless of whether criminal charges are filed or a conviction is obtained. The Superintendent should ensure cooperation with law enforcement in the criminal investigation of students who commit crimes while under the jurisdiction of the school.

*(cf. 1410 – Interagency Cooperation for Student and Staff Safety)*

*Legal Reference:*

ALASKA STATUTES

*11.81.430 Justification, use of force, special relationships*

*11.81.900 Definitions*

*14.33.120-.140 School disciplinary and safety program*

ALASKA ADMINISTRATIVE CODE

*4 AAC 07.010-4 AAC 07.900 Student rights and responsibilities*

*Revised 9/2000*

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### LPSD DISCIPLINE:

- A. Corporal punishment is not allowed as a means of discipline in the Lake and Peninsula School District.
- B. The following specific examples of unacceptable behavior will serve as guidelines for those administering the rules of discipline. They are not binding to the extent they rule out common sense and good judgment but are cited in an effort to achieve fairness and consistency. In all cases parents will be notified as soon as the site administrator has cause to believe that a student is guilty of any of the following unacceptable behaviors.
- C. Suspension and expulsion of pupils from school.

### **Detention:**

Most special education students will be disciplined according to the District's policies and procedures except for the following reasons:

- 1) The Student's Individualized Education Plan (IEP) calls for the modified disciplinary procedure and/or
- 2) The Student's IEP team members hold a meeting and determine that the misconduct was related to the student's disability.

Each school and teacher in the District has the right to require a student to report for after-school detention. Parents will be notified prior to a child being detained. Detention may be assigned to assist a child who has fallen behind in studies or to discipline a child who has been a disruption at school or in class.

### **Suspension:**

A Principal/Head Teacher may suspend temporarily a pupil from school for reasons only as outlined in AS 14.30.045.

Suspensions shall be immediately reported to the parent/guardian and to the Superintendent or Chief School Administrator.

Reasons for suspension, expulsion, or denial of admission of pupils by the Hearing Authority as detailed in Alaska Statutes are as follows:

- A. Continued willful disobedience or open and persistent defiance of reasonable school authority.
- B. Behavior which is \*inimicable to the welfare, safety, or morals of other pupils.
- C. A physical or mental condition, which in the opinion of competent medical authority will cause attendance of the child to be inimicable to the welfare of other pupils.

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- D. A physical or mental condition which in the opinion of competent medical authority will render the child unable to reasonably benefit from the programs available.
- E. Conviction of a felony, which the governing body (School Board) of the District determines will cause attendance of the child to be inimicable to the welfare or education of other pupils.

*\*inimicable definition: harmful, hostile or adverse*

Where suspension is specified or recommended, IN-HOUSE SUSPENSION should be the first consideration. Only the most severe infractions should result in suspension out of school. In-house suspension means that the student is required to report to a specified supervised area where he/she has limited interaction with other students or the teachers. In one-teacher schools, for example, the student could be placed in an area of the room away from the students for the specified time. The suspended student would not participate in any class activities or interact in any way with the other students. The suspended student should have daily assignments given to him/her or be otherwise occupied with academic activities.

1. Use and/or possession of illegal drugs.

Penalty: 3 days minimum suspension. Village Public Safety Officer/State Troopers will be notified.

Expulsion may be recommended.

2. Use and/or possession of alcohol.

Penalty: 3 days minimum suspension. VPSO/ State Troopers will be notified. Second offenders may be subject to expulsion.

3. Fighting or the physical abuse of another.

Penalty: 1 day to 10 days of suspension. VPSO/State Trooper may be notified.

4. Possession of dangerous or illegal weapon.

Penalty: Expulsion based upon State and Federal Law

5. Harassment/physical attacks of teachers/staff members. *This includes all forms of harassment such as verbal, sexual, racial, physical, threats and gestures, hazing and threatening words.*

Penalty: 1 to 10 day suspension. Parent notification and conference established as soon as possible after the incident. Superintendent/Chief School Administrator, District Office Administrators or immediate supervisor notified. May be recommended for expulsion. Subject to arrest.

6. Vandalism.

Penalty: Restitution, possible suspension and VPSO/State Troopers notified in cases of damage to District property. A complaint will be filed by the Site Administrator.

7. Theft.

Penalty: Restitution, possible suspension and notice to the VPSO/ State Trooper. In cases of theft of District property, a complaint will be filed by the Site Administrator.

8. Internet Usage Policy Violation (see student use agreement)

Penalty: Downloaded materials will be sent to parents. 1st offense: 1 to 3 day suspension; 2nd offense: 3 to 5 days suspension; 3rd offense: 5 to 10 days suspension. May be denied access to computers at any time.

9. Use of tobacco at school or on school grounds.

Penalty: 1st offense: 1 to 3 days 2nd offense: 3 to 5 days suspension.

**DISCIPLINE (continued)**

AR 5144(c)

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### 10. Profanity, obscenity, or verbal abuse.

This includes: lewd, vulgar, improper, offensive, disrespectful words. Students are to use discretion in their language. Profane and/or obscene language will not be tolerated. Teacher will use judgment in applying penalties.

Penalty: 1st offense: 1 day in-school suspension (if possible), parent conference required. 2nd offense: 1-day out of school suspension, parent conference required. 3rd offense: 3-5 days out-of-school suspension, parent conference required.

### 11. Defiance of school authority.

Penalty: 1st offense: 1 to 3 days suspension, 2nd offense: 3 to 5 days suspension. Expulsion may be recommended.

### 12. Disruptive behavior in school.

Penalty: 1 to 5 days suspension and/or restriction from school sponsored activities.

### 13. Snowball/Rock Throwing.

Penalty: 1st offense: 1 hour detention, 2nd offense: 2 hours detention, 3rd offense 5 hours detention.

### 14. False Alarm. Note: False Alarms are illegal according to State Law

Penalty: 1st offense: 1 to 5 days suspension. VPSO/State Trooper will be notified. 2nd offense: 5 to 10 days suspension. VPSO/State Trooper will be notified

A "*False Alarm*" is defined in AS 11.56.800(3) as making a false report or giving a false alarm that a fire or other incident dangerous to life or property and calling for an emergency response has occurred or is about to occur. The penalty: Up to \$5,000.00 fine and up to a year in jail

### 15. Violation of School Rules and Policies while A Member of a School Sponsored Team and/or on any and all District Sponsored Activities

*Students are to conduct themselves in accordance with school rules, policies and expectations that regulate student behavior at all times while on any and all District sponsored activities and District sponsored trips. The following penalties apply while a Member of a School Sponsored Team and/or on any and all District Sponsored Activities.*

Note: Severity of infraction may require involvement of law enforcement agency

Penalty: 1st infraction: No activity and travel for 45 school days from date of decision.

2nd infraction: No activity and travel for 90 school days from date of decision.

3rd infraction: No student activity and travel for 1 school year (36 school weeks) from date of decision.

4th infraction: No student activity and travel for any student activities for remainder of student's school career with LPSD.

### 16. Academic Honesty

Student cheating and/or plagiarism are not acceptable and will not be tolerated.

1st infraction: Ineligible for student travel and extra curricular activities for 20 school days, will fail the assignment and require parent conference. 2nd infraction: parent conference, failed assignment and ineligible for student travel and extra curricular activities for 45 school days.

