School Climate & Discipline Program
Mandatory School Crime & Discipline Reporting Training

Target Audience-LEA Discipline Contacts & Administrators and/or Staff Responsible for Discipline & Entering Discipline Data
School Crime/Discipline Reporting

- Reporting School Crimes under DE Code Title 14, CH 41, §4112
- DE Admin Code Title 14, Regulation 601
- Suspension/Expulsion Reporting Requirements
- eSchool Plus Discipline Data Entry
- Remember:
  - Mandatory does not mean optional.
  - “When in doubt…Shout out!” Refer to website.
  - No two instances will be the same.
  - Changes throughout presentation are in RED.
§ 4112 (A) – Definitions of words, terms, and phrases.

§ 4112 (B) - Required mandatory report of criminal violations to police if:

Student, school employee or school volunteer is the victim of the following crimes which occurred on school property or at a school function:
- A violent felony
- Assault III
- Unlawful Sexual Contact III

NOTE: Offensive touching or terroristic threatening against a school employee is not a mandatory report to police. It is still a required report to the DOE via eSchool Plus.
§ 4112 (B) - Required mandatory report of criminal violations to police if:

**School employee is offender** and **student** is victim of the following crimes which occurred **ANYWHERE**:
- A violent felony
- An Assault III
- Any sexual offense (Title 11, § 761[h])

§ 4112 (C) – Required mandatory report of criminal violations to police if:

**Student is offender or any person on school property or school function:**
- Possesses any unlawful controlled substance
- Possesses any deadly weapon, destructive weapon, dangerous instrument or incendiary/explosive device

NOTE: In ALL of the instances your obligation is to report to the police what you believe to be a crime committed. Police will determine probable cause for arrest. If you’re unsure…. CALL POLICE.
Age Requirements

• Misdemeanors (assault III and USC III) committed by children under the age of 12 do not have to be reported to the police. You still must report the incident to the Department of Education.

• Violent felonies and drug or weapons offenses, regardless of the offender’s age, must be reported to the police and to the Department of Education.
Crimes on School Property

Include:
- Buses
- Field Trips
- Sporting Events
- **Any Time of day or night**
- **Students are not the only possible offenders—could be staff, unknown persons, parents, anyone.....**
Violent Felonies

All **violent felonies** that occur against students, school employees and school volunteers must be reported to law enforcement **and** the Delaware Department of Education.

NOTE: The “official” report to the DDOE is done through the eSchool Plus Discipline Center.
Del.Code T-11 § 4201 (c) The following felonies shall be designated as violent felonies:

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Title 11

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Section 836 Carjacking in the 1st Degree
Section 846 Extortion
Section 1108 Sexual Exploitation of a Child
Section 1109 Unlawfully Dealing in Child Pornography
Section 1112A Sexual Solicitation of a Child
Section 1112B Promoting Sexual Solicitation of a Child
Section 1250 Assault in the 1st Degree Against a Law-Enforcement Animal
Section 1253 Escape After Conviction of Class B or C Felony
Section 1254 Assault in a Detention Facility
Section 1256 Promoting Prison Contraband (Deadly Weapon)
Section 1257(a) Resisting Arrest with Force or Violence
Section 1302 Riot
Section 1304 Hate Crimes
Section 1312 Stalking
Section 1338 Bombs, Incendiary Devices, Molotov Cocktails and Explosive Devices
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Also….

**Title 16**

**Section** | **Crime**
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1136 | Abuse/Mistreatment/Neglect of a Patient
4752 | Drug Dealing – Aggravated Possession Class B
4753 | Drug Dealing – Aggravated Possession Class C
4754(1) | Drug Dealing – Aggravated Possession Class D
4755 | Aggravated Possession Class E
4756 | Aggravated Possession Class F
4774 | Delivery of Drug Paraphernalia to a Minor

