

REPORT OF THE STATEWIDE TASK FORCE  
ON  
SCHOOL DISTRICT CODES OF CONDUCT

SUBMITTED TO:  
  
THE GOVERNOR  
AND  
THE GENERAL ASSEMBLY

JANUARY 15, 2002  
STATE OF DELAWARE

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## INTRODUCTION

The development of this report was initiated as a result of House Resolution No. 24 passed by the House of Representatives 141<sup>st</sup> General Assembly. The Resolution states,

*HOUSE OF REPRESENTATIVES  
141<sup>ST</sup> GENERAL ASSEMBLY  
HOUSE RESOLUTION NO. 24*

*ESTABLISHING A TASK FORCE TO MAKE RECOMMENDATIONS  
RELATING TO SCHOOL DISTRICT CODES OF CONDUCT.*

*WHEREAS, all school districts have established Codes of Conduct for students in their schools; and  
WHEREAS, these Codes of Conduct vary by school district; and  
WHEREAS, children should be treated equitably regardless of the school district they attend.*

*NOW, THEREFORE:*

*BE IT RESOLVED by the House of Representatives of the 141<sup>st</sup> General Assembly of the State of Delaware that a Task Force be established to study and report on school district codes of conduct and to determine whether greater consistency in Codes of Conduct should be required. The report shall be submitted to the General Assembly and Governor by January 15, 2002; and*

*BE IT FURTHER RESOLVED that the Task Force shall have no more than fourteen members and include three members of the House of Representatives, two of whom shall be appointed by the Speaker of the House of Representatives and one by the Minority Leader in the House of Representatives. The Secretary of Education shall appoint eleven members comprised of individuals that shall include one representative of the Department of Education, who shall serve as Chair; two administrators, at least one of whom shall be a principal; one member of the State Board of Education; one representative of the Delaware State Education Association; one representative of the Delaware School Boards Association; one representative of the Delaware Congress of Parents and Teachers; one Representative of the State Parent Advisory Committee; one member of the Governor's Advisory Council for Exceptional Citizens and two public members.*

### SYNOPSIS

*This resolution creates a Task Force to make recommendations regarding the consistency of school district Codes of Conduct.*

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## **MEMBERSHIP**

### MEMBERSHIP

The framework for the Task Force membership was determined by the General Assembly in House Resolution # 24.

The appointed members:

Representative Nancy Wagner, House of Representatives

Representative Joseph Miro, House of Representatives

Representative Helene Keeley, House of Representatives

Ms. Robin F. Case, School Climate & Discipline, Department of Education

Dr. John Leone, Interim Superintendent, Capital School District

Mr. Steve Protonentis, Principal, Dover Central Middle School

Mrs. Jean Allen, Member of the State Board of Education

Ms. Barbara Grogg, Representative of the Delaware State Education Association

Mr. Ray Christian, Representative of the Delaware School Boards Association

Ms. Alberta Smith, Representative of the State Parent Advisory Committee

Ms. Kathy Krafft, Member, Governor's Advisory Council for Exceptional Citizens

Sgt. Diane Moss, Delaware State Police, School Resource Officer

Dr. Tom Downs, Associate Executive Director, YMCA Resource Center

## **CHARGE**

The charge to the Task Force was to study and report on school district codes of conduct and to determine whether greater consistency in Codes of Conduct should be required.