**Penalties are cumulative. Infractions will accumulate during the student's entire high school career.**

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The District enforces a zero tolerance policy concerning alcohol, drugs and tobacco. Students will be transported back to site immediately after notification of the District Office and Parents.

**Prohibited Conduct:** The possession, distribution or use of any tobacco products, alcohol and controlled substances by a student whether it occurs on or off school property, is prohibited and shall result in the following penalties;

**1<sup>st</sup> infraction:** Suspended from interscholastic activities and practice for 10 calendar days. Fifty percent of the suspension will be forgiven and the student may return to practice if the student and parent/guardian complete the First Offense educational component. For tobacco use, if a student under the First Offense Penalty violates the Tobacco Rule within the 10 calendar day period of suspension, the student's period of suspension will start over again; the First Offense education component will become mandatory, and no forgiveness will be granted. This process will continue until the student has demonstrated 10 calendar days without a subsequent tobacco violation. A student who has not completed a suspension or re-suspension under the first Offense Penalty for violation of the Tobacco Rule does not become subject to imposition of penalties under a Second, Third or Fourth Offense for violation of the Tobacco Rule, until the student has completed all suspensions and re-suspension under the First Offense Penalty for tobacco use. A student serving a First Offense Penalty under the Tobacco Rule is, however, subject to immediate imposition of a Second Offense Penalty to the extent this is based upon violation of the non-tobacco prohibitions under this Policy.

**2nd infraction:** The student will be suspended from interscholastic activities and practice for forty-five calendar days. Both the student and parent/guardian must complete the Second Offense educational component prior to the student's return to competition and there will be no forgiveness of calendar days of suspension. While under the period of suspension, the student may return to practice after completion of the Second Offense educational component. A student may need additional days of practice before returning to competition.

**3rd infraction:** The student will be suspended from interscholastic activities and practice for one calendar year. Both the student and parent/guardian must complete the Third Offense education component prior to the student's return to competition and there will be no forgiveness of calendar days of suspension. While under the period of suspension, the student may return to practice after completion of the Third Offense education component. A student may need additional days of practice before returning to competition.

**4th infraction:** The student's privilege to participate in interscholastic activities and practice is revoked for the remainder of the student's high school year.

Substance Abuse Programs are available through Bristol Bay Area Health Program. Please contact them for additional information.

Most special education students will be disciplined according to the District's policies and procedures except for the following reasons: 1) The Student's Individualized Education Plan (IEP) calls for the modified disciplinary procedure and/or; 2) The Student's IEP team members hold a meeting and determines that the misconduct was related to the student's disability.

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### **Suspended Students.**

Students who have been suspended from school are not permitted on campus during school hours or to participate in or observe student activities during the period of suspension.

No discipline shall be enforced in such a manner as to prevent the student from accomplishing a specific academic grade, level, or graduation requirement, provided that credit may be withheld, or grades affected negatively, for irregular attendance.

### **Due Process Procedural Requirements:**

- A. In any disciplinary action, including suspension of ten (10) school days or less, the student (s) shall have the opportunity to contest any alleged fact leading to disciplinary or other action taken against him/her. He/she has the right to have his/her claims heard before the Principal/Head Teacher. The student shall have the opportunity to have his/her parent(s)/guardian(s) present and to be informed of all the evidence and arguments against him/her. The findings of the Principal/Head Teacher shall be final.
  
- B. When the Principal/Head Teacher or the Superintendent or Chief School Administrator or designee recommends suspension of more than ten (10) school days, a written notice of said intent shall be delivered by Certified Mail or in person to the student and his/her parent/guardian. This Notice shall state the student's right to a fair hearing, specific charges lodged against him/her, and the recommended sanctions.  
The student and/or his/her parent/guardian shall reply in writing within five (5) school days of receipt of the Notice of Suspension, indicating whether he/she shall request a hearing, whether he/she will be represented by legal counsel, and whether he/she wishes the hearing be opened or closed. If such a reply is not received within the five-day period, the student and his/her parent/guardian shall be deemed to have waived his/her right to a hearing and the recommended sanction shall take effect. If a hearing is requested, it shall be held within five (5) school days of such a request.
  
- C. The Hearing Authority, who shall be the School District Superintendent or Chief School Administrator, may request the student and parent/guardian to attempt conciliation first, but if the student and parent/guardian decline this request, the Hearing Authority shall schedule the hearing in accordance with these rules:
  1. Written Notice of charges against a student and recommended sanctions shall be supplied to the student and his/her parent/guardian.
  2. Parent/guardian should be present at the hearing.
  3. The student and parent/guardian may be represented by legal counsel.
  4. The student shall be permitted to inspect in advance of such hearing any affidavits or exhibits, which school authorities intend to submit at the hearing.
  5. The student shall be given an opportunity to present his/her version as to the charges by oral or written argument, affidavits, exhibits, and such witnesses as desired.

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6. All relevant, not duly repetitious, evidence shall be accepted.
7. The student shall be allowed to observe all evidence offered against him/her. In addition, he/she shall be allowed to question any witnesses.
8. The Hearing Authority shall make determination solely upon the evidence presented at the hearing.
9. Either a tape-recorded or verbatim record shall be made of the hearing by School District.
10. Within three (3) school days of the hearing, the Hearing Authority shall render its decision upholding, modifying in any manner, or repudiating the recommended sanction. The student and his/her parent/guardian shall be mailed or otherwise provided with a written statement of the decision, supported by written findings of fact, within five (5) school days of the hearing.

### **Interim Suspension.**

Suspension ordered by the Superintendent or Chief School Administrator or designee without the right to a prior hearing in cases where a student is reasonably believed to be a danger to him/herself, to other students, teachers, school administrators, or the educational process of the student's school. If a student is placed in Interim Suspension, the student, or his/her parent/guardian has the right, upon submitting a written request within three (3) days of his/her suspension, to request an immediate hearing before the Superintendent or Chief School Administrator who shall then schedule and hold the hearing within five (5) school days of such a request. No Interim Suspension shall exceed seven (7) school days, by which time the student is either reinstated by the suspending authority or given a fair hearing.

### **Expulsion**

Expulsion is defined as the denial of the right of school attendance for an indefinite period of time. No student shall be expelled unless other means of correction have failed or would not be adequate in bringing about proper conduct. In addition, the matter of an expelled student's further education shall be referred to the appropriate authority.

Suspension from school as a penalty is used for various infractions of school rules. When a student is suspended the case may be referred to the Board of Education for an expulsion hearing. Parents and all other concerned parties will be informed in writing of the Board's hearing. When a student has been expelled by the Board, they may be re-admitted only by the Board or in the manner prescribed by it.

### **Expulsion Procedural Requirements**

- A. When the Superintendent or Chief School Administrator or designee recommends expulsion, a written Notice of said intent shall be delivered by Certified Mail or in person to the student and his/her parent/guardian. This Notice shall state the student's right to a fair hearing, specific charges lodged against him/her, and the recommended sanctions.

