May 25, 2022

SECOND READING

Linden Public Schools
Linden, New Jersey

Policy

FILE CODE: 5131
__X__ Monitored
__X__ Mandated
__X__ Other Reasons

CONDUCT/DISCIPLINE

The board believes that an effective instructional program requires an orderly school environment and that the effectiveness of the educational program is, in part, reflected in the behavior of students. The board approved code of student conduct is established to achieve the following purposes:

A. Foster the health, safety, and social and emotional well-being of students;

B. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;

C. Promote achievement of high academic standards;

D. Prevent the occurrence of problem behaviors;

E. Establish parameters for the intervention and remediation of problem student behaviors at all stages of identification; and

F. Establish parameters for consistent responses to violations of the code of student conduct that take into account, at a minimum, the severity of offenses, the developmental ages of student offenders and students' histories of inappropriate behaviors as appropriate.

The board of education expects students to conduct themselves in keeping with their level of maturity, with a proper regard for the rights and welfare of other students, for school personnel, for the educational purpose underlying all school activities, and for the care of school facilities and equipment. Students are required to conform to reasonable standards of socially acceptable behavior; respect the person, property and rights of others; obey constituted authority and respond to those who hold that authority.

The board of education believes that standards of student behavior must be set cooperatively by interaction among the students, parents/guardians, staff and community, producing an atmosphere that encourages students to grow in self-discipline. Such an atmosphere must include respect for self and others, as well as for district and community property.

Board policy requires each student of this district to adhere to the rules and regulations established by the administration and to submit to such disciplinary measures as are appropriately assigned for infraction of those rules. The chief school administrator shall provide to students and their parents/guardians the rules of this district regarding student conduct and the sanctions that may be imposed for breach of those rules. Provisions shall be made for informing parents/guardians whose primary language is other than English.

The chief school administrator shall establish the degree of order necessary to the educational program in which students are engaged.

Code of Conduct

The chief school administrator shall oversee the development of and the board shall approve a code of

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student conduct which establishes standards, policies and procedures for positive student development and student behavioral expectations on school grounds, including on a school bus or at school sponsored functions. The code of conduct may be based on parent/guardian and student and community involvement. The chief school administrator has the right and authority to impose a consequence on a student for conduct away from school grounds that is consistent with the board's approved code of student conduct, pursuant to N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.5.

This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2, and when the conduct which is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school. The board shall direct development of detailed regulations suited to the age level of the students and the physical facilities of the individual schools.

The district code of conduct shall contain:

A. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance;

B. A description of behaviors that will result in suspension or expulsion;

C. A description of the students' rights to:

1. Advance notice of behaviors that will result in suspensions or expulsions;
2. Education that supports student development into productive citizens;
3. Attendance in safe and secure school environment;
4. Attendance in school irrespective of marriage, pregnancy, or parenthood;
5. Due process and appeal procedures in accordance with law and board policy;
6. Parent notifications consistent with board policy and law for law enforcement interviews (5145.11 Questioning and Apprehension), short-term and long-term suspension (5114 Suspension and Expulsion), due process and appeal procedures, and attendance (5113 Attendance, Absences and Excuses);
7. Records and privacy protections (5125 Student Records).

D. A description of comprehensive behavioral supports that promote positive student development and assist each student in fulfilling the district behavioral expectations established including:

1. Positive reinforcement for good conduct and academic success;
2. Supportive interventions and referral services;
3. Remediation of problem behavior that takes into account the behavior's nature, the students' developmental ages and the students' histories of problem behaviors and performance; and
4. Behavioral interventions and supports for students with an IEP or accommodation plans.

E. A description of responses to violations of behavioral expectations that, at a minimum, are graded according to the severity of the offenses, and consider the developmental ages of the student offenders and their histories of inappropriate behaviors that shall:

1. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
2. Be consistent with other responses as required by law for serious offences including firearms, weapons and assault offenses;
3. Ensure that the code of student conduct is applied equitably without regard to race, color, religion, ancestry, national origin, nationality, sex, gender, sexual orientation, gender identity or expression, marital, domestic-partnership, or civil-union, mental, physical, or sensory disability, or any other

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distinguishing characteristic;

4. Be consistent with the provisions of N.J.S.A. 18A:6-1 regarding the corporal punishment of pupils.

F. Expectations and consequences consistent board policies and procedures 5113 Attendance, Absences and excuses and 5131.1 Harassment, Intimidation and Bullying;

G. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to serve the community.

A student may be denied privileges such as participation in extracurricular activities, school functions, sports, graduation exercises or other privileges as disciplinary sanctions in order to maintain the order and integrity of the school environment.