**Title 31**

**Section** | **Crime**
---|---
3913 | Abuse/Neglect/Exploit/Mistreat an Infirm Adult

Charges of “attempt to commit” any felony designated in these subsections as a violent felony shall also be designated as a violent felony. For example, “Attempt to commit first degree murder” is considered a violent felony just as “committed first degree murder.”
Levels of Assault

• Assault **Third** (Misdemeanor): intentionally or recklessly causes physical injury to another person. Code = C0201

• Assault **Second** (Felony): intentionally causes serious physical injury or uses a deadly weapon or dangerous instrument during the commission of the crime. Code = C0106

• Assault **First** (Felony): intentionally causes serious physical injury to another by means of a deadly weapon or dangerous instrument. Code = C0107

Any of the above offenses committed by a student under the age of 12 shall be reported using code D1701 (student victim) or D1702 (staff victim)
- **Physical Injury**: Impairment of physical condition or substantial pain.

- **Serious Physical Injury**: physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.
Offensive Touching (OT)
eSchool Code = D0801 (student) or D0802 (staff)

Misdemeanor; a person is guilty of offensive touching when he/she intentionally touches another person, either with a member of his/her body or with an instrument knowing that he/she is thereby likely to cause offense or alarm to such person.

NOTE: OT which causes injury is to be reported as assault. OT which involves touching of the breast, buttocks, or genitalia which is considered sexual in nature is to be reported as Unlawful Sexual Contact.
Fighting

Per DOE Regulation 614 – An aggressive physical altercation between two or more individuals. For the purpose of this regulation, this does not have to be associated with the criminal offense of disorderly conduct and does not require by law or regulation a report to law enforcement. It is a mandatory report to the Department of Education. If you choose, you may report it to police as disorderly conduct.

NOTE: Fighting is different from Offensive Touching in that there are two equal combatants in a fight. Offensive Touching involves a clear offender and a clear victim. Some instances of fighting may also have to be recorded as assault if an injury is sustained.
Misdemeanor or Felony… when he/she threatens to commit any crime likely to result in death or serious physical injury to person or property or to cause the evacuation of a building (Bomb Threats).

Ask yourself the following:

1. Is the person credible?
2. Does he/she have the means to carry out the threat?

In all circumstances, if a bomb threat is received, police must be contacted. Record in eSchool using code D0902 Enter the school principal as the victim.
Misdemeanor; when a person has sexual contact with another person or causes the victim to have sexual contact with the person or a third person and the person knows that the contact is either offensive to the victim or occurs without the victim’s consent.
Sexual Contact: any intentional touching of the anus, buttocks, breasts, or genitalia of another person which is viewed by a reasonable person as sexual in nature.

NOTE: Touching when covered by clothing is sexual contact!
Misdemeanor; when the person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or the person suggests, solicits, request, commands, importunes, or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense or alarm to that person.
Sexual Abuse by a Person in a Position of Trust

T-11 S-778 & 778A

eSchool Code = C0159

778 - A person intentionally engages in sexual intercourse or sexual penetration with a child who has not reached his/her 18th birthday and the defendant stands in a position of trust, authority or supervision over the child. This is a violent felony.
778A - A person intentionally has sexual contact, exposes himself or solicits sexual contact/intercourse/penetration with a child who is under the age of 16 and the defendant stands in a position of trust, authority or supervision over the child. This is a violent felony.
Dangerous Instrument: (misdemeanor) Any instrument, article or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

NOTE: Do not record BB gun possession as a Dangerous Instrument. Use the BB gun code (C0616)
Felony; includes firearms, bombs, knife of any sort (other than a normal pocket knife carried in the closed position with a blade not more than 3” in length), switch-blade knife, billy, blackjack, bludgeon, metal knuckles, slingshot, razor, bicycle chain, ice pick, or any dangerous instrument which is used or attempted to be used to cause death or serious physical injury.

A BB gun is considered a deadly weapon when found in a student’s possession on school property (per T-11, §1457). eSchool code is C0616.
Ammo & Small Pocket Knives

In most cases, simple possession of ammunition (bullet, shotgun shell, etc.) should be coded as an “Unsafe Item” (S0131) not as a firearms offense.