The student and/or his/her parent/guardian shall reply in writing within five (5) school days of receipt of the Notice of Expulsion, indicating whether he/she shall request a hearing, whether he/she will be represented by legal counsel, and whether he/she wishes the hearing to be open or closed. If such a reply is not

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received within the five-day period, the student and his/her parent/guardian shall be deemed to have waived his/her right to a hearing and the recommended sanction shall take effect. If a hearing is requested, it shall be held within ten (10) days of such a request.

- B. The Hearing Authority, who shall be the District School Board, may request the student and parent/guardian to attempt conciliation first, but if the student and parent/guardian decline this request, the Hearing Authority shall schedule the hearing in accordance with these rules:
1. Written Notice of charges against a student be supplied to the student and his/her parent/guardian.
  2. The parent/guardian should be at the hearing.
  3. The student and parent/guardian may be represented by legal counsel.
  4. The student shall be permitted to inspect in advance of such hearing any affidavits or exhibits, which school authorities intend to submit at the hearing.
  5. The student shall be given an opportunity to present his/her version as to the charges by oral or written argument, affidavits, exhibits, and such witnesses as desired.
  6. All relevant, not duly repetitious, evidence shall be accepted.
  7. The student shall be allowed to observe all evidence offered against him/her. In addition, he/she shall be allowed to question any witness.
  8. The Hearing Authority shall make determination solely upon the evidence presented at the hearing.
  9. Either a tape-recorded or verbatim record shall be made of the hearing by the School District.
  10. Within three (3) school days of the hearing, the hearing authority shall render its decision upholding, modifying in any manner, or repudiating the recommended sanction. The student and his/her parent/guardian shall be mailed or otherwise provided with a written statement of the decision, supported by written findings of fact, within five (5) school days of the hearing.

### **Re-admissions:**

School Law 14.30.047 (a) and (b) states:

A child who has been suspended from or denied admittance to a school according to Section 45 (3) or (4) of this Chapter shall be permitted to attend school when he is obviously recovered or presents to the governing body a statement in writing from a competent medical authority that he/she is no longer afflicted with or suffering from, the physical or mental condition to the extent that it is a cause for suspension or denial of admission according to Section 45 (3) or (4) of this Chapter.

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Note: 4 AAC 07.010 mandates district policies on substantive and procedural matters related to student behavior, treatment and discipline. The following sample policy may be revised to reflect district philosophy and needs.

The School Board recognizes that maintaining an environment, which promotes learning and protects the health, safety, and welfare of all students may require the suspension or expulsion of a student from regular classroom instruction. District policies and school site rules shall clearly identify student behavior standards.

*(cf. 5131 - Student Conduct)*

*(cf. 5144 - Discipline)*

*(cf. 6154 - Homework/Make-up Work)*

The Superintendent or designee or Principal/Head Teacher may impose suspension when other means of correction fail to bring about proper conduct or for serious misconduct.

The School Board may expel a student for severe or prolonged breaches of discipline. Except for single acts of a grave nature, expulsion is usually used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to other students.

Note: The optional language below excludes suspended or expelled students' participation in extracurricular activities.

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the suspension or expulsion.

The School Board shall provide for the fair treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall specify procedures for notices and appeals.

*(cf. 3514 - Safety)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process - Individuals with Exceptional Needs)*

*(cf. 6164.3 – Student Mental Health – Medication and Services)*

### *Legal Reference:*

#### ALASKA STATUTES

*14.03.160 Suspension or expulsion of students for possessing weapons*

*14.30.045 Grounds for suspension or denial of admission*

*14.30.047 Admission or readmission, when cause no longer exists*

*14.30.172 Communications not prohibited*

#### ALASKA ADMINISTRATIVE CODE

*4 AAC 06.060 Suspension or denial of admission*

*4 AAC 07.010 - 4 AAC 07.900 Student rights and responsibilities*

*Goss v. Lopez, 419 U.S. 565 (1975)*

*Revised 01/07*

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### Notice of Regulations

Note: 4 AAC 07.030 requires annual notice regarding district policies concerning student rights and responsibilities.

At the beginning of each school year, the Principal/Head Teacher of each school shall notify all students and parents/guardians in writing of all school rules related to discipline, suspension and expulsion. Staff, students, and parent/guardian shall be notified about district policies and regulations. Transfer students and their parents/guardians shall be notified at the time of enrollment.

### Grounds for Suspension and Expulsion

Note: AS 14.30.045 limits suspension or expulsion for disciplinary reasons to the following list of causes. For additional causes for denial of admission as listed in AS 14.30.045 see BP 5112.2, Exclusions.

A student may be suspended or expelled for the following causes:

1. Continued willful disobedience or open and persistent defiance of reasonable school authority,
2. Behavior, which is in some way harmful to the welfare, safety or morals of other students,
3. Conviction of a felony, which the School Board determines will cause the attendance of the child to be in some way harmful to the welfare or education of other students.

*(cf. 5112.2 - Exclusions from Attendance)*

A student may be suspended or expelled for behavior occurring at any time, including but not limited to the following circumstances:

1. While on school grounds.
2. While going to or coming from school or a school-sponsored activity.
3. During the lunch period, whether on or off the school campus.

### Authority to Suspend

A Superintendent or designee or Principal/Head Teacher may suspend a student from school for any of the acts listed under "Grounds for Suspension and Expulsion" for not more than \_\_\_\_\_ consecutive days.

Suspension may be imposed upon a first offense if the Principal/Head Teacher determines the student's behavior to be in some way harmful to the welfare, safety or morals of other students or the student's presence represents a danger to persons or property or threatens to disrupt the instructional process.

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If the expulsion of a suspended student is being considered by the School Board, the Superintendent or designee may, in writing, extend the suspension until such time as the School Board has made a decision.

*(cf. 5144.2 - Suspension and Expulsion/Due Process - Individuals with Exceptional Needs)*

### **Short Term Suspension Procedures (10 days or less)**

Note: In all student disciplinary suspensions from a school program, a student's constitutional right to procedural due process must be observed. For short term suspensions (10 days or less) the U.S. Supreme Court has held that, at a minimum, a student must be informed of the charge against him/her and given an opportunity to present his/her side of the story. This can be done at an informal meeting between the school official and student. Once accomplished, the school official may take action deemed reasonable. (Goss v. Lopez), The Supreme Court in Goss further indicated that for student suspensions more than ten days, more due process may be required such as the right to call witnesses, put forth evidence and cross examine witnesses.

#### 1. Informal Conference

Suspension shall be preceded by an informal conference conducted by the Superintendent or designee or Principal/Head Teacher, and shall include the student, and whenever practicable, the teacher, supervisor, or school employee who referred the student to the Principal/Head Teacher. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her and shall be given the opportunity to explain his/her version and evidence in support of his/her defense.

If at the end of this discussion the Superintendent or designee or Principal/Head Teacher believes the student is guilty of the misconduct charged, the student may be suspended for 10 days or less.

This conference may be omitted if the Principal/Head Teacher, designee or the Superintendent or designee determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If the pre-suspension conference is not held, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school.

#### 2. Administrative Actions

All requests for student suspension are to be processed by the Principal/Head Teacher of the school in which the student is enrolled at the time of the misbehavior.

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee, who in turn will inform the School Board.

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### 3. Notice to Parents/Guardians

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension.