Student Behavioral Infractions

Students who display chronic behavioral or academic problems may be referred to the child study team by the chief school administrator for an evaluation to determine disability or the need for other services. Such referrals shall be in strict accordance with the due process regulations prescribed by the administrative code. Students so identified shall be provided with appropriate programs and services as prescribed by the child study team.

A student whose presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process, may be suspended in accordance with N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.2, N.J.A.C. 6A:16-7.3 or expulsion in accordance with N.J.A.C. 6A:16-7.4, following due process. However, one incident alone is not sufficient cause for an expulsion.

Any student who commits an assault (as defined by N.J.S.A. 2C:12-1) upon a board member, teacher, administrator or other employee of the board of education shall be suspended from school immediately according to procedural due process, and suspension in accordance with N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.2, N.J.A.C. 6A:16-7.3 or expulsion in accordance with N.J.A.C. 6A:16-7.4. However, one incident alone is not sufficient cause for an expulsion. Proceedings shall begin no later than 30 calendar days from the date of the student's suspension.

The chief school administrator or his or her designee shall take appropriate measures to ensure that minority and male students shall not be disproportionately represented in detentions, suspensions, and expulsions.

Substance Abuse

In accordance with statute and code, penalties shall be assigned for use, possession and distribution of proscribed substances and drug paraphernalia. The penalties shall be graded according to the severity of the offense in accordance with policy 5131.6 Substance Abuse. Infractions shall be reported to the local law enforcement agency in accordance with the district's memorandum of agreement. Confidentiality shall be protected in accordance with federal and state law.

Weapons Offenses

Any student who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property or on a school bus or at a school-sponsored function shall be immediately removed from the school's regular education program for a period of not less than one calendar year. The chief school administrator may modify this suspension on a case-by-case basis. Each student so removed shall be placed in an alternative educational program or on home instruction pending alternative education program placement and shall

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be entitled to a hearing before the board. The hearing shall take place no later than 30 days following the day the student is removed from the regular education program and shall be closed to the public.

The principal shall be responsible for the removal of such students and shall immediately report them to the chief school administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

The chief school administrator shall determine at the end of the year whether the student is prepared to return to the regular education program, in accordance with N.J.A.C. 6A:16-5.5(i).

Teaching staff members and other employees of this board having authority over students shall take such lawful means as may be necessary to control the disorderly conduct of students in all situations and in all places where such students are within the jurisdiction of this board.

**Note: The following content on hazing is required for school districts and charter schools with a high school and/or middle school.*

Hazing - Definitions

"Hazing" means conduct in connection with an initiation of applicants to or members of a student or fraternal organization where a person knowingly or recklessly:

A. Causes, coerces, or otherwise induces another person to commit an act that violates federal or State criminal law;

B. Causes, coerces, or otherwise induces another person to consume any food, liquid, alcoholic liquid, drug or other substance which subjects the person to a risk of emotional or physical harm or is otherwise deleterious to the person's health;

C. Subjects another person to abuse, mistreatment, harassment, or degradation of a physical nature, including, but not limited to, whipping, beating, branding, excessive calisthenics, or exposure to the elements;

D. Subjects another person to abuse, mistreatment, harassment, or degradation of a mental or emotional nature, including, but not limited to, activity adversely affecting the mental or emotional health or dignity of the individual, sleep deprivation, exclusion from social contact, or conduct that could result in extreme embarrassment;

E. Subjects another person to abuse, mistreatment, harassment, or degradation of a sexual nature; or

F. Subjects another person to any other activity that creates a reasonable likelihood of bodily injury to the person.

Hazing shall not include any reasonable and customary athletic, law enforcement, or military training; contests; competitions; or events (section 1 of P.L.1980, c.169 N.J.S.A. 2C:40-3).

"Organization" means a fraternity, sorority, association, corporation, order, society, corps, club or service, social or similar group, whose members are primarily minors, students, or alumni of the organization.

Hazing - Policy

Hazing activities of any type are prohibited at all times regardless of whether the conduct occurs on or off school property or outside of school hours. No student, parent/guardian, coach, sponsor, volunteer, or

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district employee shall plan, direct, encourage, assist, permit, condone, ignore, or tolerate any form of hazing.

The board shall ensure that students are informed of this anti-hazing policy, including the rules, penalties, and program of enforcement under the policy. The policy shall be posted on the accessible district Internet website.

Reporting Hazing

Hazing is a disorderly persons offense. However, hazing is a crime of the third degree if an actor commits an act defined by law (section 1 of P.L.1980, c.169 N.J.S.A. 2C:40-3) which results in death or serious bodily injury to another person and is a crime of the fourth degree if the actor commits an act which results in bodily injury to another person. Local law enforcement shall be contacted.

