

Standardized School Code of Conduct Policies
Report

House of Representatives
145th General Assembly
House Resolution 33

Delaware



*Department
of Education*

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Special thanks to everyone that contributed to this effort.

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Executive Summary

House Resolution No. 33, House of Representatives, 145th General Assembly was a product of the efforts of The School Discipline Task Force, created by House concurrent Resolution No. 22.

One of the subcommittees of the School Climate Task Force was charged with making a comprehensive review of the various student codes of conduct and related school climate and discipline policies and to minimize potential inequities to students, their families, and the public school system resulting from differences among policies. The subcommittee recommended establishing standardized student code of conduct policies in all school districts and charter schools which include the following three categories, common legal definitions of student offenses that lead to alternative placement or expulsion consequences; common due process procedures for alternative placement meetings and expulsion hearings; and common procedures for the handling of Attorney General Reports.

The Subcommittee recognized that establishing standardized language in student code of conduct policies within and among school discipline regulations would require input from several constituencies.

The Department of Education was directed by House Resolution 33, The House of Representatives of the 145th General Assembly of the State of Delaware to initiate development of standardized student code of conduct policies, which will include the three areas noted above, with the input from the various stakeholders implementing, enforcing and most affected by student codes of conduct.

The Department of Education facilitated meetings on March 19, 2010 and April 12, 2010 of all stakeholders invited to participate in this endeavor. The first meeting introduced the scope of work and the focus of the targeted areas. The attendees were divided into three work groups. Volunteer Chairpersons were identified to facilitate and coordinate work efforts in each of the three targeted areas. At the second meeting Chairpersons reported out on the status of each product developed and path forward. Each group worked independently in addition to the D.O.E. meetings and in the manner they chose.

The knowledge and expertise of each contributing member in this shared initiative resulted in the creation of Common Procedures for the Handling of Attorney General Reports and the subsequent link to Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings. Recommendations are provided for continued work on the development of Common Legal Definitions of Student Offenses that Lead to Alternative Placement or Expulsion Consequences.

The stakeholder contributors and the enclosed products developed demonstrate a clear understanding of the School Climate Task Force Subcommittee recommendations.

Recommendations to the School Climate Task Force

The following recommendations are put forward as a result of the Department of Education work to begin the development of standardized school code of conduct policies.

1. The Common Legal Definitions of Student Offenses that Lead to Alternative Placement or Expulsion Consequences Work Group had several recommendations which require the Department of Education to implement changes in the data collection tool utilized by the Local Education Agencies (LEAs) and the Department of Education (D.O.E.) for State and Federal mandatory reporting. The Department of Education currently utilizes three codes for reporting data in the discipline module. The category of “C” represents crimes, the category of “D” represents Department of Education reportable offenses, and “S” represents school violations. The suggested changes will require further work that must include the Technology, Data Collection, and the School Climate and Discipline staff at the Department of Education in order to ascertain the impact of the recommended changes and to accomplish what is possible with the recommendations in mind. The recommendation of this work group is on page 6 of this report.
2. The Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings Work Group developed Student Disciplinary Procedures that are recommended to be implemented in all Local Education Agencies (LEAs). The Department of Education supports the implementation of these policies or LEA policies that incorporate all the like procedures. The work group product for Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings and Appendices (“best practice” sample documents) begin on page 7 and continue through page 33 of this document.
3. The Common Procedures for the Handling of Attorney General Reports Work Group developed an Attorney General Reports Procedures Checklist for Local Education Agencies (LEAs). This work group identified the subsequent link to the work done by the Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings Work Group on Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings. The Department of Education supports the implementation of these procedures in all LEAs or procedures that incorporate all the like procedures. The work group product for Common Procedures for the Handling of Attorney General Reports begins on page 34 and continues through page 46 of this document.

Common Legal Definitions of Student Offenses that Lead to Alternative Placement or Expulsion Consequences Work Group Report

"C" Code Violations (Crimes):

1. The definitions approved by the General Assembly, as provided in Titles 11 and 16 of the Delaware Code, should be the definition used by all Districts and Charters Schools (hereinafter LEAs collectively)
2. Only those offenses for which a student can be charged for activities that occur at a school, on school property, or at a school supported function should be included as reportable offenses under Title 14 Del. C. Section 4112 (Ex: only the definition for Burglary 2nd should be listed since it is impossible to charge a student with a Burglary 1st because the elements are "at night" in a "dwelling")
3. Currently, DOE lists 101 "C" code offenses for reporting purposes. The sub-committee recommends that for DOE reporting "C" codes should be characterization in general terms not including the degree of offense, since school administration is not responsible for the charge. For example, any act of Assault (including Abuse of Pregnant Female) should simply be reported as "Assault". The sub-committee believes that this could bring the report Code number down to around 13 different codes. If DOE needs the specific degree or name of the offense, this information should come from a different source (i.e. AG's office after the charge has been adjudicated).
4. DOE should provide a separate booklet to the LEAs to give to students and parents listing the 4112 reportable offenses, the legal requirements for suspension and reporting to the police and possible Court outcomes. LEAs should be required to provide students with a copy of this annually, as they are for Codes of Student Conduct. If the age for reporting increases from 9 to 12 for all offenses, then LEAs would only have to provide this for Secondary students.

"D" Code (Department of Education) Violations:

DOE should define the offenses listed as "D" code violations.

"S" (School) Code Violations:

1. DOE should provide guidance to determine what defines a "chronic violation". "S" codes should be numerated using the LEA District/Charter School codes (i.e. "S" violations for the Brandywine School District should be enumerated as "S31001")
2. Current "S" codes that are present in 15 or more LEA Codes of Conduct that a chronic violation could lead to alternative placement or expulsion should have a common definition.
3. LEAs should have an "S" code definition similar to the "C" code violations in order to discipline a student under the LEA Code Conduct so that the LEA does not have to have evidence of mens rea (i.e. some violation that captures Terroristic Threatening or Offensive Touching that is not as restrictive as the definitions under Titles 11 or 16).

Common Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings

1.0 Purpose

This document outlines procedures for the following situations:

- Referral of students who warrant consideration for placement outside the regular school setting into an alternative setting.
- Placement of students into an alternative school.
- Return of students back into the regular school setting from an alternative school.

These procedures have been organized to include:

- Procedures for student referral.
- Procedures for student placement.
- Procedures for monitoring student progress while in alternative placement.
- Procedures for student return to the comprehensive school.

2.0 Terms and Definitions

2.1 Administration

Administration includes both District/Charter School and building administrative staff.

2.2 Alternative Placement

Alternative Placement is the removal of a student from school on a temporary basis for an indefinite period of time, usually for a minimum of one marking period, but determined by the Alternative Placement Team. Alternative placement denies the student participation in and attendance at any and all programs of the district/charter school from which s/he was removed.

2.3 Alternative Placement Packet

This packet includes a variety of documents that provide data about the student, the related incident and other information pertaining to the recommendation for a student's placement in an alternative school. **(See sample, page 22, Appendix A.)**

2.4 Alternative School

Alternative School is a specialized program that has been created for students who have exhibited severe behaviors or seriously violated the district/charter school discipline policy.

2.5 Assignment to Alternative Program

A student is assigned to an Alternative Program until the student has fulfilled the requirements to return to the regular school setting.

2.6 Building Level Meeting

A Building Level Meeting is one held in a school between/among the principal, assistant principal, student advisor and/or other staff members, and a student and/or his/her parent/guardian should be invited to discuss the student's misconduct relative to a recommendation for alternative placement.

2.7 Designee

For building-level decisions, the Designee is an administrator or individual who has administrative rights.

For decisions related to removal from school for alternative placement/expulsion, the Designee is an individual identified as the Superintendent's/Board of Director's representative.

2.8 Discipline Record

A student's Discipline Record includes all information about any and all periods of suspension and/or expulsion from the regular school setting as a result of any infraction of the school's/district's code of conduct or other rules.

2.9 District/Charter School Placement Meeting

A meeting held by the District/Charter School Placement Committee to determine the appropriate educational setting for students who exhibit severe behaviors or seriously violate the district/charter school discipline policy and have been recommended for a Consortia Discipline Alternative Program.