This notice shall state the reasons for suspension and the date and time when the student may return to school, and may request that the parent/guardian confer with school authorities regarding matters pertinent to the suspension.

No penalties may be imposed on the student for the failure or refusal of the parent/guardian to meet with school authorities. The student may not be denied readmission solely because the parent/guardian failed to meet with school authorities.

### **Long Term Suspension (more than 10 days)**

Where alleged misconduct of a student warrants a suspension of more than 10 days, the student will be provided the opportunity for a hearing as outlined under the expulsion procedure. The long-term suspension procedure does not preclude a student from being suspended for up to 10 days if procedures for short-term suspension have been followed.

A student requesting a hearing regarding a long term suspension will be readmitted in the program (at the end of a short term suspension if applicable) pending the outcome of the hearing except where the superintendent determines that the student's presence in school poses a threat to harm to him or herself or others.

### **Authority to Expel**

A student may be expelled only by the School Board.

The Superintendent or designee or Principal/Head Teacher shall recommend a student's expulsion for any of the following acts, unless the Principal/Head Teacher or Superintendent or designee finds, and reports in writing to the School Board, that expulsion is inappropriate due to particular circumstances which shall be set out in the report of the incident:

1. Causing serious physical injury to another person, except in self-defense.
2. Possession of any firearm, knife, explosive or other dangerous object at school or at a school activity off school grounds.
3. Unlawful sale of any controlled substance.
4. Robbery, extortion, or the conviction of any other felony, which will cause the attendance of the student to be injurious to the welfare or education of other students.

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Exceptional Needs))*

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### Expulsion Procedures

#### 1. Student's Right to Hearing

The student is entitled to a hearing to challenge the recommendation that the student should be expelled. The hearing shall be held within 30 school days after the Principal/Head Teacher or Superintendent or designee determines that cause for expulsion exists.

If the School Board finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

#### 2. Written Notice of the Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten calendar days before the date of the hearing. The notice shall include:

- a. The date and place of the hearing.
- b. A statement of the specific facts and charges upon which the proposed expulsion is based.
- c. A copy of district disciplinary rules, which relate to the alleged violation.
- d. The opportunity for the student or the student's parent/guardian to appear in person and/or to employ and be represented by counsel.
- e. The right to inspect and obtain copies of all documents to be used at the hearing.
- f. The opportunity to confront and question all witnesses who testify at the hearing.
- g. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

#### 3. Conduct of Hearing

- a. Executive Session: The School Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public.
- b. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, so long as a reasonably accurate written and complete transcription of the proceedings can be made.

## Students

- c. **Presentation of Evidence:** While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. Findings of fact shall be based solely on the evidence at the hearing. While no evidence shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure may subject them to an unreasonable risk of harm.
4. In cases where a search of a student's person or property has occurred, evidence describing the reason for conducting the search shall be included in the hearing record.

*(cf. 5145.12 - Search and Seizure)*

### 5. Alternative Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the School Board may appoint a hearing officer or an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the School Board or on the staff of the school in which the student is enrolled.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the School Board.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the School Board. If expulsion is not recommended, the student shall be immediately reinstated.

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the School Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The School Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the School Board may order.

The hearing officer or administrative panel may recommend that the School Board suspend the expulsion (see below).

### 6. Final Action by the School Board

Whether the expulsion hearing is conducted in closed or public session by the School Board, a hearing officer, or an administrative panel, the final action to expel must be taken by the School Board at a public meeting. The School Board shall maintain a record of each expulsion, including its cause.

Upon ordering the expulsion, the School Board may recommend a plan for the student's rehabilitation, which may include:

- a. Periodic review and assessment at the time of application for readmission.

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- b. Recommendations for counseling, employment, community service and other rehabilitation programs.
- c. Such other recommendations as the School Board approves, such as enrollment in a drug rehabilitation program, if appropriate, before returning to school.

*(cf. 6164.3 – Student Mental Health – Medication and Services)*

### 7. Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian.

## Readmission

An expulsion order shall remain in effect until the School Board may order the readmission of the student. Readmission procedures shall be as follows:

1. A written request for review of expulsion action and request for readmission shall be submitted by the parent/guardian to the Superintendent or designee.
2. The Superintendent or designee will hold a conference with the parent/guardian and the student.

At the conference the conditions for readmission will be reviewed. The Superintendent or designee shall verify that the conditions have been met. School regulations will be reviewed and the student and parent/guardian will be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee will transmit the request for readmission to the School Board, along with his/her recommendation.
4. The Superintendent or designee will notify the student or parent/guardian, by registered mail, of the School Board's decision regarding readmission.

## Suspension of Expulsion

1. The School Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class or program appropriate for the student's rehabilitation. When deciding whether to suspend an expulsion, the School Board shall take into account the following criteria:
  - a. The student's previous behavior.
  - b. The seriousness of the misconduct.
  - c. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program.

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2. During this period the student shall be on probationary status.

The suspension of expulsion order may be revoked by the School Board if the student commits any of the acts, which would constitute grounds for suspension or expulsion or violates any of the district's rules and regulations governing student conduct.

When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.

Upon satisfactory completion of the rehabilitation assignment, the School Board shall reinstate the student in a district school. Upon rein-statement, the School Board may order the expungement of any or all records of the expulsion proceedings.

Suspension of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order.

The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian.

*Revised 01/07*

## Students

Note: The Individuals with Disabilities Education Act (“IDEA”), as amended in 2004, sets forth specific requirements for the discipline of students with disabilities. In 2006, federal regulations were amended to provide additional guidance to schools in implementing disciplinary sanctions.

A student receiving special education services is expected to follow the same behavior and conduct rules applicable to all students and is subject to discipline as set forth in those rules. The procedural safeguards established by district policies and regulations shall be observed in considering the suspension of special education students. In addition, students receiving special education may have additional rights relating to discipline and continuing services as set forth in the Individuals with Disabilities Education Act (“IDEA”).

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a student with a disability who violates behavior and conduct rules.

A student who has not been identified as a student with disabilities pursuant to the IDEA and who has violated the district’s disciplinary procedures may assert the procedural safeguards under this administrative regulation only if the district had a basis of knowledge that the student had a disability before the behavior occurred.

Note: The district shall be deemed to have knowledge that the student has a disability if one of the following conditions exists: (20 USC 1415)(k)(5); (34 C.F.R. 300.534).

1. The parent/guardian has expressed concern in writing to supervisory or administrative personnel, or the student’s teacher, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education.
3. The teacher of the student or other district personnel have expressed specific concerns about a pattern of behavior by the student directly to the district’s Director of Special Education or to other supervisory personnel.

A district is not deemed to “have knowledge” as specified in items #1-3 above if the parent/guardian has not allowed an evaluation or has refused special education services; or, as a result of receiving such information, the district conducted an evaluation and determined that the student was not a student with a disability.

If it is determined that the district did not have knowledge that the student is a student with a disability, then the student shall be disciplined in accordance with procedures established for students without disabilities.

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

*(cf. 5144.1 - Suspension and Expulsion)*  
*(cf. 6164.4 – Child Find)*

### **Removal for Up to 10 Days**

District personnel may suspend a special education student for up to ten school days per year without providing educational services. The days need not be consecutive. Removals for up to ten school days may be out of school suspensions, or, alternatively, an interim alternative educational setting or another setting. Parents must be immediately notified of the discipline decision.