In addition to any other sanctions or penalties that the district and/or local law enforcement may impose, a student or fraternal organization, that knowingly or recklessly promotes or facilitates a person to commit an act of hazing prohibited by board policy and law, shall be subject to a fine of not less than $1,000 or more than $5,000 for an initial violation, and a fine of not less than $5,000 or more than $15,000 for each subsequent violation.

Students, parents/guardians, administrators, coaches, volunteers, and district employees should immediately report hazing conduct to the building principal or their designee. All complaints of hazing shall be investigated promptly by the chief school administrator or his or her designee.

A person, student or fraternal organization, and another person acting in concert with the person, organization, or institution, shall be immune from prosecution if the person, or an employee, officer, or other agent acting on behalf of the organization or institution, as the case may be:

A. Called 9-1-1, or otherwise contacted school security, police, or emergency services, and reported that a person was in need of medical assistance due to an act of hazing;

B. The caller provided the caller's name and, if applicable, the name of the person acting in concert with the caller to the 9-1-1 operator or other recipient of the emergency contact;

C. The caller was the first to make the 9-1-1 report or other emergency report; and

D. The caller and, if applicable, the person acting in concert with the caller remained on the scene with the person in need of medical assistance until assistance arrived and cooperated with the emergency services on the scene.

In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer or other official empowered to act as an officer for the arrest of offenders against the laws of this State, or a prosecutor, who, acting in good faith, arrested or charged a person who is thereafter determined to be entitled to immunity from prosecution shall not be subject to any civil liability for the wrongful arrest or charge.

Discipline

Individuals and/or groups found to have committed or participated in hazing another student or students shall be subject to disciplinary action.

The penalties for violations of the hazing policy may include:

A. The withholding of diplomas or transcripts pending compliance with the rules;

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B. The rescission of permission for the organization or group, whose student members are being penalized under the anti-hazing policy, to operate on school property or to otherwise operate under the sanction or recognition of the school district; and

C. The imposition of probation, suspension, dismissal, or expulsion.

A penalty imposed on a student found to have committed or participated in hazing another student or other students shall be in addition to penalties imposed for violating the code of student conduct or any other school rule which the violator may be subject to. This policy shall apply to each act conducted on or off school property if the acts are deemed to constitute hazing.

Harassment, Intimidation or Bullying

The board expects all students to treat each other with civility and respect and not to engage in behavior that is disruptive or violent. This type of behavior interferes with a student's ability to learn and a school's ability to educate its students in a safe environment. Therefore, the school district will not tolerate acts of harassment, intimidation or bullying.

The board prohibits acts of harassment, intimidation or bullying against any student in accordance with board policy 5131.1 Harassment, Intimidation and Bullying, and law.

"Harassment, intimidation or bullying" is defined as any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity or expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school grounds, at any school-sponsored function or on a school bus, or off school grounds in accordance with law, that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

A. A reasonable person should know, under the circumstances, will have the effect of physically or mentally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or mental harm to his/her person or damage to his/her property; or

B. Has the effect of insulting or demeaning any student or group of students; or

C. Creates a hostile educational environment by interfering with the student's education or by severely or pervasively causing physical or emotional harm to the student.

"Electronic communication" means a communication that is transmitted by means of an electronic device, including, but not limited to a telephone, cellular phone, computer, or pager, that takes place on school grounds, at any school-sponsored function or on a school bus.

Students with Disabilities

Classified students are subject to the same disciplinary procedures as nondisabled students and may be disciplined in accordance with their IEP and accommodation plans. However, before disciplining a classified student, it must be determined that:

A. The student's behavior is not primarily caused by his/her educational disability;

B. The program that is being provided meets the student's needs.

Staff shall comply with state and federal law and the regulations of the New Jersey administrative code in

dealing with discipline and/or suspension of all students with disabilities.

Policy and Procedure Development, Review and Dissemination

The standards and procedures developed to implement this policy shall be aligned with the board approved code of student conduct and accepted board approved core ethical values. Policies, standards and procedures shall be based on parent, student and community involvement which represents, where possible, the composition of the schools and community, in accordance with N.J.A.C. 6A:16-7.1.

This policy shall be reviewed annually and updated along with the code of student conduct. This process shall include:

A. Parent, student and community involvement which represents, where possible, the composition of the schools and community;

B. Consideration of the findings of the biannual reports of student conduct, suspensions and expulsions; and incidences reported under the Student Safety Data System (SSDS).

Implementation

The chief school administrator shall ensure that the rules for this policy are applied consistently with the district's code of student conduct (N.J.A.C. 6A:16-7) and all applicable laws and regulations and that all disciplinary sanctions are carried out with necessary due process.

The board shall review and update the code of student conduct annually. The code of student conduct shall be disseminated annually to all school staff, students and parents/guardians.