2.10 Expulsion

Expulsion means the exclusion of the student from school for a period determined by the District/Charter Board not to exceed the total number of student days in a school year.

2.11 Facility Transition Form

A District/Charter form that summarizes a student's academic and behavioral performance while attending a facility categorized as an outside agency.
(See sample, page 23 & 24, Appendix B.)

2.12 Felony (Violent)

A felony is identified as "Violent" if listed in 11 Del. C. 4201(c) Title 11, Section Crime.

2.13 Incident Report

An Incident Report is the preliminary account of a student's violation of the Student Code of Conduct. This Report includes the person(s) involved, a description of the incident, actions taken by the school, and the date and time the parent/guardian was contacted.

2.14 In-School Alternative Program

An In-School Alternative Program is a School-Based Intervention Program (SBI) as defined by the state. Placement is determined by the school's administration/Student Intervention Team. The program design includes the student's regular curriculum, as well as character education, social skills development, conflict resolution, access to counseling services and behavior modification strategies.

2.15 Intake Meeting

The Intake meeting at a Consortia Discipline Alternative Program site includes the student, the parent/guardian, District/Charter School representative, program administrator and other appropriate alternative program staff. At this meeting the program's rules and expectations are reviewed, paperwork that requires student and parent signatures is completed, and the District's/Charter School's individualized goals and expectations for the alternatively-placed student are reviewed.

2.16 Outside Agency

An Outside Agency is any agency from which a student has received services. Examples include, but are not limited to: judicial placement, youth detention facility, substance abuse facility, mental health facility, etc.

2.17 Parent/Guardian Contact /Conference

Parent/Guardian Contact or Conference is a contact by telephone or in person with a parent/guardian.

2.18 Parent/Guardian Notification

Parent/Guardian Notification is contact with a parent/guardian by phone, letter, or a meeting.

2.19 Police Notification

Police Notification is the reporting of an alleged illegal act to a law enforcement agency or School Resource Officer.

2.20 Quarterly Student Review

A Quarterly Student Review is a formal meeting that takes place at the alternative school between/among the District/Charter School Representative, the program administrator, and other appropriate alternative program staff to determine how and to what degree the student currently placed in the alternative program is moving toward his/her District/Charter School goals.

2.21 Recommendation to Counseling or Appropriate Social Service Agencies

Informing the parent/guardian that the student may seek services at their own expense from a public or private social agency is a Recommendation to Counseling or Appropriate Social Service Agencies.

2.22 Referral to Consortium Discipline Alternative Program

A Referral to a Consortium Discipline Alternative Program is an educational placement for students who engage in more severe discipline behaviors and require removal from the regular school setting. This Referral is made according to the procedures established by the Department of Education. (See DE Admin Code 611)

2.23 School Environment

A School Environment shall mean within or on school property and/or at school-sanctioned or supervised activities including, for example, on school grounds, on school buses, at functions held on school grounds, at extracurricular activities held on and off school grounds, on field trips or other like activities and at functions held at the school at any time.

2.24 School Property

School Property shall mean any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school (District/Charter), or any motor vehicle owned, operated, leased, rented or subcontracted by any public school.

2.25 Reporting School Crimes, DE CODE T-14 § 4112

State Statute T-14 § 4112 is the Reporting School Crimes Law requiring the building Principal to report specific offenses to the Department of Education and/or a law enforcement agency.

2.26 Student Code of Conduct

The Student Code of Conduct specifies the rights and responsibilities of students, defines conduct that disrupts/threatens a positive/safe school environment, standardizes procedures for consequences, disciplinary action, and defines due process and grievance procedures.

2.27 Suspension

Suspension shall be defined as any disciplinary action that results in an external or an internal removal of a student from the general school population. Students assigned to in-school or out-of-school suspension are not permitted to participate in any extra-curricular or co-curricular activities during the length of the suspension.

2.28 Transition Meeting

A Transition Meeting takes place at the student's feeder school between/among the Consortium Discipline Alternative Program (CDAP) representative, the District/Charter School representative, the student, the parent/guardian, a school administrator, a teacher, a school counselor, a student advisor or disciplinarian if assigned. Other individuals may be invited as determined by the transition team. This meeting is required and occurs prior to a student's (re-) enrollment into that school.

3.0 Student Disciplinary Actions

3.1 Due Process

Due Process requires that prior to any suspension a student shall have had prior opportunity to know that the alleged actions were in violation of established rules and regulations. The student shall receive verbal or written notification of the charges against him/her, the conduct which forms the basis of the charges, and the policy, rule, or regulation violated.

If the student denies the charge/s, he/she shall have the right to an explanation of the evidence supporting the charge/s and an opportunity to present his/her side of the story. A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school provided that, as soon as practicable thereafter, the student shall be informed of the nature of the charges against him/her and the evidence supporting his/her alleged actions, and be given the opportunity to present his/her side.

While suspended, the student should not be permitted to participate in any school activity on property owned by the District/Charter School or any offsite school-sponsored activities.

3.2 Short-term Suspension

The principal of each school, in accordance with the rules of the District/Charter School, shall have the right to suspend temporarily (Short-Term Suspension), for cause, for a period of not more than ten (10) school days, any student in the school under his/her direction.

3.3 Suspension from School

When a student receives a Suspension from School (in or out-of-school), written notification of the suspension shall be sent to the parent/guardian. The notification shall state the cause and duration of the suspension. For each out-of-school suspension up to three (3) days, the principal/designee should hold an in-person or phone conference. A definite time, date, and place for the conference should be designated by the school administrator.

Each District/Charter School shall have a written grievance procedure. The District/Charter School should have the written grievance procedures available for parent/guardian review. The parent/guardian will be advised that the suspension may be appealed to the next administrative level. (See sample, page 25, Appendix C.)

4.0 Responsibilities for Students With Disabilities

Districts/charter schools shall refer to these regulations in their entirety:
14 DE Admin Code 926.30 Discipline Procedures Authority of School Personnel
<http://regulations.delaware.gov/AdminCode/title14/900/926.shtml#TopOfPage>

5.0 Assignment to an Alternative Program

5.1 Procedures for Student Referral

5.1.1 Criteria for student referral to an alternative placement.

5.1.1.1 A building principal may refer a student for alternative placement for any severe disciplinary violation as specified in the District/Charter School Student Code of Conduct.

5.1.1.2 A building principal may refer a student for alternative placement for any offense covered under the Mandatory School Crime Reporting Law. These include: assault against a student; assault against a school employee or volunteer; terroristic threatening against a school employee or volunteer; offensive touching against a school employee or volunteer; unlawful sexual contact against a student, employee or volunteer; possession of a dangerous instrument or deadly weapon; violent felonies; possession of an unlawful controlled substance, including prescription drugs and counterfeit drugs.

5.1.1.3 A building principal may refer a student for alternative placement in conjunction with an Attorney General's Report or Court Disposition that indicates that the student has been charged with a violent felony and/or is a danger to self and/or others.

5.1.1.4 A building principal may refer a student for alternative placement in conjunction with chronic disruptive behaviors after all school-based best practice interventions have been put into place for said student. This may include, but is not limited to counseling services, the development and implementation of a behavior support or modification plan, mentoring, referral to mediation, participation in the In-school Alternative Program, if available. **(See Sample, Pages 26-28 Appendix D.)**

5.2. Responsibilities for Student Referral Which May Lead to alternative Program Placement

5.2.1. Principal/Designee may remove a student from the general student population and conduct a preliminary investigation to determine if there is reasonable cause to pursue disciplinary action. **(See Sample, Page 29, Appendix E.)**

5.2.2 Principal/Designee shall confiscate any contraband.

5.2.3 The student shall be given an opportunity to “tell his/her side of the story” and write a statement.

5.2.4 The principal/designee shall inform the student of the charges and immediately attempt contact with the parent/guardian.

5.2.5 If the investigation verifies that good reason exists to believe that a crime has been committed, the principal/designee shall immediately notify the appropriate Law Enforcement Agency of the incident.

5.2.6 The principal/designee may suspend the student for up to 10 days and provide the parent a copy of the suspension form that includes a written notice of the charges.