### **Removal for More Than 10 Days or Placement in an Interim Alternative Educational Setting**

Note: In 2006, the federal regulations were changed so that removal in a single school year in excess of 10 days does not automatically constitute a change in placement requiring the provision of educational services and a manifestation determination. Specifically, a student with disabilities may be removed for up to 10 consecutive school days, and there may be additional removals of up to 10 consecutive school days for separate incidents, so long as the removals do not constitute a change in placement. 34 C.F.R. 300.530. A change in placement occurs if: 1) the removal is for more than 10 consecutive school days; or 2) a series of removals constitutes a pattern because they total more than 10 school days in a year; the child's behavior is substantially similar to that in previous incidents; and additional factors such as length of each removal, total time of removal from school, and proximity of removals to one another. The district is responsible for determining whether a pattern of removals constitutes a change in placement. That determination is subject to review through due process or court proceedings. 34 C.F.R. § 300.536.

Students whose suspension constitutes a change in placement must continue to receive a free and appropriate public education. This means that beginning with the change in placement for disciplinary purposes, educational services must continue to be provided and procedural protections are triggered.

A change in placement occurs if:

- 1) The removal is for more than 10 consecutive school days; or
- 2) The student has been subjected to a series of removals that constitute a pattern because:
  - a) The series of removals total more than 10 school days in a school year,
  - b) The student's behavior is substantially similar to the behavior in previous incidents that resulted in removal; and
  - c) Such additional factors support a pattern such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

The district shall determine whether a pattern of removals constitutes a change in placement. This determination is subject to review through due process or judicial proceedings.

Note: Districts may not impose repeated short-term suspension as a means of avoiding the normal change in placement procedures governing long-term removals. Such treatment could result in a finding that the district has changed the placement of a student with a disability without complying with the necessary formalities and safeguards.

The parents shall be immediately notified of the discipline decision and provided a notice of procedural safeguards on the day the change in placement decision is made.

### **Manifestation Determination**

When a change in placement is contemplated for disciplinary purposes, the district must conduct a manifestation determination.

#### **A. Timeframe for Making Determination**

Within ten (10) school days of any decision to change the placement of a student with a disability because of a violation of student conduct rules, a manifestation determination shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action.

#### **B. How Determination is Made**

In making a manifestation determination, the district, the parent, and relevant members of the student's IEP team (as determined by the district and the parent) must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. If the conduct in question was the direct result of the district's failure to implement the IEP.

#### **C. Manifestation is Found**

If the district, the parent, and relevant members of the IEP team determine that either of the conditions above is met, the conduct shall be determined to be a manifestation of the student's disability. If the team determines that the student's conduct is a manifestation, then the child's placement cannot be changed except via the IEP team process. If a manifestation is found, the IEP team must either:

1. Conduct a functional behavioral assessment, unless the district had already conducted one prior to the behavior leading to the change in placement, and implement a behavioral intervention plan for the student; or
2. If a behavior intervention plan has already been developed, review the plan and modify it, as necessary, to address the behavior; and

3. Except under special circumstances for drugs, weapons or serious bodily injury as set forth below, return the student to the placement from which the student was removed, unless the parent and the district agree to a change of placement as part of the behavior intervention plan.

D. No Manifestation is Found

If it is determined that the conduct is not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration as applied to students without disabilities, except that a free appropriate public education must continue to be provided. The educational services may be provided in an alternate setting.

**Drugs, Weapons, or Serious Bodily Injury**

For violations of school policies involving weapons, drugs, or serious bodily injury, school personnel may remove a student to an interim alternative educational setting for up to a maximum of 45 school days without regard to whether the behavior is a manifestation of the student's disability. The interim alternative educational setting shall be determined by the IEP team.

Removal under these special circumstances is available for infractions where a student:

1. Carries or possesses a weapon to school or at school, on school premises, or to or at a school function; or
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
3. Has inflicted serious bodily injury upon another person while at school, or on school premises, or at a school function.

Note: The following definitions are applicable to special circumstance removals as set forth above:
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Controlled Substance: The term "controlled substance" means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812 (c)).

Illegal Drug: The term "illegal drug" means a controlled substance but does not include a controlled substance that is legally possessed or used under supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

Weapon: The term "weapon" has the meaning given the term "dangerous weapon" under 18 USC section 930(g)(2) which means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

Serious bodily injury: The term “serious bodily injury” has the meaning given the term “serious bodily injury” under 18 USC 1365(h)(3) which means bodily injury involving — (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

School Day: The term “school day” is defined as any day, including a partial day, that students are in attendance at school for instructional purposes. 34 CFR 300.309(c)(1).

### **Disciplinary Appeals**

Note: If the manifestation determination or the interim setting is challenged by the parent, an expedited hearing must be held. The child is to stay in the interim alternative setting pending the decision of the hearing officer or until the expiration of the time period provided for, unless the parent and district agree otherwise. If the district places the child in an interim setting and the district proposes a longer-term change in placement that is challenged by the parent, the child goes back to the current placement (the child’s placement prior to the interim alternative educational setting). However, if school personnel feel it is dangerous for the child to remain in the current placement during the pendency of the due process proceedings, the district may request an expedited hearing.

In accordance with IDEA, the parent of a student with a disability who disagrees with any decision regarding a change in placement or a manifestation determination may request a due process hearing. Similarly, the district may request a hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the student or to others.

A hearing officer shall hear, and make a determination regarding, an appeal. The State of Alaska Department of Education and Early Development and the district shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

In making the determination on appeal, the hearing officer may order a change in placement of a student with a disability. In such situations, the hearing officer may:

1. Return the student to the placement from which the student was removed; or
2. Order a change in placement to an appropriate alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

### **Placement during appeals:**

When an appeal has been requested by either the parent or the district, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for deciding the hearing, whichever occurs first, unless the parent and the district agree otherwise.

Dangerousness: A hearing officer may place a student in an appropriate interim alternative educational setting on the grounds of dangerousness if there is a substantial likelihood of injury to the student or others if the student remains in his current placement. Such placement may be ordered for up to 45 days at a time.

Note: The standard for determining dangerousness provides that a hearing officer may order placement in an interim alternative educational setting for not more than 45 days if the hearing officer:

- (1) determines that the district has demonstrated by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or to others;
- (2) considers the appropriateness of the student's current placement;
- (3) considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services;
- (4) determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of the IDEA and its regulations.

*Revised 2/08*

Law enforcement officers may interview students on school premises, as suspects or witnesses. When such an interview is requested, the Principal/Head Teacher or designee shall ascertain the officer's identity, official capacity, and the authority under which he/she acts. If the officer needs to interview the student immediately, the Principal/Head Teacher or designee shall accommodate the questioning in a way that causes the least possible disruption to the school process, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

Note: Since parents/guardians do not need to be informed or to give consent before interviews on school premises, the following paragraph is optional.

Except when prohibited by law enforcement, such as in cases of child abuse or neglect, the Principal/Head Teacher or designee shall attempt to notify the student's parent/guardian when a law enforcement officer requests an interview on school premises.

At the law officer's discretion and with the student's approval, the Principal/Head Teacher or designee may be present during the interview.