A penknife with a blade of 3 inches or less and found in the closed position may be coded as an “Unsafe Item” (S0131). It could be recorded as a Dangerous Instrument (C0621) if police are involved. It is not considered a deadly weapon when found in this state.
Possession of Unlawful Controlled Substances

eSchool Codes = C0701-C0704, C0713-C0716, C0719

Narcotic drugs such as heroin or cocaine, amphetamines, anabolic steroids, and marijuana; also includes any prescription substance which was given to or prescribed for a person other than the student in whose possession it was found.
Under the Influence of Unlawful Controlled Substances
eSchool Code = D0502

• Use eSchool code D0502 for a student under the influence of an unlawful controlled substance, but not in possession of said substance. Use multiple codes if under the influence and in possession. Examples: Wrong Correct

• Use eSchool code D0501 for students under the influence of alcohol and/or possessing alcohol.
School Administrators’ Responsibilities

1. Report of incident received from source (i.e. teacher, student, etc.)

2. Notify Police if as a reasonable person, you think a mandatory school crime reportable offense has occurred.

3. Notify Parents of Victim (if applicable).

4. Initiate Administrative Action as appropriate

5. Enter any mandatory reportable incident into the eSchool database. This includes ANY type of minor violation which results in the removal of the student from the regular classroom setting for a period of one day or more (i.e. ISS, OSS, etc.)

Do not investigate any sexual offenses. Contact police immediately. This excludes sexual harassment [per § 4112 (b) (3)].
Report to Principal

When an incident is reported to a school administrator pursuant to the Mandatory School Crime Reporting Law:

1. Must determine that reliable information exists that would lead a reasonable person to believe that a crime has been committed, &

2. Shall immediately make reasonable efforts to notify the parents of any juvenile victim, &

3. Shall immediately report the incident to the appropriate police agency and follow-up with a written report within 3 business days.

NOTE: Board members or a person with supervisory authority over the principal may not hinder/delay a report to police or DOE. Board members have duty to report to police a suspected crime involving a school employee.
 Notify Police

School administrators must notify police regarding any incident where there is good reason to believe that an incident has occurred which must be reported under the guidelines established by the Mandatory School Crime Reporting Law.

When in doubt…. SHOUT OUT!!
1. Shall immediately make reasonable efforts to notify the parents of any juvenile victim.

2. School administrators should notify parents of the offense and of the return of the offender to the general student body. This used to be mandatory.
Administrative Action

Required disciplinary actions mandated by state/federal law or DDOE regulation:

**Deadly Weapons** *(Required under 11 Del Code §1457)*

- Expulsion for 180 school days for possession of a deadly weapon in a Safe School Zone. Terms can be modified by the School Board (i.e. could be modified for time served while out on suspension)
Administrative Action

Required disciplinary actions mandated by state/federal law or DDOE regulation:

Drug/Alcohol Offenses (Required under 14 Del Admin Code 612)

- **Under the influence (not possessing)** – At least 1 day suspension up to 10 days suspension. Second offense may result in expulsion or alternative placement for remainder of year.
- **Possession** – At least 5 days suspension up to 10 days suspension. Second offense may result in expulsion or alternative placement for remainder of year.
- **Possession exceeding amount only for personal use** – At least 10 day suspension or 10 day alternative placement. May be expelled.
After confirming a report concerning a violation of the Mandatory School Crime Reporting Law and/or Delaware Department of Education Offenses, the Principal must file a written report of the incident via the eSchool Plus Discipline Center with the Department of Education within 5 working days.

NOTE: A superintendent must take over this responsibility if the principal is the alleged offender.
Since student suspension is no longer mandatory for offenses listed in §4112, the parent conference for the offending student’s return to school is no longer a requirement under the law.