5.2.7 The Principal/Designee shall report all offenses covered under the Mandatory School Crime Reporting Law (see 5.1.1.2) to the appropriate law enforcement agency immediately, either in person or by telephone.

5.2.8 If probable cause exists, the Principal/Designee shall report all offenses covered under the Mandatory School Crime Reporting Law (see 4.1.2) to the Department of Education within five days by completing the information in the eSchoolPlus discipline system.

5.2.8.1 All reports to the appropriate police agency must be made by telephone or in person immediately and shall be followed by a written report submitted within three working days.

5.2.9 The principal/designee shall conduct an investigation. When getting written statements from witnesses, parents/guardians of each witness should be notified.

5.2.10 The site-based School Discipline Committee should meet to discuss the incident and make a recommendation to the principal for the student to remain in the current school setting, or for referral for an alternative placement.

5.2.11 The principal/designee shall compile an alternative placement packet for students who are recommended for alternative placement.

5.2.11.1 The alternative placement packet shall include, but is not limited to all applicable elements of the CDAP Alternative Placement Team Checklist Coversheet. **(See Sample, Page 22, Appendix A.)**

5.2.12 After receiving the recommendations for general education or special education students, the principal should hold a Due Process Meeting with the parent/guardian and the student.

5.2.12.1 The principal should have at least one other person present to take notes during the meeting (assistant principal, school counselor or student advisor).

5.2.12.2 The principal should explain to the parent/guardian the purpose of the meeting: to allow the student an opportunity to tell his/her side of the story; for parents to express their view; and to share the site-based School Discipline Committee's recommendation.

5.2.12.3 The principal shall provide the parent with the date of the alternative placement hearing, if that is the recommendation.

6.0 Procedures for Student Placement

6.1 Alternative Placement Meeting for Districts/Charter Schools

6.1.1 A District/Charter School Alternative Placement Meeting shall take place to determine if an alternative setting is appropriate for a referred student.

6.1.1.1 The meeting may include (but is not limited to) the referred student, parent/guardian of the student, an administrator from the sending school, a teacher, an educational diagnostician (if applicable), a representative of the Consortium Discipline Alternative Program, and a school counselor or social worker.

6.1.1.2 The parent/guardian and student shall receive written or verbal notification of the District Alternative Placement meeting. Parents/guardians and student may, but are not required to attend the meeting.

6.1.1.3 The parent/guardian/student will be informed of the District/Charter School Placement Committee's decision for placement within 24 hours of the meeting.

6.1.1.4 Following the meeting, the Superintendent/Superintendent's Designee/Charter School's representative should send written notice to parent/guardian describing the circumstances which led to the placement, identifying the alternative program to which the student is being assigned, and the conditions which must be met in order for the student to return to the comprehensive school program.

6.2 Alternative Placement for Charter Schools

6.2.1 Charter Schools may refer students to a Consortium Discipline Alternative Program operated pursuant to the provision of Title 14 DE CODE Chapter 5, Section 504A to the following provisions.

6.2.1.1 A student may only be referred to a program which serves that student's district of residence and only if there is space available in such program to serve the student.

6.2.1.2 The student otherwise meets eligibility criteria for students who may be enrolled in such a program.

6.2.1.2.1 A building principal may refer a student for alternative placement for any offense covered under the Mandatory School Crime Reporting Law: assault against a student; assault against a school employee or volunteer; terroristic threatening against a school employee or volunteer; offensive touching against a school employee or volunteer; unlawful sexual contact against a student, employee or volunteer; possession of a dangerous instrument or deadly weapon by a student; violent felonies; or possession of an unlawful controlled substance by a student, including prescription drugs and counterfeit drugs.

6.2.1.2.2 A building principal may refer a student for alternative placement in conjunction with an Attorney General's Report or Court Disposition that indicates that the student has been charged with a violent felony and/or is a danger to self and others.

6.2.1.2.3 The student's District of residence and the charter school in which the student is enrolled agree to a proration of student funding between or among the Charter School and the District in which the student resides, in which case the district of residence shall become liable for any cost associated with the placement of the student in the alternative program.

6.3 Student Transfer to an Alternative Program

6.3.1 The District/Charter School representative shall contact the selected Consortium Discipline Alternative Program to set up a date and time for an Intake Meeting. **(See Section 2.15 of this document)**

6.3.1.1 The intake meeting shall not occur unless all required participants are present and documentation provided.

6.3.1.1.1 Participants involved in the intake meeting include but are not limited to the student, the parent/guardian, a District/Charter School representative, the Consortium Discipline Alternative Program Administrator, and other appropriate alternative school staff.

6.3.1.2 The student must be registered in the School District/Charter School before the Intake Meeting is held at the Consortium Discipline Alternative program.

6.3.1.3 The intake meeting will include the completion of paperwork that requires student and parent signatures (e.g., permission to be videotaped, permission to participate in field trips, free and reduced lunch, etc.).

6.3.1.4 The District/Charter School representative shall share the District/Charter School's individualized goals and expectations to the referred student and his/her parent/guardian at the Intake Meeting. **(See sample page 30, Appendix F.)**

6.3.1.4.1 This document is signed by all parties, copied and distributed to the student/parent/guardian, program administrator, and District/Charter School representative and becomes part of the student's educational record as defined by DE Admin Code 14-252.

6.3.2 Student transfer from the feeder school to the alternative school shall be electronically entered into the DELSIS/eSchoolPlus system by the administrator/administrative designee of the feeder school.

7.0 Procedures for Student Monitoring while in Alternative Placement

7.1 A designee from each alternative placement school and the District/Charter School representative shall complete a quarterly placement review for each student in the alternative school.

7.1.1 The review shall include an examination of student attendance, grades and discipline records, student strengths and weaknesses at the time of review, and recommendations for continued progress and/or return (or recommendation not to return) to the comprehensive school setting.

8.0 Procedures for Student Return to the Comprehensive School

8.1 An evaluation meeting shall take place at the alternative school between/among the District/Charter School Representative, the program administrator, and other appropriate alternative Program staff to determine if the student in the Alternative Program is moving toward his/her District/Charter School goals and if the student will be recommended to return to the feeder school.

8.2 A transitional meeting at the student's feeder school will be held between/among the CDAP program representative, the District/Charter School representative, the student, the parent/guardian, the school administrator, a teacher, a school counselor, a student advisor or disciplinarian, if assigned. Other individuals may be invited as determined by the transition team. This meeting shall take place prior to a student's return to that school. (See sample, page 31 & 32, Appendix G.)

9.0 Procedures for the Expulsion of Students

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

9.1.1 An administrator/administrative designee will conduct a preliminary investigation to determine if there is reasonable cause to pursue disciplinary action.

9.1.2 The administrator/administrative designee will inform the student of the charges. The student will be given an opportunity to tell his/her side of the story.

9.1.3 If it is decided to proceed with a recommendation for expulsion, the following procedures shall be followed:

9.1.3.1 The student will be suspended according to the Code of Conduct.

9.1.3.2 Student will be given written notice of charges.

9.1.3.3 It is recommended that the student and parent/guardian will participate in a building- level conference to review the case, within five (5) school days of the incident. If agreement cannot be reached within the five-day limit, the principal/designee will set the date/time for a conference. Written notification of the scheduled conference will be sent to the parent/guardian. Telephone contact will also be attempted.

9.1.3.4 At the conclusion of the conference, the principal/designee will inform the parent/guardian and the student of the recommendation.

9.1.3.5 It is recommended that all documentation related to the offense be submitted to the Superintendent/Designee, Charter Head/Designee within two (2) days of the conference or seven (7) days of the incident, whichever is sooner.

9.1.3.6 Days for reporting shall mean school days unless it is the end of the school year; then days shall mean calendar days including Saturday, Sunday, and holidays.

9.2 The individual school, the District, and the Board of Education/Board of Directors shall make a good faith effort to abide by any expulsion procedure timelines. Timelines may change based on reasonable circumstances as determined by the District/Charter School.