When a site administrator releases a student into the custody of a law enforcement officer, he/she shall immediately notify the parent/guardian or responsible relative of the student's release and the place to which the student is reportedly taken, except when prohibited by law enforcement such as in cases of suspected child abuse.

Whenever a student is suspected of being a victim of child abuse and is being removed from the school premises, the Superintendent or designee shall give the telephone number and address of the student's parent/guardian to the law enforcement officer so that the appropriate authorities may contact the parent/guardian.

*(cf. 5141.4 - Child Abuse and Neglect)*

*(cf. 5142 - Safety)*

Note: 4 AAC 07.010 requires districts to adopt policies regarding student rights and responsibilities. The U.S. Supreme Court decision New Jersey v. T.L.O., holds that the legality of a student search will depend on the reasonableness of the search. Determining the reasonableness of any search involves determining whether the search was justified at its inception and whether, as conducted, it was reasonably related in scope to the circumstances that justified the interference in the first place. Under ordinary circumstances, the search of a student by a school official is justified at its inception when there is reason to suspect that it will turn up evidence of a student's violation of the law or school rules. The search is permissible in scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the student's age or sex and the nature of the infraction. The following sample policy may be revised as needed with advice from legal counsel.

The School Board is committed to maintaining an environment for students and staff, which is safe and conducive to learning and working. The Board recognizes that incidents may occur where the health, safety and welfare of students and staff are jeopardized and which necessitate the search and seizure of students, their property, or their lockers by school officials.

*(cf. 5145.11 - Questioning and Apprehension)*

The Board authorizes school officials to conduct searches when there are reasonable grounds or suspicion that the search will uncover evidence that the student is violating the law or the rules of the district or the school.

In determining whether reasonable cause for a search exists school officials shall consider:

1. The student's age and previous behavior patterns.
2. The prevalence and seriousness in the school of the problem to which the search was directed.
3. The urgency requiring the search without delay.
4. The substantive value and reliability of the information used as a justification for the search.
5. The location of the student at the time of the incident which gave rise to reasonable suspicion.

The Board urges that discretion, good judgment and common sense be exercised in all cases of search and seizure. Before searching a student's possessions, school officials will seek, but need not receive, the freely offered consent of the student. Whenever reasonably possible, a search of a student's person shall be conducted in the presence of the student's parent/guardian, a staff member, and/or the Principal/Head Teacher. The parent/guardian of the student being searched shall be notified by the district as soon after the search as possible.

Note: Districts should consult with legal counsel prior to the implementation of a search through the use of drug-sniffing dogs or metal detectors.

The use of drug-detection dogs and metal detectors, or similar detection devices, may be used upon express authorization of the Board/Superintendent.

Because lockers are under the joint control of the student and the district, school officials shall have the right and ability to open and inspect any school locker without student permission when they have reasonable suspicion that the search will disclose evidence of illegal possessions or activity or when odors, smoke, fire and/or other threats to student health, welfare or safety emanate from the locker.

Note: The courts have repeatedly held that the standard of reasonable grounds applies to unannounced locker searches. Some districts, however, conduct regular, announced locker inspections. The following paragraph is optional.

For health and safety reasons, a general inspection of school properties such as lockers and desks may be conducted on a regular, announced basis. Any items contained in a locker shall be considered to be the property of the student to whom the locker was assigned. Notice of this policy shall be given to all students when lockers are assigned. Notice will also be posted in prominent locations throughout the school.

*(cf. 5131.6 - Drugs, Alcohol, Tobacco)*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*Legal Reference:*

ALASKA STATUTES

*14.03.105 Search of school lockers*

ALASKA ADMINISTRATIVE CODE

*4 AAC 07.010 - 4 AAC 07.900 Student rights and responsibilities*

*New Jersey v. T.L.O., 469 U.S. 325 (1985)*

*Revised 9/99*

**This checklist is to be used in conjunction with a student search incident.**

1. What factors caused you to have a reasonable suspicion that a search of this student, of the student's effects, will provide evidence that the student has violated or is violating the law or rules of the school?

A. Eyewitness account:

- 1. By whom \_\_\_\_\_
- 2. Date/time \_\_\_\_\_
- 3. Place \_\_\_\_\_
- 4. What was observed \_\_\_\_\_  
\_\_\_\_\_

B. Information from a reliable source:

- 1. From whom information received \_\_\_\_\_
- 2. Dated and time received \_\_\_\_\_
- 3. How was information received \_\_\_\_\_
- 4. Who received the information \_\_\_\_\_
- 5. Described information received \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Suspicious behavior. Please explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Date and time search was conducted \_\_\_\_\_

E. Location (where search was conducted) \_\_\_\_\_

F. Reason given to student for search \_\_\_\_\_

G. Was student's consent requested? \_\_\_\_\_ Given? \_\_\_\_\_

2. Reasonableness of search in terms of scope and intrusiveness

A. What were (are) you searching for? \_\_\_\_\_  
\_\_\_\_\_

B. Age and sex of student \_\_\_\_\_

C. Exigency of the situation \_\_\_\_\_

D. What type of search was (is being) conducted?  
\_\_\_\_\_

E. Who conducted (is conducting) the search? \_\_\_\_\_  
Position: \_\_\_\_\_ Sex: \_\_\_\_\_

F. Who witnessed the search? \_\_\_\_\_

3. Explanation of search

A. Describe the time and location of the search \_\_\_\_\_  
\_\_\_\_\_

B. Describe exactly what was searched \_\_\_\_\_

C. What did the search yield? \_\_\_\_\_

D. What was seized? \_\_\_\_\_

E. Was anything released to police? \_\_\_\_\_

F. Were parents notified of the search, including the reasons and the scope?  
\_\_\_\_\_

*Added 9/98*

Note: The No Child Left Behind Act of 2001 significantly changed the Protection of Pupil Rights Act, a/k/a the Hatch Amendments. The Protection of Pupil Rights Act now requires any school district “that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights].” (20 U.S.C. § 1232h(c)(1)). “Any applicable program” generally refers to any federal program administered by the U.S. Department of Education (20 U.S.C. § 1221(c)). “Consultation with parents” is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy’s adoption.

The Board believes that personal information gathered from a student may be helpful or necessary to facilitate school safety, student welfare, or the continued success of academic programs. However, these goals must be balanced with the expectations of privacy of our students and their families. The following procedures shall be followed so that parents may make informed choices regarding the disclosure or collection of personal information from their student.

### **Student Surveys**

Note: Both state and federal law require prior written parental consent before certain surveys may be administered to students. The following policy sets forth the notice and consent provisions required by law and identifies when parental consent and notice are required. Additionally, state law provides that no student may be required to participate in a questionnaire or survey if the student objects to participation. AS 14.03.110.

The Board recognizes that student surveys administered in the public schools may be beneficial for the purposes of study, the improvement of education, for class assignment, and to assist in providing guidance or counseling services to students and their families. In administering surveys or questionnaires to the District’s students, the District shall comply with state and federal laws concerning parental notice and consent.