## **METHODS**

### MEETINGS

The Task Force met on four occasions between November 19, 2001 and January 7, 2002. The meetings consisted of reviewing documents, developing a matrix, collecting information, presentations by guest speakers, and discussion. The following guests provided input to the Task Force:

- Lewis L. Atkinson III, Ed.D.  
Department of Education  
Executive Director, Adult Education and Workforce Development
- Mrs. Margaret Crosby
- Rhonda Denny  
Department of Justice, New Castle County  
Deputy Attorney General
- Joseph Flinn  
Department of Justice, Kent County  
State Detective
- Mrs. Louise Henry

*We appreciate the participation of all who contributed to this Task Force and its recommendations relating to school district Codes of Conduct. The Task Force members and guests are thanked for their time and unselfish efforts.*

## **Review of Documents**

The Task Force's work began by reviewing the work of a similar Task Force that reported to the State Board of Education in 1992. The following documents were utilized as valuable resources for the Task Force:

1. Guidelines For The Development Of District Policies On Student Rights And Responsibilities, adopted by the State Board of Education, October 20, 1988
2. School/Police Relations Guidelines for School Administrators, approved by the State Board of Education, October 20, 1988
3. Report of the Statewide Committee on School Codes of Conduct to the State Board of Education, December 17, 1992
4. Letter dated February 19, 1993, to Dr. Audrey K. Doberstein, the Chairman of the Statewide Task Force on Discipline in the Schools (1992) from then State Superintendent of Public Instruction and Executive Secretary, State Board of Education, Pascal D. Forgione, Jr., Ph.D.

First considered, was a letter dated February 19, 1993, to Dr. Audrey K. Doberstein, the Chairman of the Statewide Task Force on Discipline in the Schools (1992), from then State Superintendent of Public Instruction and Executive Secretary, State Board of Education, Pascal D. Forgione, Jr., Ph.D. It addressed the February 18, 1993 State Board of Education meeting. A synopsis of the letter as it pertained to school Codes of Conduct:

*Dear Dr. Doberstein:*

*The State Board of Education, at its February 18, 1993 meeting, reviewed the reports presented to it in December and January by the three committees established by the Legislature to address discipline in the State's public schools. Those reports on 1) a statewide Code of Conduct for students in the public schools; 2) alternative educational programs and resources which might be offered to students who would otherwise be suspended or expelled; and 3) a means of involving other agencies and parents in the process of improving school discipline are enclosed, and by this letter are formally sent to you.*

*At the February 18, 1993 meeting, the State Board also unanimously agreed on the following comments on items contained in the three reports:*

- 1. The State Board members feel strongly that, although they are willing to allow flexibility in defining specific infractions and consequences, there is a core of code elements, which must be in each district code of conduct. These elements are set out on pages 2-5 of the Report of the Statewide Committee on School Codes of Conduct to the State Board of Education.*

*The State Board wishes to emphasize that in the development and implementation of student codes of conduct, care should be taken to differentiate among the consequences meted out to students based upon their grade and stage of development.*

- 2. The State Board is concerned by the lack of uniformity in due process procedures among the school districts. The State Board supports the enactment of uniform due process procedures that will guarantee the same rights of due process to every student in every school district.*

The following are the "Code Elements" on pages 2-5 of the Report of the Statewide Committee on School Codes of Conduct to the State Board of Education. (1992)

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*II. Code Elements:*

*Each parent and child has a right to expect that a safe, secure, and healthy learning environment is maintained within the school setting. School districts, building administrators, teachers and support staff should endeavor to provide a positive learning environment free of risks, threats or danger. Each district should develop its own code of conduct, which reflects the attitudes, values, and moral tone of the community. Such community development allows schools to be responsive to the disciplinary needs of each school environment and the wide variety of alternative resources available in differing locations.*

*While it is recognized that local districts should develop their own codes, there are, however, certain elements, which should be found in all codes. To that end, we recommend that the State Board adopt a policy, which requires all districts to have a Code of Conduct, which contains these elements.*

A. Code Expectations and Consequences:

*District codes of conduct should establish the terms involved in the code, clearly setting out a structure, which states infractions and delineates consequences. Appropriate adjustments should be made in the administration of the code to the age, grade, and maturity of the student involved.*

1. *The code of code should contain definitions so that the terms the policy uses are made clear to all.*
2. *There should be a clear relationship between the infraction, levels of infractions, and the consequences imposed.*
3. *There should be an apparent hierarchy of consequences among the various infractions and between first and subsequent infractions.*