9.3 Expulsion Hearing

9.3.1 Upon receipt of a recommendation from the building-level conference, the Superintendent/Designee will review documentation to affirm that appropriate discipline procedures were followed and will notify the student and the parent/guardian by letter that a district-level expulsion hearing will be held to consider the recommendation.

At a charter school, upon receipt of a recommendation from the building-level conference, the assigned designee not involved in any way in the building-level conference or recommendation, will review documentation to affirm that appropriate discipline procedures were followed and will notify the student and the parent/guardian by letter that an expulsion hearing at the next level of authority to the building-level will be held to consider the recommendation.

9.3.2 Written notice shall be sent by certified mail to the parent/guardian describing the circumstances which led to the recommendation for expulsion and shall give the date, time, and location of the hearing.

9.3.3 It is recommended the hearing be held not less than two (2) days nor more than ten (10) business days after receipt of Notice. The Notice will be deemed to be received on the third calendar day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student/parent/guardian at the District/Charter School office prior to the mailing.

9.3.4 If requested, the student and parent/guardian will also be given copies of the following:

9.3.4.1 The reason(s) for the recommendation.

9.3.4.2 The names of the witnesses who may appear.

9.3.4.3 Copies of information that may be submitted as evidence.

9.3.5 Parents/guardians are requested to give 48 hour advance notice prior to the District/Charter Level Hearing of:

9.3.5.1 Representation or legal counsel (if the student will be represented by one).

9.3.5.2 Names of any witnesses who may appear at the district-level hearing. (Note: If any of the witnesses are minors, a copy of the parent's/guardian's permission for the minor to attend must also be included.)

9.3.6 The hearing may be conducted by a Hearing Officer selected by the Superintendent/Designee/Charter School representative. The Hearing Officer may be an employee of the District/Charter School, but must not have been involved in any review of the student incident at the building /district level including the building-level conference.

9.3.7 The officer shall have full authority to admit or exclude evidence.

9.3.7.1 Evidence presented at the expulsion hearing may include, but is not limited to, witness statements, police/AG reports, and photocopies of evidence.

9.3.7.2 The Hearing Officer is not bound by common law or statutory rules evidence or by technical or formal rules of procedure.

9.3.7.3 The Hearing Officer shall exclude plainly irrelevant evidence.

9.3.7.4 Unduly repetitive proof, rebuttal, and cross-examination may be excluded.

9.3.8 In conducting the hearing, the District/Charter School shall submit evidence first followed by the response of the student, if any.

9.3.8.1 Further rebuttal evidence by either party may be presented at the hearing if the Hearing Officer determines such evidence is necessary.

9.3.9 The Superintendent/Designee/Charter School representative presenting the case on the part of the District/Charter School should not testify.

9.3.10 The student shall have the following rights:

9.3.10.1 To be represented by counsel at the student's expense.

9.3.10.2 To cross-examine witnesses.

9.3.10.3 To testify and produce witnesses on his/her behalf.

9.3.10.4 To obtain, at the student's expense, a copy of the transcript of the hearing.

9.3.11 In lieu of a formal expulsion hearing, a student or his/her representative, may elect to waive the hearing and admit to the violation charges. In these circumstances, the student must provide a written hearing waiver request letter at least 24 hours prior to the date of the hearing or be given the opportunity to waive on the day of the hearing. This waiver does not absolve the student from required consequences for the violation under State Law and the Code of Student Conduct. **(See sample, page 33, Appendix H.)**

9.4 Board-Level (Board of Education or Board of Directors) for Expulsions

9.4.1 Within five (5) business days following the conclusion of the District/Charter Board-level Expulsion Hearing, a written report (“Report”) shall be prepared by the Hearing Officer for the Superintendent/Designee/Charter School representative.

9.4.1.1 The Report shall frame the issues, summarize the evidence, state conclusions of fact, and make a recommendation based on the Student Code of Conduct or related Board policies as to whether the Superintendent/Designee/Charter representative should recommend to the Board that the student be expelled.

9.4.2 The Superintendent/Designee/Charter School representative should accept or modify the recommendation of the Hearing Officer within five (5) business days of receiving the Report.

9.4.3 The decision of the Superintendent/Designee/Charter School representative shall be communicated to the student/parent/guardian in writing.

9.4.4 If the Superintendent/Designee/Charter School representative recommends expulsion to the Board of Education/Board of Directors, the Board shall make its decision at the next scheduled public Board Meeting.

9.4.4.1 The review shall be conducted by a majority of the members of the Board and shall be based solely upon the Report from the officer, the record of the District-level expulsion hearing, and the written responses, if any, by the student/parent/guardian. The Board may accept, reject, or modify the recommendation of the Superintendent/Designee/Charter School representative to expel the student with or without services.

9.4.4.1.1 Decisions to expel without services shall be reported to the Department of Education within three (3) days of the Board decision.

9.4.5 Except as is otherwise provided herein, within ten (10) business days of the conclusion of the review by the Board, the Board, through its designee, shall submit its decision to the student/parent/guardian in writing.

9.5 Calculation of Time

9.5.1 In calculating periods of time, school days shall be used.

9.6 Notification of Expulsion to Division of Motor Vehicle

9.6.1 The Delaware Division of Motor Vehicle will be notified of the beginning and ending date of expulsion for students who are expelled from the School District/Charter School as a request for suspension of driving privileges in accordance with 14 Del.C §4130(e) (1).

(See sample, page 34, Appendix I.)

9.6.2 A copy of the Delaware Division of Motor Vehicle form shall be forwarded to the Department of Education.

DRAFT

APPENDIX A

CDAP Alternative Placement Team Checklist Coversheet

Student Name: _____ School: _____ District: _____ Grade: _____

Referring Administrator: _____ Phone Number: _____

Date of Incident: _____ Date Suspension Ends: _____ Date Expulsion ends: _____

REASON FOR REFERRAL: Briefly describe the incident(s) responsible for alternative placement request: _____

Regular and Special Education Information	Additional Special Education Information																
<p>✓ Items which must be attached:</p> <table border="1" style="width: 100%;"> <tr> <th style="background-color: #d3d3d3;">Behavioral Information</th> </tr> <tr> <td> Student Information Summary Printout (DELSIS/E-School) Incident Report or Attorney Generals Report Police Report (if applicable) Building Level Conference Summary Extension of Suspension Form Statements (if applicable) </td> </tr> <tr> <td> Photo or Copy of Weapon/Dangerous Instrument (if applicable) Current Year Discipline Summary Attendance Record for current Year </td> </tr> <tr> <th style="background-color: #d3d3d3;">Academic Information</th> </tr> <tr> <td> Most Recent Report Card Present Grades in all Classes Credit needs for student Senior project needs Copy of transcripts Previous School Year GPA and Current School Year GPA D.S.T.P. Scores Printout Copy of I.I.P. (if applicable) </td> </tr> <tr> <th style="background-color: #d3d3d3;">Other Information</th> </tr> <tr> <td> Immunizations Building-level interventions prior to the referral 504 Plan (if applicable) SSP (Student Success Plan) student account info. & password Verification of receipt of Student Code of Conduct Free/reduced lunch </td> </tr> </table>	Behavioral Information	Student Information Summary Printout (DELSIS/E-School) Incident Report or Attorney Generals Report Police Report (if applicable) Building Level Conference Summary Extension of Suspension Form Statements (if applicable)	Photo or Copy of Weapon/Dangerous Instrument (if applicable) Current Year Discipline Summary Attendance Record for current Year	Academic Information	Most Recent Report Card Present Grades in all Classes Credit needs for student Senior project needs Copy of transcripts Previous School Year GPA and Current School Year GPA D.S.T.P. Scores Printout Copy of I.I.P. (if applicable)	Other Information	Immunizations Building-level interventions prior to the referral 504 Plan (if applicable) SSP (Student Success Plan) student account info. & password Verification of receipt of Student Code of Conduct Free/reduced lunch	<p>✓ Items must be included in addition to the items listed in the column to the left:</p> <table border="1" style="width: 100%;"> <tr> <td> Current I.E.P. Building Meeting Notice Manifestation Determination Form Most recent psychological </td> </tr> <tr> <td> DVR Counselor name if applicable Senior "Performance Summary" </td> </tr> <tr> <td> <table border="1" style="width: 100%;"> <tr> <th style="background-color: #d3d3d3;">District Code of Conduct</th> </tr> <tr> <td> District Code of Conduct given to student/parent </td> </tr> <tr> <td> Parent informed that student remains under District Code of Conduct while in CDAP Program </td> </tr> </table> </td> </tr> <tr> <td> <table border="1" style="width: 100%;"> <tr> <th style="background-color: #d3d3d3;">DOE Regulation 611 followed</th> </tr> <tr> <td> All members of the District Alternative Placement Team represented per DOE regulation. </td> </tr> </table> </td> </tr> </table>	Current I.E.P. Building Meeting Notice Manifestation Determination Form Most recent psychological	DVR Counselor name if applicable Senior "Performance Summary"	<table border="1" style="width: 100%;"> <tr> <th style="background-color: #d3d3d3;">District Code of Conduct</th> </tr> <tr> <td> District Code of Conduct given to student/parent </td> </tr> <tr> <td> Parent informed that student remains under District Code of Conduct while in CDAP Program </td> </tr> </table>	District Code of Conduct	District Code of Conduct given to student/parent	Parent informed that student remains under District Code of Conduct while in CDAP Program	<table border="1" style="width: 100%;"> <tr> <th style="background-color: #d3d3d3;">DOE Regulation 611 followed</th> </tr> <tr> <td> All members of the District Alternative Placement Team represented per DOE regulation. </td> </tr> </table>	DOE Regulation 611 followed	All members of the District Alternative Placement Team represented per DOE regulation.
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DISTRICT OFFICE USE ONLY