Schools still may require a conference and §4122 of Title 14 still allows the superintendent or designee to request the JP courts subpoena parents who fail to attend parent conferences.
Parents who fail to respond to a subpoena may be held in contempt of court and ordered to attend school with their child, to attend family counseling or follow other conditions. In addition, if a child cannot return to school, as a result of a parent failing to attend a conference, then that parent will be charged under the truancy laws.
Transfer of Special Ed Records

• Section 4(d) of §4112 is a section of the law requiring school officials to transmit special education students’ IEPs and disciplinary records to the appropriate law enforcement agency.

• Can only be to the extent which FERPA allows.
1.0 Purpose

The purpose of this regulation is to ensure that effective communication and working relationships exist between public schools and law enforcement agencies. It also defines other conduct offenses which must be reported to the DDOE.
MOU w/Police Agency

- Per DOE regulation 601 every district and charter is to have a Memorandum of Understanding with each police agency that serves their schools

- It is OK to tell a police agency they cannot question a student during school hours for a suspected off-campus crime unless the crime poses an immediate and imminent threat to the safety of others on campus
In addition to those school crimes required to be reported pursuant to statute, the Superintendent or designee of each LEA, shall report (eSchool), to the Delaware Department of Education the following incidents of misconduct:

- Pornography, possession, & production
- Assault III by a student under 12
- Criminal Mischief (vandalism)
- Unlawful Sexual Contact III
- Tampering with public records
- by a student under 12
- Alcohol, possession and/or use
- Teen Dating Violence
- Felony Theft ($1,500 or more)
- Drug Use/Influence
- Bullying (alleged & substantiated)
- Terroristic Threatening
- Offensive Touching
- Sexual Harassment
- Inhalant Use
- Drug Paraphernalia
Alleged Bullying – Report using DOE screen **Alleged Bullying Victim** under the Demographic folder in eSchool. **There is no code to enter.**

Substantiated Bullying – Report using eSchool discipline screen. Enter code D0701 – Bullying. [Click here to see improperly coded substantiated bullying incident](#)

**NOTE:** Selecting a reason for the bullying is required by law. Do this in the “**Incident Related To**” section of the eSchool report.
Reporting Teen Dating Violence

Report using eSchool discipline screen. Add code of D2011 (Teen Dating Violence) to Offender Offense Category in addition to the original code entry. Original code entries will most likely involve:

- Sexual touching related incidents
- Sex offenses
- Sexual harassment
- Assault or offensive touching
- Terroristic threatening
- Abusive language
- IB: Disrespect of a student
• "Sexual assault." — As used in this section, "sexual assault" means any unwanted sexual behavior committed by a perpetrator who is a stranger to the victim or by a perpetrator who is known by the victim or related to the victim by blood, marriage or civil union. Behaviors that fall under this definition include but are not limited to: sexual harassment as defined in § 763 of Title 11; sexual contact as defined in § 761 Title 11; sexual intercourse as defined in § 761 of Title 11; sexual penetration as defined in § 761 of Title 11; and child sexual abuse as defined in § 901 of Title 10.

• "Teen dating violence." — As used in this section, "teen dating violence" means assaultive, threatening or controlling behavior, including stalking as defined in § 1312 of Title 11, that 1 person uses against another person in order to gain or maintain power or control in a current or past relationship. The behavior can occur in both heterosexual and same sex relationships, and in serious or casual relationships.
This is a separate report from a reported discipline incident.

Report using DOE screen **DOE Restraint/Seclusion Reporting** under the Demographic folder in eSchool. **There is no code to enter.**

Physical fights in which a student is restrained must be reported in addition to other acts of student physical restraint.

Any student (regular or special education) physically restrained by school personnel must be reported to the DDOE within 72 hours of the restraint occurring. Persons responsible for entering this report must also complete additional 30 minute training available through PDMS beginning August 10th. Search key word “restraint” to find course.
REMEMBER….

Any suspected criminal offense not required to be reported under the Mandatory School Crime Reporting Law may be reported to police at any time.
Penalties For Failure To Report

Please remember that these requirements are not discretionary. They are **mandatory**.

Failure to report a Mandatory School Crime is a criminal violation with a fine of $250.00 for a first offense and $500.00 for a second offense.