Surveys which inquire into personal or private family affairs of a student, which are not a matter of public record or subject to public observation will not be administered to students without prior parental consent. In addition, no student may be required to participate in a federal survey, analysis, or evaluation as part of any program administered by the U.S. Department of Education, without prior written parent permission, if that survey inquires into the following areas:

- (1) Political affiliations or beliefs of the student or student’s parents;
- (2) Mental or psychological problems potentially embarrassing to the student or the student’s family;
- (3) Sex behavior and attitudes;
- (4) Illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom students have close family relationships;
- (6) Legally recognized privileges or analogous relationships, such as those of lawyers, physicians, and ministers;
- (7) Religious practices, affiliations or beliefs of the student or the student’s parent; or
- (8) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such a program).

**Annual Consent:** The District may seek written parent/guardian permission, on an annual basis, for the administration of anonymous student surveys. Consent to anonymous surveys obtained annually will be valid until the beginning of the subsequent school year, or until written notice of withdrawal of consent is provided to the school Principal/Head Teacher. Parents or guardians shall receive at least two weeks' notice prior to the administration of an anonymous questionnaire or survey.

**Consent for Surveys that are Not Anonymous:** Prior to the administration of a survey that is not anonymous and which inquires into personal or private family affairs not a matter of public record or public observation, the District shall obtain written permission from the parent/guardian at least two weeks prior to the survey.

**Notice Requirements:** At least two weeks prior to the administration of a questionnaire or survey, whether anonymous or not, that requires parental consent as identified above, the school shall provide each student's parent or legal guardian with written notice explaining:

- (1) How and where the parent may preview the survey;
- (2) How the survey will be administered;
- (3) How the survey results will be used;
- (4) Who will have access to the questionnaire or survey; and
- (5) For those surveys which are not anonymous, explain that written parental consent is required before participation in the particular survey, and include a permission form to be returned by the parents, with instructions that the form must be returned at least two weeks before the survey.

### **Instructional Material**

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child's educational curriculum within a reasonable time of their request.

The term "instructional material" means instructional content that is provided to a student regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

### **Physical Exams or Screenings**

Note: The Protection of Pupil Rights Act states that student's parent(s)/guardian(s) may refuse to allow their child or ward to participate in "non-emergency, invasive physical examination or screening." (20 U.S.C. § 1232h(c)(2)(A)(ii).

A student's parent(s)/guardian(s) may refuse to allow their child to participate in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students. The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The above paragraph does not apply to any physical examination or screening that:

1. Is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 *et seq.*)
3. Is otherwise authorized by board policy.

(*cf.* 5141 – Health Care and Emergencies)

(*cf.* 5141.3 – Health Examinations)

(*cf.* 5141.31 – Immunizations)

(*cf.* 5131.61 – Drug/Alcohol Testing Policy)

### Collection of Personal Information from Students for Marketing

Note: Federal law allows schools to collect personal information from students for marketing (20 U.S.C. § 1232h(c)(1)(E)), provided the board, by policy, allows parents to preview the instrument and opt their child out of the activity. **Option 1** prohibits the collection of personal information from students for marketing purposes. **Option 2** retains this option and contains the required notice provisions.

The term “personal information” means individually identifiable information including: (1) a student or parent’s first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, or (4) a Social Security identification number.

No school official or staff member shall administer or distribute to students a survey or other instrument for the purpose of collecting personal information for marketing or sale.

The above paragraph does not apply to the collection, disclosure or use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following:

1. College or other post-secondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
5. The sale by students of products or services to raise funds for school-related or education-related activities.

6. Student recognition programs.

Notification of Rights and Procedures

The Superintendent or designee shall notify parent(s)/guardian(s) of:

1. This policy, as well as its availability upon request.
2. How to opt their child out of participation in activities as provided in this policy. This notification shall be given parent(s)/guardian(s) at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

Note: The rights provided to parent(s)/guardian(s) in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor.

*Legal Reference:*

ALASKA STATUTES

*14.03.110 Questionnaires and surveys administered in public schools.*

UNITED STATES CODE

*20 U.S.C. 1232(h) (Hatch Amendments)*

*No Child Left Behind Act, Title II, § 1061, P.L. 107-110 (2001), amending the Protection of Pupil Rights Act, 20 U.S.C. § 1232(h)*

*Goals 2000: Educate America Act, Pub. L. No. 103-227, 108 Stat. 125 (1994)*

*Revised 1/03*

Note: 4 AAC 07.010 **mandates** districts to adopt policies regarding student rights and responsibilities. Limiting a student's constitutional right to freedom of speech involves balancing the right to free expression against the school's right to maintain discipline or order in the school. When a student speaks as an individual, school officials cannot censor that expression unless it creates a substantial disruption to the school. For student speech connected to the curriculum or school activities, school officials have discretion to regulate the speech.

Free inquiry and exchange of ideas are essential parts of a democratic education. The School Board respects students' rights to express ideas and opinions, take stands, and support causes, whether controversial or not, through their speech, their writing, and the printed materials they choose to post or distribute.

Student liberties of expression shall be limited only as allowed by law in order to maintain an orderly school environment and to protect the rights, health and safety of members of the school community.

*(cf. 1325 - Advertising and Promotion)*

*(cf. 6145.5 - Organizations/Associations)*

Note: Under the No Child Left Behind Act, each school district receiving federal funds must certify in writing to the Alaska Department of Education and Early Development that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools. Under NCLB, a school's policy must be in compliance with the current state of the law as identified in the U.S. Department of Education's Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools, released February 7, 2003. The following language expressly incorporates the Guidance.

Student free speech extends to religious expression. It is the policy of the School Board not to prevent, or otherwise deny participation in, constitutionally protected prayer in district schools, consistent with guidance issued by the U.S. Department of Education and applicable judicial decisions interpreting the religion clauses of the First Amendment of the U.S. Constitution. This policy supersedes any other School Board policy that is inconsistent with it.

The Superintendent or designee shall develop due process procedures for resolving disputes regarding student freedom of expression.

*(cf. 6145.3 - Publications)*

**Legal Reference:**

ALASKA ADMINISTRATIVE CODE

4 AAC 07.10 - 4 AAC 07.900 *Student rights and responsibilities*

*Breese v. Smith*, 501 P.2d 159 (Alaska 1972)

*Hazelwood School District v. Kuhlmer*, 484 U.S. 260 (1988)

*Tinker v. Des Moines*, 393 U.S. 503 (1969)

*Bethel School District v. Fraser*, 478 U.S. 675 (1986)

*Elementary and Secondary Education Act*, 20 U.S.C. § 9524, as amended by the *No Child Left Behind Act of 2001 (P.L. 107-110)*

Revised 1/04

Students are prohibited from making any expressions or distributing or posting any materials which are obscene, libelous or slanderous, or which demonstrably incite students to commit unlawful acts on school premises, violate school rules, or substantially disrupt the school's orderly operation.

All printed matter and petitions distributed, circulated or posted on school property shall bear the name and the address or contact location of the sponsoring organization or individual.

Printed materials or petitions may be distributed only:

1. Before school begins, during lunchtime, or after dismissal.
2. In locations that do not obstruct the normal flow of traffic within school or at entrances.
3. Without un-due noise.

No student shall use coercion to induce students or any other persons to accept printed matter or to sign petitions. No funds or donations shall be collected for any material distributed.

Students violating any of these regulations are subject to disciplinary action.