Alternative Placement Team Attendees:

District contact person & phone number

Name of Alternative Program to which student has been assigned: _____

Criminal/DOE/School Code: _____ **Projected length of stay in alternative program** _____ **days**

Date of Meeting: _____

*The District alternative Placement Team Meeting **WILL NOT** be scheduled with incomplete information.*

APPENDIX B

FACILITIES TRANSITION FORM OUTSIDE AGENCY EVALUATION *Student Summary*

This form is to be completed by the outside agency in which the student was involved.

Date _____

Name of Agency _____

Agency Contact Person _____

Phone _____ Ext. _____ Fax _____

Name of Student _____ Date of Birth _____

Home Address _____

_____ Phone # _____

Parent/Guardian Name _____

Home Phone # _____ Work Phone # _____

Reason for placement (e.g., possession of a weapon, assault, etc.)

Conditions of release _____

STUDENT PROGRESS

Attendance:

Length of stay From _____ to _____

Number of days _____

Anticipated date of release _____

Behavior:

Behavior rating:

1=acceptable progress/achievement; 2=has shown improvement; 3=needs improvement; 4=significant concern exists

Item Assessed	Rating	Comments/Observations
Compliance with rules		
Classroom decorum		
Responsiveness to re-direction		
Responsiveness to counseling		
Student-to-student interaction		
Student-to-teacher interaction		
Student motivation		

Academics:

Academic rating: 1 = acceptable progress/achievement; 2 = has shown improvement;
3 = needs improvement; 4 = significant concern exists

Academic achievement**		
Completion of assignments/homework		

Student's current grade (9th, 10th, etc.): _____

****Please attach student's current grades/transcripts to this form.**

Is this student served in special education _____ yes _____ no.

If "yes", please attach a copy of the student's current IEP.

Counseling Services:

The student has received counseling services in the following areas.
(Please check all that apply.)

<input type="checkbox"/> Decision making	<input type="checkbox"/> Compliance with rules
<input type="checkbox"/> Problem solving	<input type="checkbox"/> Anger management
<input type="checkbox"/> Socially acceptable behaviors	<input type="checkbox"/> Self control/self /self discipline

This student would benefit from continued counseling and support in the following areas:

SIGNIFICANT BEHAVIORAL OCCURRENCE (S):

Agency Signature: _____

Position: _____ **Date:** _____

Phone: _____ **Ext.** _____ **Email:** _____

APPENDIX C

GRIEVANCES

A student grievance is another name for a student complaint. A student grievance may arise if the student's rights or liberty interests have been denied or impaired.

A. The following persons may engage in the grievance procedures:

- Individual student or group of students
- A student's parent or guardian
- Group of parents/guardians of students

B. The grievance procedure may be initiated if a student is alleged to have been denied any of the following:

- An appropriate educational opportunity
- Participation in any school activity for which the student is eligible
- An opportunity to compete/audition for a position in a school or school sponsored activity
- An opportunity to contest a rule, regulation, procedure or behavior consequence for a violation of the Student Code of Conduct that is alleged to be arbitrary or unreasonable.
- A constitutionally protected right

GRIEVANCE PROCEDURES

The following procedures govern a grievance:

1. The grievant must provide the staff member(s) who allegedly engaged in the aggrieved act with a written request for a conference within three school days following that alleged act. The written request must identify the act being aggrieved.

2. A conference shall be held within four school days after the request, unless the parties agree in writing to a later date.

3. If the conference does not resolve the complaint, the grievant may file a written grievance with the supervisor of the affected staff member(s) within three days of the conference.

4. If the supervisor of the staff member fails to resolve the issue to the satisfaction of the grievant, the grievant, upon request, shall be provided a written notice by the supervisor within three days of the request, stating the facts and the basis of the grievant dissatisfaction.

5. A grievant wishing to appeal the supervisor's written decision must file a written appeal with the Superintendent/Charter School Director or designee not later than five school days from the date of the written decision stating with specificity the reason(s) the problem could not be resolved.

6. The Superintendent/Charter School Director or designee shall resolve the appeal by investigating the situation, reviewing the written appeal/records, and/or scheduling a conference to hear the grievance no later than five school days following the receipt of the notice of appeal and shall issue a decision in writing no later than five school days following the investigation/conference.

7. The decision of the Superintendent/Charter School Director or designee shall be the final decision of the school system. A copy of the decision shall be sent to the parties involved not later than ten school days following the receipt of the appeal by the Superintendent/Charter School Director or designee.

APPENDIX D

Behavior Intervention Strategies

_____ School

Student: _____ Date: ___/___/___

Participants: _____, _____, _____,
_____, _____, _____, _____

Student Strengths and Interests: _____

Behaviors of Concern (specific, measurable, observable terms): _____

Factors that Trigger or Reinforce Problem Behaviors: (Explain rationale)

Historical Factors: _____

Home Environment: _____

Academic: _____

Teacher: _____

Peers: _____

Student: _____

- Actions taken, thus far, to explore and support behavior
- Parent conferences Student conferences Consultation with staff / peer observation
 - Point Card Peer Tutor Classroom-Based Incentive Mentor
 - PBS lessons Positive Action lessons Counseling
 - Others: _____
- _____

Outcomes: _____

Behavior Intervention Form

_____ School

Use one sheet per behavior or skill area

Positive Replacement Behaviors or Skills to teach: _____

Goal: _____

Interventions and Strategies (How will these behaviors be taught?): _____

What progress monitoring assessment tool will be used?

Progress Monitoring Results - Baseline: _____

Week 1 _____	Week 2 _____
Week 3 _____	Week 4 _____
Week 5 _____	Week 6 _____
Week 7 _____	Week 8 _____
Week 9 _____	Week 10 _____
Week 11 _____	Week 12 _____
Week 13 _____	Week 14 _____
Week 15 _____	Week 16 _____
Week 17 _____	Week 18 _____

Case Manager / Counselor Notes: Include notes parent and community contacts, and plans regarding follow-up. **Date each entry**

Notes and summaries regarding implementation of strategies: _____

Parent, Agency, or Professional Contacts or Communication: _____

Tasks Needed for Follow-Up: _____

APPENDIX E

PRELIMINARY INCIDENT INFORMATION

Form to be faxed () Administrative Services

District: _____ School: _____ Date: _____

Person Preparing Report: _____ Time of Incident: _____

Date of Fax: _____ Time of Fax: _____

Name of Person(s) Involved	Grade	Race	Sex	Age	Spec. Ed.	Student	Staff
----------------------------	-------	------	-----	-----	-----------	---------	-------

Description of Incident: _____

Injuries: _____

Date Contacted: Police State: _____ Local: _____ County: _____

Fire Department: _____ Ambulance: _____

Date Contacted: Educational Diagnostician _____ (if applicable)

Will charges be filed? YES or NO

Action taken by school at this time: In school suspension: _____ Number of days: _____

Out of school suspension: _____ Number of days: _____

Other Actions: _____

Date / Time parent contacted: _____ Date _____ Time _____

If this is a repeat suspension what action was taken by staff to prevent subsequent actions: _____

Administrator working with incident: _____

Note: The information will be verified by a written report from the school. This information is presented As initial information – not to be considered “fact” until verified.