The Attorney General’s Office is required by law to prosecute those who fail to make **good faith efforts** to comply.

Your school will automatically be identified as “Persistently Dangerous” under federal regulation.
Suspension and Expulsion Reporting

Under DOE regulation 601, Every student suspended in or out of school or expelled must be reported to the Department of Education via the Actions section of the Discipline Center in eSchool Plus.
Suspension and Expulsion Reporting

Or said another way…. Any disciplinary action which results in the removal of the student from the regular classroom setting for a period of one day or more (i.e. ISS, OSS, Expulsion, Alternative Placement, etc.) must be reported via the Actions section of the Discipline Center in eSchool Plus.
IMPORTANT!

**Students expelled or alternatively placed must be coded as such IN ADDITION TO the original suspension entry.**
Common Reporting Issues

• Discipline incident reports in which the description indicates a student was restrained by staff. However, when cross referencing restraint reporting screen there is no restraint report. Report restraint under the restrained student’s DOE Restraint/Seclusion Reporting screen located in the Demographic folder.

• Not reporting all offenses which occurred during an incident. Record all applicable offense codes which occurred during a disciplinary incident.

• Student in possession of marijuana and drug paraphernalia. Usually only the marijuana code is entered. Drug paraphernalia is a required report under 601. When applicable, enter the code D1301-Drug Paraphernalia in addition to the appropriate drug offense code.

• Reporting incidents of fighting as two separate incidents rather than one incident with two (or more) offenders. Record as single incident with multiple offenders. This approach is to be used for all incidents of misconduct in which there are multiple offenders.

• Offensive touching incidents coded as fighting when there is clearly an offender and a victim and not equal combatants. Enter the code D0801-Offensive Touching: Student Victim. List both the offender and the victim.
Common Reporting Issues

- Physical attacks resulting in injury coded as OT (or even lesser offense) instead of Assault. Replace the OT code or other incorrect code with the appropriate level of assault. Codes include C0201-Assault 3\textsuperscript{rd}, C0106-Assault 2\textsuperscript{nd}, or C107-Assault 3\textsuperscript{rd}.

- Referencing the suspension in the description, but not adding the appropriate action code in the actions sections of the report. Add the correct suspension action code for each student in the “actions” section of the eSchool report.

- Using a corresponding “C” code for off-campus, non-school related criminal offenses in which the school disciplines a student. Use the S0161-Report: Attorney General code for such incidents.

- Using the code S0161-Report: Attorney General to report a mandatorily reportable offense which occurs on school property or school function. Enter the appropriate “C” or “D” level offense code for those mandatorily reportable offenses which occur on school property or at a school function.

- Incidents involving bullying type of behaviors in which the incident description refers to it as bullying, but the bullying code (D0701) is not entered. Enter the bullying code D0701.
Common Reporting Issues

- BB guns entered as Dangerous Instrument instead of WO: BB Gun (Safe School Zone). Enter the BB gun code, C0616.

- Mandatorily reportable offenses which occur on the school bus being coded as “bus violations.” Enter the appropriate “C” or “D” level offense code for those mandatorily reportable offenses which occur on school property or at a school function. *Bus Violation* will no longer be an option beginning in the 2015-16 school year.

- Mandatorily reportable offenses which occur on school property or school function being coded as “code of conduct violation: on school property” or “inappropriate behavior.” Enter the appropriate “C” or “D” level offense code for those mandatorily reportable offenses which occur on school property or at a school function. *Code of Conduct Violation: On School Property* will no longer be an option beginning in the 2015-16 school year.

