

BOARD AGENDA ITEM

May 12, 2015

SUBJECT:

Annual Revisions to the Code of Student Conduct – First Reading

BACKGROUND:

The Code of Student Conduct was first promulgated by the Board of Education in 1971. Extensive revisions were approved by the Board in 1981, 1985, and again in 1993. Since then, ongoing amendments are made annually, as necessary. Recommendations for revisions to the Code of Student Conduct for 2015-2016 have been solicited from administrators, principals, legal counsel, and other departments.

ADMINISTRATIVE CONSIDERATION:

The attached pages indicate recommended changes. These are primarily edit improvements we have suggested in order to provide a little greater clarity and more flexibility to administrators in making disciplinary decisions. Additionally, there is mention in the disciplinary procedures of discretion for elementary principals in seeking interventions for K-2 students with extreme behavior issues, but note that this is permissive and not mandatory. Also, in item VI (G) the second sentence stands on its own, as it is intended to be broader in nature but not specifically limited to an actual violation of a sexual nature. Examples of inappropriate circumstances that are against common decency would be such things as "mooning;" "streaking;" taking cell phone pictures in a bathroom of students in compromised circumstances; and, for that matter, intentionally walking into the bathroom of the opposite sex just to cause chaos or upset among those in the bathroom.

We have had input over a couple of years from administration at the secondary level seeking to have the rules regarding our cell phone policy somewhat relaxed with regard to the *possession* issue. The reason given is that too much administrative time is being spent dealing with violations that are technically against the policy but, possibly, good faith in nature and not purposeful misuse of cell phones. We issued a short Survey Monkey inquiry to determine whether or not the majority of middle and high school principals believe such updates of the policy might be helpful. Based upon the survey results certain changes are being recommended, as shown. A separate Agenda Item will be forthcoming to amend Policy JICJ, but we wanted to get this one in to you on the first reading in order to meet later printing schedules after second reading.

RECOMMENDATION:

Approve on first reading the proposed changes in the Code of Student Conduct 2015-2016.

ATTACHMENT:

1. Copy of all changed pages of the Code of Student Conduct
2. Copy of Survey Monkey Questions & Results

PREPARED BY

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III. **General provisions:**

- A. **Notice of Regulations and Distribution:** Copies of the Code of Student Conduct are distributed to all students at the beginning of the school year and to those entering after the beginning of the school year. Signed acknowledgments are required. This Code of Student Conduct is a part of District Policy and is updated yearly pursuant to Policy JICDA. Policies may also be found online at the Aiken County Public Schools website (www.aiken.k12.sc.us).
- B. **Overview of the Appeal Process:**
Appeals beyond the school principal's authority will be handled by the appropriate school level Academic Officer and/or the Tribunal.
- 1) On matters for which punishment is less than a one-day suspension, the decision of the building principal will be final.
 - 2) Suspensions of up to five days (whether in or out of school) may be appealed to the appropriate school level Academic Officer, or his designee, as the Board's designated hearing officer, whose decision will be final (unless referred by the Academic Officer directly to the Tribunal for consideration). Appeals of disciplinary decisions involving punishment greater than five days' suspension (whether in or out of school) [except as provided in Paragraph (4)] will be heard by the Tribunal, as the Board's designated hearing committee. To appeal any decision falling within these categories, written notice of appeal must be made to the appropriate Academic Officer (or other individual designated in writing) within ten (10) school days of the date of the written notification to the parent or guardian of the principal's action. **WITH THE EXCEPTION OF EXPULSION-LEVEL OFFENSES, ALL DECISIONS ON DISCIPLINARY MATTERS AS DESCRIBED ABOVE WILL BE FINAL.**
 - 3) To appeal a Tribunal's decision concerning an expulsion recommendation, or other decision where the principal's initial recommendation was for expulsion, a written appeal for a hearing by the Board of Education must be made to the District Superintendent within ten (10) school days after the date of the written notice to the student's parents or guardians stating the Tribunal's decision. **(Note: Any summer school or adult education appeal will be directly to the Board of Education.)**
 - 4) **Expulsion level infractions involving serious verbal abuse; sexually motivated commentary, or physical contact of a sexual nature, or threat of death or serious bodily injury, and/or physical assault or violence directed toward a teacher or staff member, or staff member's family [see, specifically Item VI (D) insofar as it applies to employees and the families of employees] shall be appealed directly to and heard by the Aiken County Board of Education exclusively, time parameters for due process requirements permitting.**
- C. **Jurisdiction of Student Conduct:** The provisions of this Code of Student Conduct apply to all school sponsored activities and are likewise fully applicable when students are off campus on field trips; engaged in, or attending, athletic events and other school related activities; while at, or in the immediate vicinity of, school bus stops and while utilizing school bus transportation for any purpose; and otherwise

student's parent or legal guardian. (The schools cannot be responsible for lost or stolen personal items brought to school by students.)