APPENDIX F

✓ **Goals and Expectations**

All students who are alternatively placed must successfully meet the goals and expectations discussed at the onset of the placement before they can return to the comprehensive school. These include:

- **Attendance**
 - A student must be in attendance at least 90% of the time during their term of placement.
 - This includes excused and unexcused absences.
- **Behavior and Attitude**
 - A student may not have any out-of-school suspensions.
 - A student must exhibit consistent positive behavior during their placement.
 - Disruptive and/or inappropriate behaviors must diminish during the placement.
 - A student must participate in individual and group counseling his/her during placement.
- **Academic Performance**
 - A student must exhibit consistent academic progress during his/her placement.

✓ **Transition**

If a student has met the criteria for return to the comprehensive school, representatives from the alternative program, comprehensive school, student and parent/guardian are required to meet to plan a smooth transition

• **Reviews**

A review will take place to determine if the student has met the goals and expectations for attendance, behavior and academics. Student reviews take place quarterly at the end of the first, second, third, and fourth marking periods. If the student has met these goals and expectations, he/she will be recommended to return to the comprehensive school. If these goals are not met, the term of the student's term of alternative placement will be extended.

If a student does not exhibit progress over a period of time while in an alternative program, the student may be transferred to a different alternative educational program at the District's discretion.

APPENDIX G

INDIVIDUAL CDAP TRANSITION SUMMARY

Student Name:	Date of Birth:	Grade:
Student State ID#	Classification if Spec. Ed.	
District:	Home School:	CDAP Program Name
Original Reason for Placement:	Length of stay in program:	

STUDENT INFORMATION ATTACHMENTS

✓	Items which must be attached
	Student information summary printout (DELSIS or E-School)
	Current year discipline summary while in program
	Current year attendance record while in program
	Most current report card from program
	Present grades in all classes
	Credits earned while in program
	D.S.T.P. scores if applicable Or DCAS results
	Current I.E.P. if applicable
	Copy of Individual Service Plan developed by program (ISP)
	Copy of FBA if completed by Program

INSTRUCTIONAL INTERVENTIONS

✓	Check those which support student academic success
	Specific accommodations
	Adaptations in class work/tests
	Breaks in work or modified schedule
	Academic Contract
	Extra time in completing assignments
	Specific reinforcers
	Daily point system
	Peer tutor
	Reward system
	Shortened assignments
	Verbal praise
	Other- SPECIFY

BEHAVIORAL INTERVENTIONS

✓	Check those which support positive student behavior
	Call or email parent with positive news or request for support
	Cool down time to de-escalate
	Finish assignments later
	Immediate teacher attention
	Mentoring
	Modify task(s)
	Non-verbal cues
	One-on one (in class or out of class)
	Point system
	Tone of voice
	Verbal reminder
	Avoid specific triggers – specify
	Verbal reminder
	Behavioral contract
	Counseling
	Other - specify

Transition Team Attendees:

CDAP Program contact person & phone #

Date of Meeting: _____

Specify follow-up that will be provided by program:

Areas still of concern:

APPENDIX H

REQUEST WAIVER OF EXPULSION HEARING

Student Name: _____

School: _____

Grade: _____

PLEASE CHECK ONE:

_____ I am the parent/legal guardian of _____; **or**

_____ I am the student and I am eighteen years of age or older.

- I/We understand that **(student)** has the right to and is entitled to:
 - a. Have a hearing to determine the truth of the allegations and any reasonable and appropriate discipline;
 - b. Be represented by an adult or an attorney during the hearing;
 - c. Present and cross examine building representatives and evidence; and
 - d. Appeal a decision of the District Board of Education/Board of Directors to the State Board of Education.
- I waive my right to be heard at an expulsion hearing.
- I, **(student)** admit and acknowledge I engaged in the conduct described in the attached Incident Report, or in the case of out of school conduct, the conduct described in the attached report from the Attorney General's Office. If the District establishes **(Student)** engaged in such conduct, I will be expelled.
- I understand that I, **(student)** am subject to expulsion for a period of time to be determined by the Board of Education/Board of Directors, and that the administration of the District/Charter is recommending an expulsion period of _____.
- I understand that if expelled I, **Student**, will not be allowed on District/Charter property for any reason for the duration of the expulsion period, unless otherwise specified by the superintendent's/Charter's designee.
- By waiving my right to a hearing, I understand I am also waiving my right to file an appeal.

If you would like to waive your right to have an expulsion hearing, please sign, date and return this form by _____ **Please mail or fax to:**

District/Charter Administrator Name
Street Address
City, State
(Fax) 000-000-0000

Student

Date

Parent/Guardian

Date

APPENDIX I

Notification of Expulsion to Division of Motor Vehicles

The following information is provided in accordance with 14 Del. C. §4130(d)(1) and 21 Del. C. §2732(e) as a request for suspension of driving privileges.

District/Charter Information:

District/Charter: _____ School: _____

Superintendent/Director/Designee Preparing Form _____

Student Information:

Student's Name: _____ DOB: ____ / ____ / ____ State ID# _____

Address on record: _____
Street City State Zip

(Optional) Grade _____ Race _____ Gender _____

Beginning date of expulsion _____ Ending date of expulsion _____

Signature of Superintendent/Director/Designee _____ Date _____

Request to Reinstate

_____ hereby authorizes the Division of Motor Vehicles

District

to reinstate the driving privileges of the above-mentioned student.

Superintendent/Director Designee: _____ Date _____

Signature

Please file notification within five (5) days of the expulsion.

Filing Notification:	
Send original notification to:	Send photocopy to:
Division of Motor Vehicles	Department of Education
PO BOX 698	PO BOX 1402
Dover, Delaware 19903-0698	Dover, DE 19903-1402
ATTN: Suspension Section	ATTN: Robin F. Case
	School Climate & Discipline
Fax: (302) 739-2602	Fax: (302) 739-4483
*Keep a photocopy of notification in your district office	

Attorney General Reports

Since 1993, it has been the policy of the Attorney General's Office to notify the superintendents of individual school districts of serious crimes committed by students off of school property.

In 1992, the Superior Court of Delaware decided the case of *Howard v. Colonial School District*. The Court addressed the issue of whether a School District has the ability to expel a student for off-campus non-school activity drug sales. In the case, the School Board had decided that the student, even as an off-campus drug dealer, posed a threat to the safety and welfare of other District students. The Court found that the Board correctly used its power to expel.

The Court also noted that it was "not ruling that all off-campus, non-school activity conduct subjects a student to the threat of expulsion. A clearer Code of Conduct would help to delineate such conduct."

Beginning in 2010 school year, Attorney General Reports began to be electronically disseminated to charter schools and districts via an email notification process. The process is articulated in the INTERAGENCY AGREEMENT BETWEEN THE DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM BOARD OF MANAGERS, THE DELAWARE DEPARTMENT OF EDUCATION, THE DELAWARE POLICE CHIEFS COUNCIL, LOCAL EDUCATIONAL AGENCIES AND CHARTER SCHOOLS, AND THE DELAWARE DEPARTMENT OF JUSTICE GOVERNING ACCESS TO THE CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS).

The reasons for this new process are based in past practice and new resources. Technology allows for a quicker more efficient delivery of notifications from the Attorney General's Office.

What used to be a letter from the Attorney General's Office stating the charges filed against a student, has now become an electronic notification letter with contact information, a juvenile complaint and warrant (Exhibit A) issued by an Approving Judge, an Affidavit of Probable Cause (Exhibit B).