*(cf. 5144 - Discipline)*

### **Appeals**

The following procedures shall be used to address disputes regarding student freedom of expression:

1. The student and faculty member shall first attempt to resolve the problem by themselves.

If the student and faculty member are unable to resolve the dispute, the student and/or faculty member may bring the matter to the Principal/Head Teacher or designee, who shall hear both sides and strive to resolve the dispute as quickly as possible.

If the Principal/Head Teacher or designee is unable to resolve the dispute, the student and/or faculty member may bring the matter to the Superintendent or designee, who shall hear both sides and strive to resolve the dispute as quickly as possible.

If the Superintendent or designee is unable to resolve the dispute, the student and/or faculty member may ask for a hearing to determine whether a deprivation of freedom of expression was justified under the above regulations. This hearing shall be held before the School Board or impartial person(s) appointed by the School Board as soon as possible after it is requested. Both sides shall be given an opportunity to demonstrate that School Board policy and administrative regulations were properly applied.

Note: 4 AAC 51.270 mandates districts to adopt policies to assure equal opportunities and nondiscrimination.

District programs and activities shall be free from discrimination with respect to sex, race, color, religion, national origin, ethnic group, marital or parental status, and physical or mental disability. The School Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, vocational education and other activities.

*(cf. 0410 – Nondiscrimination)*  
*(cf. 1312.3 – Uniform Complaint Procedures)*  
*(cf. 5145.7 – Sexual Harassment)*

Separate arrangements may be made for students according to sex during sex education programs and physical education activities involving bodily contact. (AS 14.18.050)

School staff and volunteers must be especially careful to guard against unconscious sex discrimination and stereotyping in instruction, guidance and supervision.

*(cf. 6164.2- Guidance Services)*

*Legal Reference:*

ALASKA STATUTES

*14.18.010 Discrimination based on sex and race prohibited*  
*14.18.050 Discrimination in course offerings prohibited*  
*14.18.090 Enforcement by board of education*

ALASKA ADMINISTRATIVE CODE

*4 AAC 06.520 Recreational and athletic activities*  
*4 AAC 06.530 Guidance and counseling services*  
*4 AAC 06.540 Course offerings*  
*4 AAC 06.600 Definitions*  
*4 AAC 51.270 Equal opportunities*

*Revised 9/97*

Note: In 1999, the U.S. Supreme Court ruled that a school district can be liable under Title IX when staff members ignore student-to-student sexual harassment. The court found that school districts can be liable when school officials know about and are deliberately indifferent to sexual harassment “so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school.” This ruling makes it more important than ever to educate students and staff on preventing and handling student-to-student sexual harassment. By setting a liability standard based on “deliberate indifference,” the Court has made it possible for school districts to mount a defense based on a policy defining and prohibiting sexual harassment and a grievance procedure that is readily accessible to students.

Note: Districts should be aware that when a student misses school or withdraws from a course to avoid sexual harassment, he/she may be deprived of equal educational opportunities.

The School Board recognizes that sexual harassment can cause embarrassment, feelings of powerlessness, loss of self-confidence, reduced ability to perform schoolwork, and increased absenteeism or tardiness.

To promote an environment free of sexual harassment, the Principal/Head Teacher or designee shall take appropriate actions such as removing vulgar or offending graffiti, establishing site rules, and providing staff inservice or student instruction and counseling. Teachers shall discuss this policy with their students in age-appropriate ways and shall assure them that they need not endure any form of sexual harassment.

*(cf. 5131.5 - Vandalism, Theft and Graffiti)*

*(cf. 5137 - Positive School Climate)*

The Board shall not tolerate the sexual harassment of any student by any other student or any district employee. Any student or employee who is found guilty of sexual harassment shall be subject to disciplinary action.

*(cf. 4119.11 - Sexual Harassment)*

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

Students or staff should immediately report incidences of sexual harassment to the Principal/Head Teacher or designee. The Superintendent or designee shall promptly investigate each complaint of sexual harassment in a way that ensures the privacy of all parties concerned. In no case shall the student be required to resolve the complaint directly with the offending person.

Students  
**SEXUAL HARASSMENT**

BP 5145.7(b)

Notice of this policy will be circulated to all district schools and departments and incorporated in teacher and student handbooks.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 1312.3 - Complaints Concerning Discrimination)*

*Legal Reference*

*Davis v. Monroe County Bd. of Educ., 119 S.Ct. 1661 (1999)*

*Ellison v. Brady, 924 F.2d 872 (9th Cir., 1991)*

*Franklin v. Gwinnett, 503 U.S. 60 (1992)*

*Meritor Savings Bank v. Vision, 477 U.S. 57 (1986)*

*Revised 9/99*

Note: The following sample regulation may be expanded or deleted.

Types of conduct which are prohibited in the district and which may constitute sexual harassment include:

1. Unwelcome sexual flirtations or propositions.
2. Verbal abuse of a sexual nature.
3. Sexual or “dirty” jokes.
4. Graphic verbal comments about an individual's body.
5. Sexually degrading words used to describe an individual.
6. Display of sexually suggestive objects or pictures in the educational environment.
7. Unwelcome touching, such as patting, pinching, or constant brushing against another’s body.
8. Graffiti of a sexual nature.
9. Sexual gestures.
10. Touching oneself sexually or talking about one’s sexual activity in front of others.
11. Spreading rumors about or rating other students as to sexual activity, performance or sexual orientation.
12. Any act of retaliation against an individual who reports a violation of the district's sexual harassment policy or who participates in the investigation of a sexual harassment complaint.

*Revised 9/01*

Married, pregnant and parenting students in the district shall have the same educational opportunities as all students.

The School Board believes that pregnancy and parenting should not be a barrier to education or a reason for dropping out of school. Rather than ending the teenager's need for education, pregnancy and parenting increase the need to cope with adult responsibilities and to prepare for an economically self-sufficient future.

Note: Title IX of federal law forbids sex discrimination in any school receiving federal assistance. No such school may deny participation in a class or extracurricular activity because of a student's pregnancy, childbirth, false pregnancy, abortion, parenthood or marital status unless the student requests otherwise. If a student's physician requires her to be absent for a period of time due to pregnancy, childbirth or abortion, the school must allow such leave and subsequently reinstate her to the status she had when the leave began. The school cannot require pregnant students to attend special programs for pregnant minors.

The following paragraph represents possible program choices for this special, high-risk student group and should be modified to represent the programs currently provided in your school system.

The instructional program provided for pregnant students shall be determined on a case-by-case basis and shall be appropriate to the student's individual needs. The student may continue attending school in the regular classroom setting, may attend a separate program established for pregnant students, or may pursue a home instruction or correspondence study program.

Wherever possible, program staff shall work closely with the pregnant student's partner and/or parents/guardians and shall collaborate with local public and private agencies in order to expand the student's learning opportunities and support system.

After the birth of her baby, the student may:

1. Return to regular school program.
2. Remain in an alternative program.
3. Request exemption from attendance because of personal reasons, which may relate to the care of the child.
4. Participation in extra curricular activities will be considered on a case-by-case basis.

*(cf. 5112.1 - Exemptions)*

*Legal Reference:*

TITLE IX, Education Amendments of 1972