- F. Possession/Use of Paging Devices and Cell Phones: South Carolina law and School District policy define a *paging device* as "a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor". This definition includes cell phones. The law provides that each school district shall have a policy which addresses possession of such devices by any student.

The policy of this District, as set forth in Policy JICJ and/or amended in this Code may be summarized as follows:

- 1) ~~Cell phones are not permitted in elementary schools except by prior permission of the principal for special circumstances.~~
- 2) ~~Cell phones, pagers, or other communication devices must be kept in a student's vehicle, locker, or other designated space may not be used or activated during the school day.~~ Such devices are not to be in the possession of any student during the instructional day except for storage as set forth above. [Note: Students attending a school piloting a BYOD project are waived from the possession on their person certain prohibitions otherwise set forth in policy JICJ and this Code, but use as a phone or unauthorized camera remains strictly prohibited, as for all students.] Devices described in this policy shall not be in the personal possession of students and shall not be activated, used, or displayed by students while in school buildings or on school grounds during "school day hours" and while attending school-day activities, whether on or off school property. Such devices will not be activated during school bus rides to and from school unless specifically authorized by the driver. ~~for special circumstances.~~
- 3) Cell phones and pagers are permitted at athletic contests or other events occurring during non-school hours.
- 4) Other personal electronic devices which have wireless or cellular interface capability to the internet and/or which have the capability of capturing, storing, or transferring text, numeric, or visual images (including digital or conventional cameras) are subject to all rules relating to cell phones ~~not allowed on school grounds during the school day [as outlined in Item (1) above]~~ unless otherwise authorized by prior permission of a teacher or administrator.

A student needing a cell phone, pager or any device may be exempted from the prohibitions of the policy for documented medical needs, physical or academic accommodations, or other legitimate reasons as approved in writing by the school.

Violations during the instructional day are described as: ~~possession of any such device and/or~~ Any intentional manipulation or **use of the device** by a student. ~~Discipline for a first offense will be one day of in-school suspension; for a second offense will be three days in-school suspension; for a third offense will be out of school suspension and loss of privilege to have such device on school grounds; and for a fourth offense will be expulsion.~~ Any violations involving other violations

of the Code of Conduct may result in more severe consequences. [Note: ~~Violation involving possession and/or utilization of such device in a restroom, even on first offense, will be subject to loss of privileges for the remainder of the year and at least a three-day suspension as provided in District Policy.~~] Phones confiscated for violations of policy must be made available to parent(s) as soon as the device is no longer required as evidence.

Discipline consequences are as follow:

- o Activation and/or any use during school hours (without permission) is still a violation of the Code of Conduct.
- o Any unauthorized activation or use gives staff a reasonable basis to take the phone for the balance of the day (at a minimum) and to view the last activity including texts or browser visits to see if there has been a related disciplinary violation [such as cheating, taking pictures, inappropriate website visits, etc.] with reference being made to Item III (D) of the Code of Conduct.
- o Unauthorized activation with no related infraction would result in staff confiscating the phone for the remainder of the day and a warning being issued.
- o Second unauthorized activation with no related infraction would result in loss of privilege for ten school days and further warning.
- o Third unauthorized activation with no related infraction would result in loss of privilege for twenty school days, or remainder of the year, whichever is longer and at least one day of suspension (ISS or OSS).
- o Unauthorized use with related disciplinary infraction would result in three days minimum OSS up to an expulsion recommendation, depending on the nature of the related violation. [In my opinion, snapping pictures over stalls in bathrooms is an egregious enough offense to command an expulsion recommendation, if you need an example.]

G. Non-Students on Grounds: The principal is empowered to take appropriate action against non-students who enter any school building or grounds without permission. Such action includes the right to request assistance from law enforcement authorities to remove such persons and if necessary to swear out arrest warrants (in consultation with the appropriate school level Academic Officer).