It is important to remember the notification information should not be shared with parents or others that are not a part of the Interagency Agreement. Victim and other sensitive and identifiable information are contained in the notifications and should be treated as confidential and/or appropriately redacted when utilized in any Charter School or District process or proceeding.

The decision to act upon this information will be the sole responsibility of the Charter School or District personnel.

Notification to the School Resource Officer/Law Enforcement will be for informational purposes only.

In all instances, release of student off-campus notifications to Districts and Charter Schools, and school assigned law enforcement is to protect the health, safety, and welfare of other students and staff.

Compliance with applicable confidentiality provisions must be followed.

Identified misdemeanors have been included in the notifications to allow Districts and Charter School administrators' important information on their students and in order to provide any support services they deem appropriate.

Attorney General Reports' Expulsion Procedures Checklist

This checklist helps to keep focused on **your expulsion process** when you receive and take initial action on Attorney General Reports.

Identified Charges

- Possession of a weapon during the commission of a felony
- Assault in the first degree
- Assault in the second degree-with a weapon
- Arson first degree
- Possession with intent to deliver-drugs
- Bombs and/or incendiary devices
- Rape first, second, third, fourth degree

Children with Disabilities

- Student and parents/guardians are invited to participate in a manifestation determination meeting.
- N/A

Admission by Student

- Plea is equivalent to an admission.
- Student indicates involvement in the reported incident in some manner.
- Presence at the scene is sufficient to recommend for expulsion.
- Student does not contest documentation of involvement as reported in arrest warrant
- None of the above

Other Evidence Utilized

- Witness testimony
- Police Officer testimony
- Conviction-DELJIS
- No other evidence

Student Alternatively Placed Pending Adjudication

- Student is alternatively placed and the District/Charter School reserves the right to move forward with expulsion pending the outcome of the adjudication of the student in the Criminal Justice system.

Expulsion timeline

- If student were to be found guilty, to take a plea, or to admit culpability, the expulsion begins with the first day of suspension in conjunction with the original meeting to consider alternative placement and shall not exceed 180 student school days.

Appendix A

I. Title of the Agreement

This Agreement shall be known as the Interagency Agreement between the Delaware Criminal Justice Information System Board of Managers; the Delaware Department of Education; the Delaware Police Chiefs Council; Local Educational Agencies and Charter Schools; and the Delaware Department of Justice governing access to the Criminal Justice Information System (CJIS).

II. Parties Involved and Their Authority

The parties to this Interagency Agreement are the Delaware Criminal Justice Information System Board of Managers (BOARD); the Delaware Criminal Justice Information System (DELJIS); the Delaware Department of Education (DDOE); Local Educational Agencies (LEAs) and Charter Schools; the Delaware Police Chiefs Council; and the Delaware Department of Justice (DDOJ).

The authority of the parties involved is derived from the following statutes:

1. Delaware Criminal Justice Information System Board of Managers, 11 *Del. C.*, Chapter 86
2. Education, 14 *Del. C.*, Chapter 2, 5, and 10 (subchapter III)

III. Purpose of the Agreement

This Interagency Agreement between the BOARD, DDOE, the Delaware Police Chiefs Council; LEAs and Charter Schools, and DDOJ has been jointly developed for the following purposes:

1. To develop a uniform process for all Delaware LEAs, charter schools, and school assigned law enforcement to be informed of serious crimes committed by students off school property.
2. To establish consistent procedures governing LEAs, charter schools, and school assigned law enforcement access to student off campus criminal history record information.
3. To ensure multi-disciplinary collaboration between the BOARD, DDOE, the Delaware Police Chiefs Council; LEAs, Charter Schools, and DDOJ in the access to and release of student off campus criminal history record information, recognizing the paramount goals of all agencies is to ensure the health, safety and welfare of all Delaware public school students and staff.
4. To ensure in all instances, release of student off campus criminal history record information to LEAs, Charter Schools, and school-assigned law enforcement is to protect the health, safety and welfare of other students and staff.
5. To ensure compliance with applicable confidentiality provisions.

In addition, to meet the needs of the parties hereto, the Interagency Agreement will:

- Define the responsibilities of each organization.
- Establish joint training between the organizations.
- Establish a steering committee to oversee the implementation of the Interagency Agreement.
- Encourage enhanced communication and coordination among agencies.

IV. Definitions

1. “Identified misdemeanor” – Those misdemeanor offenses listed in Exhibit A, attached hereto and incorporated herein by reference.
2. “School assigned law enforcement” – Law enforcement officers assigned to a school either as a School Resource Officer or a member of the Youth Aid Division designated to respond to school complaints by a law enforcement agency.

V. The Roles and Responsibilities of Each Agency

A. The BOARD shall:

1. Grant LEAs and Charter Schools limited access to CJIS. Specifically, the BOARD shall provide LEAs, Charter Schools, and school assigned law enforcement information related to:

- a. Off campus felony charges and/or sexual offense charges and/or identified misdemeanor offense charges filed against their students. Such information shall include: a cover letter from the Department of Justice, arrest document, Exhibit A of the warrant (charges), and Exhibit B of the warrant (probable cause document).
- b. Wanted persons enrolled in their schools. Such information shall include all capias and street warrants.
- c. Missing persons/runaways enrolled in their schools.

2. DELJIS shall run the student database provided by DDOE against the felony and identified misdemeanor arrest, missing persons/runaways, and wanted persons database(s) on a routine basis (no less than twice a week on Sunday and Wednesday nights) and provide the off campus information to LEAs and Charter Schools, and school-assigned law enforcement. All reasonable effort will be made to correctly identify students and their accompanying off campus information based on the information provided by the DDOE.

B. The LEAs and Charter Schools shall:

1. Designate school year, name, birth date, district code, school code, entry date and exit date as Directory Information.

2. By execution of this Agreement, give permission to the DDOE to release Directory Information, including but not limited to, scrambled student IDs, school year, student names, birthdates, district code, school code, entry dates and exit dates to DELJIS to assist in the provision of off campus arrest, missing/runaways, and wanted persons information to LEAs, Charter Schools, and school-assigned law enforcement.

3. Designate the Superintendent/Head of School and one administrative professional employee to receive student criminal history record information from CJIS. The administrative professional employee shall be at the district/administrative office level and shall not be a secretary or administrative assistant. The Superintendent/Head of School and designated administrative professional employee shall provide a secure e-mail address to DELJIS to receive student off campus criminal history record information.

C. The DDOE shall:

1. Release, scrambled student IDs, school year, student names, birthdates, district code, school code, entry dates and exit dates to DELJIS in a flat file that is comma delimited and placed on a secure FTP site for the DELJIS programmer to access.

2. Treat all data files created under this Agreement using the State of Delaware approved security standards for transmitting confidential information.

3. Facilitate training and technical assistance to LEAs, Charter Schools, and school assigned law enforcement on the MOU in collaboration with the BOARD, DDOJ, and law enforcement.

D. The DDOJ shall:

1. Provide a cover letter to be used by DELJIS notifying LEAs, Charter Schools, and school-assigned law enforcement that a felony, sexual offense, or identified misdemeanor, has allegedly been committed by one of their students off school property.

2. Provide a cover letter to be used by DELJIS notifying LEAs, Charter Schools, and school assigned law enforcement that a missing person/runaway and/or wanted person is allegedly enrolled in their school.

3. Conduct training to be coordinated through DELJIS and provided to LEAs, Charter Schools, and school assigned law enforcement.

4. Appoint a representative to the Steering Committee.

VI. Confidentiality

A. 11 *Del. C.* § 8514

Use of criminal history information disseminated to non-criminal justice agencies is restricted to the purpose for which it was given. 11 *Del. C.* § 8514(a).

An individual or agency which has entered into a user agreement as prescribed by 11 *Del. C.* § 8514(b), and which knowingly or recklessly violates the terms of that agreement, shall be guilty of a class A misdemeanor and shall be punished according to chapter 42 of Title 11 of the *Delaware Code*. 11 *Del. C.* § 8514(c). The sentence for a class A misdemeanor may include up to **one (1)** year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate. 11 *Del. C.* § 4206(a).