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4. *The code should contain information on how it should be administered, setting out procedures for reporting incidents and contacting parents.*
5. *The districts, and the individual schools should ensure that (a) each student receives a copy of the Code, (b) there is discussion of the Code at the beginning of the school year and (c) each student has a good understanding of the terms, infractions and consequences established.*

B. Due Process Standards:

*District Codes of Conduct should establish and define student rights and responsibilities. They should set out clearly the procedures that are to be followed to ensure that students receive due process in disciplinary matters. Those policies should be drafted so that the precepts set out in the State Board of Education's Guidelines for the Development of District Policies on Student Rights and Responsibilities (revised 10-20-88), attached as Appendix A, are followed. Due process procedures and student grievance processes should be included in the copy of the Code given to students.*

*Identified students with special needs are afforded certain procedural protections under IDEA/EHA (P.L. 94-142) and Section 504 which must be*

considered in any disciplinary actions involving them. These protections supersede any state or local codes of conduct.

C. Infractions:

*The infractions portion of the code should provide school personnel, parents, students and the community with a clear understanding of code violations and the resulting disciplinary actions. An introductory statement, which indicates that the list is not all inclusive and that all acts of misconduct are not listed, is essential. The consequences of specific misbehaviors are provided as a guide, but discretionary use of authority is important. The severity and frequency of misbehavior, and the age and maturity of the student are to be considered in defining appropriate disciplinary action. A statement indicating that the Student Code of Conduct does not restrict the Board of Education's legal authority to protect the health, safety, and welfare of students notifies the school community that the code itself is not all inclusive. Statements, which indicate that the primary purpose of disciplinary action is to improve behavior, are important to establish the educational and behavioral basis for such regulations. Efforts to address misbehavior should initially focus upon: (1) learning to perform in an acceptable manner; (2) using supportive techniques such as counseling; and (3) utilizing positive reinforcement for appropriate behavior. This establishes a basis for more severe disciplinary measures if the behaviors continue or escalate.*

D. Categories of Infractions:

Disruptive Behaviors:

*This section should delineate disruptive behaviors that interfere with the learning of other individuals, create unsafe conditions, disrupt the educational process, or interfere with an orderly educational environment.*

Severe Behaviors:

*This section should delineate infractions that are violations of Delaware Code. These infractions should list general categories of behavior that would require reporting, investigation, and involvement of law officials in conjunction with the school and may result in violations of the law, as well as the student code. These would include, but not be limited to, the following:*

1. *Infractions that suggest the commission of a felony [See 11 Del.C., Ch. 5];*

2. *Infractions that suggest violations of the laws concerning controlled substances and alcohol [See 16 Del. C., Ch. 47];*
3. *Infractions that suggest incest, sexual abuse or the neglect or other abuse of children [See 11 Del.C., Ch. 5, Subchapters II, subpart D, and V.];*
4. *Infractions that suggest the use, possession or sale of dangerous instruments or deadly weapons [See 11 Del.C., Ch. 5, Subchapter VII, subpart E, and S 1338.];*
5. *Infractions that suggest morals offenses [See 11 Del. C., Ch. 5, Subchapter VII, subparts B and C, and S 820.]*
6. *Infractions that suggest organized gambling [See 11 Del. C., Ch. 5, Subchapter VII, subpart D.];*
7. *Infractions that suggest an assault or offensive touching of a school employee. [See 14 Del. C. S-4112 (6) and 11 Del. C., Ch. 5, Subchapter II, subpart A.]*
8. *Infractions that suggest offenses involving school property and that of other students [See 11 Del. C., Ch. 5, Subchapter III and other sections of Chapter 5].*