- Charges on AG reports for offenses which occurred on school property are not the same as what is reported by school in eSchool. Cross reference AG report with eSchool entry to verify accuracy of school report.
Contact Information:

John Sadowski,
Education Associate
School Climate And Discipline Program

Delaware Department of Education
john.sadowski@doe.k12.de.us
302-735-4210

School Climate & Discipline Website

http://www.doe.k12.de.us/domain/156
NOTE: You can CTRL click to select multiple reasons if applicable.
Incident Summary

Number: 42397  
Offense Category: 0611 Assault III  
Offense: Police and Victim Information are Required  
Date: 7/26/2015  
Time: 11:00 AM

Incident Detail

Location: 06 - Hel/Steinway  
Reported By: Staff 113111  
Reported To:  
Reported to Police:  
Description: DOE Test Scenario - Sadowski Student A and his girlfriend were arguing in the hallway when Student A punched his girlfriend saying "Don't you ever talk to another boy again?"

Incidents

Offenders

<table>
<thead>
<tr>
<th>Name</th>
<th>Contacts</th>
<th>Student</th>
<th>Offense Category</th>
<th>Offense</th>
<th>Actions</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>0611 Assault III</td>
<td>Police and Victim Information are Required</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>

Victims

<table>
<thead>
<tr>
<th>Name</th>
<th>Contacts</th>
<th>Student</th>
<th>Victim Type</th>
<th>Category</th>
<th>Actions</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victims, Confidential</td>
<td>No Contact</td>
<td>Student</td>
<td>01 - Injured</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Witnesses

<table>
<thead>
<tr>
<th>Name</th>
<th>Contacts</th>
<th>Student</th>
<th>Witness Type</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No witness information has been entered for this incident</td>
</tr>
</tbody>
</table>
Incident Summary

Number: 91160  Offense Category: Attorney General  Date: 3/27/2015
Building:  Offense:  Time: 2:00 PM

Location: 12 - Off School Grounds Non-School Function  Reported By: Staff 099622
Reported To Police:  
Reported To: 05 - Principal / Asst. Principal

Description:
Attorney General's report

Notes:

Incident Detail

Location: 12 - Off School Grounds Non-School Function  Reported By: Staff 099622
Reported To Police:  
Reported To: 05 - Principal / Asst. Principal

Description:
Attorney General's report

Notes:

Offenders

<table>
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</thead>
<tbody>
<tr>
<td></td>
<td>Contact</td>
<td></td>
<td>Report: Attorney General</td>
<td>None</td>
<td>10B - Suspension - Out of School with Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contact</td>
<td></td>
<td>Report: Attorney General</td>
<td>None</td>
<td>10B - Suspension - Out of School with Services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contact</td>
<td></td>
<td>Report: Attorney General</td>
<td>None</td>
<td>10B - Suspension - Out of School with Services</td>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No victim information has been entered for this incident</td>
</tr>
</tbody>
</table>

Witnesses

<table>
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<tr>
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<th>Witness Type</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>No witness information has been entered for this incident</td>
</tr>
</tbody>
</table>
Based on this description the entry is incorrect!
Based on description this was entered correctly!

Description:

Dean noticed strong smell of marijuana on [redacted] when in the office he claimed he didn't smoke on campus—he smoked at home, called mom for search, found the end of a joint and put it on the desk, [redacted] reached up and grabbed it, he
Based on description this incident is not properly coded as bullying! It was also recorded twice.
**Notice**

different incident number

---

**Incident Summary**

- **Number:** 40708
- **Building:** [redacted]
- **Offense Category:** Code of Conduct violation: On school property
- **Date:** 1/8/2015
- **Time:** 5:10 PM

**Location:** 03 - Classroom

**Reported by:** Staff 726027

**Reported to Police:** [empty box]

**Reported To:** 15 - Discipline Staff

**Description:**
was involved in the recording of altercation that took place in the locker room before the start of basketball practice the involved another athlete being bullied.

**Notes:**

---

<table>
<thead>
<tr>
<th>Offender</th>
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<th>Offense Category</th>
<th>Offense</th>
<th>Actions</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>[redacted]</td>
<td>Contact</td>
<td>✔️</td>
<td>Code of Conduct violation: On school property</td>
<td>None</td>
<td>08 - Suspension - In School</td>
<td></td>
</tr>
</tbody>
</table>

**No victim information has been entered for this incident**

**No witness information has been entered for this incident**