H. Referral to School District Approved Counseling Programs: At the discretion of the Tribunal or the Board of Education, a student may be referred to an approved counseling program in addition to, or as an alternative to, other disciplinary action. The student must complete such program successfully and provide documentation to the principal.

IV. ***Student Conduct Requirements:*** While under school jurisdiction, students are required to conduct themselves at all times in a manner that is in the best interest of the school and community. It is expected that students will:

- A. Conform to reasonable standards of speech, conduct, and dress and refrain from vulgar, obscene, and disrespectful conduct directed toward staff and other students.
- B. Refrain from violating or impairing the rights of others, including physical abuse, sexual harassment, hazing, and conduct considered "bullying" as defined in state law and prohibited under School District policy.
- C. Avoid conduct that deprives other students of an orderly atmosphere for learning.

prescription or other medication, please refer to Policy JLCD.

- C. Possession or consumption of alcoholic drinks on school grounds and/or being under the influence of alcoholic drink while on school grounds or under the jurisdiction of the school; or being on school premises or attending a school-related event after having consumed any quantity thereof.
- D. Physical assault, battery, or abuse of, or threat of death or serious bodily injury to, a school employee or the employee's immediate family (whether occurring on or off school premises), or of another student.
- E. Arson and/or serious damage or vandalism to school property or property of others, including illegal entry/criminal trespass upon school facilities in connection with such activity, and serious damage to, destruction of, or unauthorized changes to computer programs or software systems.
- F. Any activity which creates or has the potential of creating a major disruption of the school's program including, but not limited to, intentionally pulling false fire alarms, bomb threats and serious fights.
- G. Conduct involving sexual activity, sexual assault, or any sex violations of a sexual nature, including indecent exposure. Also, any other acts or circumstances which are so inappropriate or offensive as to be considered and offenses against common decency.

The above actions may also be criminal offenses and law enforcement agencies will be involved, where appropriate.

Anonymity and confidentiality will be provided to students who provide information about the existence of weapons in schools.

VII. **Lower Level Offenses:** The following violations are considered disorderly and disruptive, and are in some instances criminal in nature. **These violations usually result in disciplinary action of a suspension but may include expulsion in certain instances.** If criminal in nature the violations will be reported to law enforcement personnel.

A. The Offenses (Specified):

- 1) Leaving a classroom, school building, or school premises without approval or permission from school authorities.
- 2) Failing to attend classes or assigned activities.
- 3) Being repeatedly tardy to assigned classes and activities.
- 4) Being absent from school without the parent's knowledge.
- 5) Bringing fireworks on school grounds, possession of fireworks, or causing them to explode.
- 6) Stealing school, staff, or student property, including theft from school

inappropriate materials of a sexually explicit nature.

- 16) Repeating minor violations, disruptive behavior, or disturbances of the school program.
- 17) Entering the building or grounds illegally, or entering a defined off-limits area or other non-student area of the premises.
- 18) Fighting and/or provoking a fight (the initiating party or parties and others actively participating.)
- 19) Using any type of tobacco or nicotine-containing products (including e-cigarettes) products at school or possessing any item which would indicate use of or possession of tobacco, including matches or lighters or any incendiary device.
- 20) Misbehavior (including "horseplay") at school, on school grounds, at school-related events, and on school bus.
- 21) Engaging in sexual harassment of any student, staff member, or visitor, either male or female, on school property or while under the jurisdiction of the school. Sexual harassment may be generally defined as unwelcome sexual advances, requests for sexual favors, and unwelcome written, spoken or physical conduct of a sexual nature. Also, engaging in minor acts of inappropriate consensual conduct of a sexual nature.
- 22) Using a radio, radio headset, I-pod, or similar electronic musical or game device during instructional time or at school-day activities. Activating, using, or displaying a telecommunications device, including mobile phones, cell phones, and pagers, while in school buildings or on school grounds during school hours, or while attending school-day activities, whether on or off school property.
- 23) Violation of the Internet Acceptable Use Policy (Policy IJNDB) or any other policies or procedures relating to the use of computers or other communication devices. [See appendix (B) for a copy of the policy.]
- 24) Failure to accept appropriate punishment for any lesser offense.
- 25) Bringing or possessing a laser pointer or similar laser beam device.