The chief school administrator shall report as required by law to the New Jersey Department of Education on student conduct, including all student suspension and expulsion and incidences reported under the Student Safety Data System.

Employees shall receive annual training on the code of student conduct, including training on the prevention, intervention, and remediation of student conduct that violates the code of student conduct. Information on the code of student conduct shall be incorporated into the orientation for new employees.

Adopted: 4/28/2022
NJSBA Review/Update:
Readopted: 5/25/2022

Key Words

Conduct, Discipline, Pupil Conduct, Student Conduct, Weapons, Vandalism, Harassment, Intimidation, Bully, Bullying,

Legal References:		
	N.J.S.A. 2A:4A-60 et al.	Disclosure of juvenile information; penalties for disclosure
	N.J.S.A. 2C:12-1	Definition of assault
	N.J.S.A. 2C:33-19	Paging devices, possession by students
	N.J.S.A. 2C:39-5	Unlawful possession of weapons
	N.J.S.A. 2C:40-3	Hazing
	N.J.S.A. 2C:40-4	Consent, sanction not available as defense
	N.J.S.A. 18A:3-27.1	Definitions relative to hazing
	N.J.S.A. 18A:6-1	Corporal punishment of pupils
	N.J.S.A. 18A:11-1	General mandatory powers and duties

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N.J.S.A. 18A:25-2	Authority over pupils
N.J.S.A. 18A:36-19a	Student records
N.J.S.A. 18A:37-1 et seq.	Discipline of Pupils
See particularly:	
N.J.S.A. 18A:37-13.2, -14	
N.J.S.A. 18A:37-15 et seq.	Harassment, intimidation, and bullying
N.J.S.A. 18A:37-32.2	Policy against hazing for district with high school, middle school
N.J.S.A. 18A:37-32.3	Program for enforcement of policy against hazing
N.J.S.A. 18A:40A-1 et seq.	Substance Abuse
N.J.S.A. 18A:54-20	Powers of board (county vocational schools)
N.J.A.C. 6A:14-2.8	Discipline/suspension/expulsions
N.J.A.C. 6A:16-1.1et seq.	Programs to Support Student Development
See particularly:	
N.J.A.C. 6A:16-2.4, -4.1, -5.1, -5.4, 5.6, 5.7, -6.1, -6.2, -7.1, -7.5, -7.7, -7.8	

P.L. 2021, c.208 (S84 S2093 SCS 2R) An Act concerning hazing, amending P.L.1980, c.169, and supplementing chapters 3 and 37 of Title 18A of the New Jersey Statutes

20 U.S.C.A. 1415(k) Individual with Disabilities Education Act Amendments of 1997

Bethel School District No. 403, v. Fraser, 478 U.S. 675 (1986)

Hazelwood v. Kuhlmeier 484 U.S. 260 (1988)

Honig v. Doe, 484 U.S. 305 (1988)

See also Commissioners' Decisions indexed under "Pupils – Punishment of" in Index to N.J. School Law Decisions

Every Student Succeeds Act of 2015, Pub. L. 114-95, 20 U.S.C.A. 6301 et seq.

L.W. v. Toms River Regional Schools Board of Education, N.J., No. A-111-05 (Feb. 22, 2007), 2007 N.J. LEXIS 184. The New Jersey Supreme Court ruled that a school district may be held liable under the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49, when students harass another student because of his perceived sexual orientation. A district school will be liable for such harassment if it knew or should have known of the harassment but failed to take reasonable remedial actions. The matter was remanded to the Director of the Division on Civil Rights.

A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials

Possible Cross References:

*1220	Ad hoc advisory committees
*1410	Local units
3517	Security
*3541.33	Transportation safety
*4131/4131.1	Staff development; inservice education/visitation conferences
4138/4238	Employee protection

CONDUCT/DISCIPLINE (continued)

*4231/4231.1	Staff development; inservice education/visitation conferences
5000	Concepts and roles in pupil personnel
5010	Personal goals and objectives for pupils
*5020	Role of parents/guardians
*5113	Absences and excuses
*5114	Suspension and expulsion
*5124	Reporting to parents/guardians
*5127	Commencement activities
*5131.1	Harassment, intimidation and bullying
*5131.5	Vandalism/violence
*5131.6	Drugs, alcohol, tobacco (substance abuse)
*5131.7	Weapons and dangerous instruments
5132	Dress and grooming
5145	Rights
5145.2	Freedom of speech/expression
*5145.4	Equal educational opportunity
*5145.6	Pupil grievance procedure
*5145.11	Questioning and apprehension
*5145.12	Search and seizure
*6145	Extracurricular activities
*6164.4	Child study team
*6171.4	Special education
*6172	Alternative educational programs

*Indicates policy is included in the Critical Policy Reference Manual.