Upon such violation, the user agreement shall be terminable at the option of the Bureau. 11 *Del. C.* § 8514(c).

B. 11 *Del. C.* § 8523

Any person who knowingly provides criminal history record information to a person or agency not authorized by 11 *Del. C.*, chapter 85 to receive such information or who knowingly and wrongfully obtains or uses such information shall be guilty of a class A misdemeanor and shall be punished according to chapter 42 of Title 11 of the *Delaware Code*. 11 *Del. C.* § 8523(d). The sentence for a class A misdemeanor may include up to **one (1)** year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate. 11 *Del. C.* § 4206(a).

Further, conviction of a violation of 11 *Del. C.*, chapter 85 shall be prima facie grounds for removal from employment with the State or any political subdivision thereof, in addition to any fine or other sentence imposed. 11 *Del. C.* § 8523(e).

C. 14 *Del. C.* § 4111

14 *Del. C.* § 4111 provides that all educational records of students in public and private schools are confidential. Education records and personally identifiable information contained therein can only be released in accordance with DOE regulations. DOE has adopted the Federal FERPA regulations with two exceptions which are not applicable.

D. Family Educational Rights and Privacy Act (FERPA)

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA, 20 U.S.C. 1232(g), 34 CFR Part 099, allows schools to disclose educational records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest.
- Other schools to which a student is transferring.
- Educational authorities conducting audit, evaluation, or enforcement of education programs.
- Appropriate parties in connection with financial aid to a student.
- Organizations conducting certain studies for or on behalf of the school.
- To comply with a judicial order or lawfully issued subpoena.
- Appropriate officials in cases of health and safety emergencies.
- Parents of a dependent student.
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. Directory information does not include student identification numbers or Social Security numbers. However, schools must give public notice to parents and eligible students about what items the school has designated as directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. (Source: U.S. Department of Education - www.ed.gov/policy/gen/guid/fpco/ferpa/index.html)

VII. Administration of MOU

The BOARD and DDOE will establish a steering committee to be chaired by DDOE to meet at least annually to:

1. Oversee implementation of the MOU.
2. Recommend and make changes as needed to the MOU.
3. Address policy issues that may arise in implementation.
4. Appoint representatives to:
 - a. Ensure adherence to the MOU procedures.
 - b. Provide training and support for the implementation of the MOU in coordination with DELJIS.
 - c. Develop and maintain positive interagency relationships.
 - d. Identify other training needs and develop cross-training efforts.

In addition, the BOARD, DDOE, LEAs, Charter Schools, and the Delaware Police Chiefs Council, will designate liaisons to support effective communication and implementation of the MOU, as well as to mediate conflict to successful resolution.

VIII. Agreement Review

This ongoing Agreement shall be effective immediately upon the written signatures of all parties and will remain in effect until a new agreement is signed. This Agreement shall be reviewed annually by appropriate personnel from each agency and shall be reauthorized at least every five (5) years by the BOARD, DOE, the Delaware Police Chiefs Council; the LEAs and Charter Schools; and the DDOJ. Renegotiation of any portion of this Agreement may occur at any time for good cause, upon the written request of any of the participating agencies. This Agreement may be terminated by any of the parties upon thirty (30) days written notice.

IX. Signatories

Signed on behalf of *DELJIS BOM* by:

Signed on behalf of *DELJIS* by:

Signature: _____

Signature: _____

Name: _____

Name: _____

Position: _____

Position: _____

Signed on behalf of *DDOE* by:

Signed on behalf of *DDOJ* by:

Signature: _____

Signature: _____

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

Signed on behalf of the *Delaware Police Chief's Council* by:

Signature: _____

Name: _____

Position: _____

Date: _____

Superintendent Appoquinimink	Date
Superintendent Brandywine	Date
Superintendent Caesar Rodney	Date
Superintendent Cape Henlopen	Date
Superintendent Capital	Date
Superintendent Christina	Date
Superintendent Colonial	Date
Superintendent Delmar	Date
Superintendent Indian River	Date
Superintendent Lake Forest	Date
Superintendent Laurel	Date
Superintendent Milford	Date
Superintendent New Castle County Votech	Date
Superintendent Polytech	Date
Superintendent Red Clay Consolidated	Date

Superintendent Seaford	Date
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Superintendent Smyrna	Date
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Superintendent Sussex Technical	Date
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Superintendent Woodbridge	Date
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Charter Schools

Principal Academy of Dover	Date
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School Administrator Campus Community	Date
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Head of School Charter School of Wilmington	Date
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Principal Delaware Military Academy	Date
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Principal Delaware College Preparatory Academy	Date
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Director East Side Charter	Date
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Head of School Family Foundations Academy	Date
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Head of School Kuumba Academy	Date
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Head of School Maurice J. Moyer Academy	Date
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Head of School
MOT

Date

School Director
Newark Charter

Date

Head of School
Odyssey

Date

Head of School
Pencader Business and Finance Charter High School

Date

Director
Positive Outcomes

Date

Director
Prestige Academy

Date

Principal
Providence Creek

Date

Principal
Sussex Academy of Arts and Sciences

Date

Principal
Thomas Edison

Date

DRAFT

EXHIBIT A

Notifications will be sent for the following off-campus crimes:

- All Felony Offenses
- All Drug Charges (Title 16)
- Offenses Against the Person
 - Offensive Touching (601)
 - Reckless Endangering 2nd Degree (603)
 - Assault 3rd Degree (611)
 - Abuse of a Sports Official (614)
 - Terroristic Threatening (621)
 - Indecent Exposure 1st Degree (765)
 - Incest (766)
 - Unlawful Sexual Contact 3rd Degree (767)
 - Unlawful Imprisonment 2nd Degree (781)
 - Coercion (791)
- Offenses Involving Property
 - Reckless Burning or Exploding (804)
 - Cross or Religious Symbol Burning (805)
- Offenses Against Public Health, Order and Decency
 - Hate Crime (1304)
 - Harassment (1311)
 - Cruelty to Animals (1325)
- Offenses Involving Deadly Weapons and Dangerous Instruments
 - Carrying a Concealed Dangerous Instrument (1443)

Missing Persons/Runaways

Upon receiving notification that a student in the school is a “missing person” or “runaway,” the School Resource Officer (SRO) will discuss the status with district personnel. They will work together to determine what occurs next. The SRO will immediately contact the agency that initiated the original investigation and entered the student as a “missing person” or “runaway.” If a student were contacted due to this notification, the student will be interviewed to determine if there are factors leading to their decision to leave the household (abuse, addiction, etc.). The Division of Family Services will be notified. The above actions will be documented in an Incident Report or Field Service Report.

Wanted Persons

Upon receiving notification that a student is “wanted” for a crime, the School Resource Officer (SRO) will evaluate the severity of the underlying charge and whether there is a victim-person associated with the crime (i.e., Shoplifting versus Assault) to determine when to take a student into custody. This decision will strike a balance between public safety and a desire to minimize the negative impact on the educational process. **Actions will be coordinated with school district personnel and documented in an Incident Report or Field Service Report.**

When a student is taken into custody on an outstanding warrant, efforts will be taken to minimize the impact of this arrest on the educational process. For example:

- The student may be called out of class to an administrative office where he/she or s/he will be taken into custody.
- Police contact in the school may be limited to the SRO assigned to the school. This decision will be left to the discretion of the SRO due to officer safety concerns.
- The school will not be utilized as a transfer point for students who are wanted by jurisdictions other than the jurisdiction of the SRO. The wanted person will be transported to the SRO’s police department facility. Other agencies will be directed to that location to take custody of the individual.
- Transports from the school will be done in a low-key manner, minimizing the visibility to other students (as much as practicable)

Possible alternatives for minor offenses may include:

- The student may be taken into custody near or at the end of the school day for less serious offenses
- Notification to parents/guardians for minor offenses and/or traffic offenses. Direction will be given to resolve the matter in a timely fashion to avoid the SRO intervention.
- Notification to parents/guardians for court capiases (except when the underlying charge has a person as a victim). Direction will be given to resolve the matter in a timely fashion to avoid the SRO intervention.