## **Development of Matrix**

The Task Force members agree with the Doberstein report that,

*“Each parent and child has a right to expect that a safe, secure, and healthy learning environment is maintained within the school setting. School districts, building administrators, teachers and support staff should endeavor to provide a positive learning environment free of risks, threats or danger. Each district should develop its own code of conduct, which reflects the attitudes, values, and moral tone of the community. Such community development allows schools to be responsive to the disciplinary needs of each school environment and the wide variety of alternative resources available in differing locations.*

*While it is recognized that local districts should develop their own codes, there are, however, certain elements, which should be found in all codes.”*

The Task Force members believe that the efforts demonstrated in the previous reports presented to the Governor, Legislature, and the State Board of Education in 1992 formed the spirit and intent for the future Codes of Conduct to be developed and implemented by the 19 districts in Delaware public schools. The members believe it is with the passing of time, the transition of personnel

throughout the Delaware Educational System, and the many changes in the school environment concerning the legal issues, that we now observe the diverse nature of Codes of Conduct currently in place throughout Delaware schools.

The Task Force members feel that the phrase in the aforementioned letter, from the State Board of Education to Dr. Doberstein, “ ***there is a core of code elements which must be in each district code of conduct***”, is clear in its meaning.

Task Force members developed a matrix (See Appendix A), utilizing the code elements as directed by the State Board in 1993. The matrix was used as a tool to study and review the 19 district Codes of Conduct as directed by House Resolution # 24.

### **Review of the 19 District Codes of Conduct**

The results of the review indicate that of the 19 district Codes of Conduct, none of the districts are currently implementing all of the Code of Conduct elements as directed by the State Board of Education in 1993.

The Task Force concluded that districts have most categories included, but it was not clear where to find the information. For parents and students the language in which the Codes were written was not easily understood.

The Task Force concluded there is a need for all districts to use a page numbering system with a Table of Contents and a definitions section. The definitions section should include terms that are used in the Codes of Conduct. When using terms similar to or the same as those used in the Delaware Code, terms should be defined exactly the same as in the Delaware Code to avoid any confusion to those persons referring to the document.

## RECOMMENDATIONS

The Task Force recommends to the Governor and the General Assembly the following three recommendations:

1. Department of Education document, **Guidelines For The Development Of District Policies On Student Rights And Responsibilities (1998) be updated.**

The update would include the addition of the relevant sections of the following documents:

- Ensure that all infractions required to be reported pursuant to Delaware Code T-14 S-4112 (Student Conduct Reports) are included in Codes of Conduct,
- State Board of Education, Code of Conduct Elements (1993),
- The Department of Education Regulations:
- 601, School Police Relations,
- 605, Student Rights And Responsibilities,
- 876, Possession, Use, or Distribution of Drugs and Alcohol,
- 878, School District Compliance With Gun-Free Schools Act.

The Task Force further recommends that the Department of Education work collaboratively with the Department of Justice to update the Guidelines For The Development Of District Policies On Student Rights And Responsibilities (1988) to ensure they are lawful and that they are aligned and restructured with current State and Federal laws.

2. **The development and maintenance of an effective and ongoing training program on School District Codes of Conduct.**

The Task Force recommends that once updated, technical assistance on the Guidelines For The Development Of District Policies On Student Rights And Responsibilities be provided to all district personnel tasked with the development and implementation of district Codes of Conduct.

### **3. The inclusion of the Charter Schools in the process.**

The Task Force members agree with the Doberstein report that,

*“Each parent and child has a right to expect that a safe, secure, and healthy learning environment is maintained within the school setting. School districts, building administrators, teachers and support staff should endeavor to provide a positive learning environment free of risks, threats or danger. Each district should develop its own code of conduct, which reflects the attitudes, values, and moral tone of the community. Such community development allows schools to be responsive to the disciplinary needs of each school environment and the wide variety of alternative resources available in differing locations.*

*While it is recognized that local districts should develop their own codes, there are, however, certain elements, which should be found in all codes.”*

The Task Force believes Codes of Conduct should be in place for all public schools in the State of Delaware, including charter schools.

#### **SUMMARY**

The Task Force is confident that the recommended update to the Guidelines For The Development Of District Policies On Student Rights And Responsibilities, that will include updated Delaware Code, State Board of Education Code of Conduct Elements (Appendix A), and Department of Education regulations in conjunction with an effective training program will provide districts with the necessary materials and resources to bring a consistent format to Codes of Conduct in Delaware public schools. The format suggested will include a Table of Contents, use of page numbers, and language that is clear for its intended audience. The Task Force is convinced that a user-friendly document consistent in format in Delaware public and including charter schools, would better assist the intended users of the document in a more effective and efficient manner.

The Task Force concurs with and finds it valuable and necessary to repeat for the purposes of this report, the following statements found in the committee report from 1993,

*“The responsibilities of local Delaware Boards of education for policy development which includes student discipline are defined in Title 14, Section 1049 of the Delaware Code. Efforts to redirect this responsibility for student*

*conduct to the State level will reduce the ability of local boards to respond to the needs of their individual communities and would infringe upon their legal mandate in this area.”*

*“The proposed development of a statewide student code of conduct seems to infer that local boards of education and school personnel are incapable of making appropriate decisions with regard to these issues. Although well intended, this approach assumes that there is no place for inappropriate and disruptive behavior in our schools, but it is our position that the development of a statewide code of conduct will not act favorably upon the very complex problem of student behavior.”*

*“No matter whether there are statewide or local rules, there will always be instances, perceived or real, of variations from the established standard. Concerns generally arise from the implementation of codes of conduct, not from the codes themselves. Appropriate training and direction in implementing the code are necessary for consistency in its application. Such consistent application of the code of conduct is the monitoring responsibility of local districts, and they should be held accountable.”*

The recommendations made by this Task Force are thoughtfully and respectfully presented following the diligent and conscientious work of its appointed members.

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Robin F. Case  
*Chair, Task Force on School District Codes of Conduct*

***APPENDIX***  
***A***

<b>A. Code Expectations and Consequences</b>	<b>YES</b>	<b>NO</b>
1. Contain Definitions	17	2
2. Clear – infractions, level of infractions, and awareness	14	5
3. Higher consequences per infraction	13	6
4. How code is administered	16	3
5. Ensure students have copies – discussion of code	14	5
<b>B. Due Process</b>	<b>YES</b>	<b>NO</b>
1. Student rights and responsibilities	17	2
2. Students due process	13	6
3. Student grievance processes	14	5
4. Special Ed. Rights	13	6
<b>C. Infractions</b>	<b>YES</b>	<b>NO</b>
1. Clear understanding of code violations	13	6
2. Statement of “not all inclusive clause”	11	8
3. Consequences of specific misbehaviors	18	1
4. Age and maturity of student considered in disciplinary action	10	9
5. Statement that “Code of Conduct does not restrict the Board of Ed”	3	16
6. Statement “primary purpose of disciplinary action is to improve behavior”	14	5
<b>D. Categories of Infractions</b>	<b>YES</b>	<b>NO</b>
1. Disruptive behaviors categories	17	2
2. Severe behaviors (categories of behavior that would require reporting, investigation, and involvement of local authorities)	17	2

The following districts were considered in the above tally:

<b>Appoquinimink</b>	<b>Delmar</b>	<b>Red Clay</b>
<b>Brandywine</b>	<b>Indian River</b>	<b>Seaford</b>
<b>Caesar Rodney</b>	<b>Lake Forest</b>	<b>Smyrna</b>
<b>Cape Henlopen</b>	<b>Laurel</b>	<b>Sussex Technical</b>
<b>Capital</b>	<b>Milford</b>	<b>Woodbridge</b>
<b>Christina</b>	<b>NCC Votech</b>	
<b>Colonial</b>	<b>Polytech</b>	