~~If in the judgment of the school principal the nature of any above stated violation and/or the circumstances surrounding the same so warrant, expulsion may be recommended.~~ Relative to the above list, it is not necessary that the same offense be repeated in order to apply the provisions for a second or third offense. Second and third offenses will be cumulative from any of the violations on this list, or under Section VI. Also, ~~if in the judgment of the school principal the nature of any violation so warrants, expulsion may be recommended.~~ ~~Some of~~ the above actions may also be criminal offenses and law enforcement agencies will be involved, where appropriate.

- B. Offenses Not Specifically Covered—Rectification at Lowest Level: The principals and teachers, at their discretion, may determine appropriate punishment for instances of misconduct not specifically covered in these policies. Teachers or other staff members are encouraged to rectify minor infractions or disorderly types

person, or otherwise displaying aggressive or excessive misbehavior, does not constitute corporal punishment.

- B. ***Major Infractions:*** For any of the offenses listed in Item VI (A-G), a student will be suspended and recommended for expulsion by the principal. In making such recommendation the principal will include information as to any extenuating, mitigating, or aggravating circumstances. ~~(Within their discretion elementary administrators may utilize interventionists and behavior specialists, if available, in initially dealing with extreme behavior issues with regular education students in grades K-2.)~~ For such expulsion offenses, and for any offenses in which a student is to be suspended from a class or a school, the student's parent or guardian will be notified in writing and informed of the right to discuss the principal's action. This written notice will include the reason for the suspension and/or recommendation for expulsion and will set a time and place when the administrator will be available for a conference with the parent or guardian. Such conference will be set within three (3) school days of the date of the disciplinary action. *After this conference and prior to (or as part of) any due process hearing, the student – with written parental permission – may be offered voluntary participation in Youth Court or other interventions in lieu of, or in conjunction with, the continuation of discipline.*

1) Procedures, Hearings, and Appeals of Suspensions

After the conference, the parents or guardian may appeal a suspension of up to five (5) days to the appropriate school level Academic Officer (unless he/she exercises the option to refer the same directly to the Tribunal) and may appeal a suspension of more than five (5) days to the Tribunal by giving written notice of such intention to the Academic Officer within ten (10) days of the date of receiving written notification of suspension, or after the parent conference (whichever is later). The student is entitled to remain in school while the appeal of a suspension is pending. WITH EXCEPTION OF VIOLATIONS FOR WHICH THE PRINCIPAL'S INITIAL RECOMMENDATION IS EXPULSION, THE DECISION OF THE ACADEMIC OFFICER OR THE TRIBUNAL, AS SET FORTH ABOVE, IS FINAL. In proceedings involving any sanction less serious than one day's suspension, the principal's decision will be final. The conduct of hearing appeals of suspension offenses shall be the same as those described for expulsion appeals except as to finality of decisions.

If suspension is necessary, it should normally be for no more than three (3) days on the first suspension, no more than five (5) days on the second suspension, and no more than ten (10) days on the third suspension. (If so warranted, in the judgment of the principal, longer suspensions for first offenses of a serious nature may be utilized.) At the discretion of the principal, a student who has been suspended may not be allowed to return to school until a conference has occurred between the principal and parent, or guardian. Following a suspension, other forms of punishment may be in order before another suspension is administered. However, when the total number of suspensions reaches four (4), the student may be considered incorrigible and recommended for expulsion, subject to the procedures set forth below.

A student cannot attend any school-related function within or outside the

Cell Phone Policy – Survey Monkey Questions & Results

- 1) [For Elementary Principals Only – please mark N/A if not an elementary principal.]
Are you satisfied with continuing the present exclusion of cell phones for elementary schools (if certain pre-approved exceptions as presently provided)?

Yes 48.39%
No 6.45%
N/A 45.16%

- 2) Are you satisfied with the cell phone policy district-wide as it now stands?

Yes 48.39%
No 51.61%

- 3) If the answer to the previous question is no, do you desire for the policy to be more restrictive or less restrictive?

More Restrictive 15.79%
Less Restrictive 84.21%

- 4) If less restrictive was your choice, do you desire for students to be able to have personal possession of their cell phones as long as they are not being activated or used?

Yes 83.33%
No 16.67%

- 5) Are the present consequences for unauthorized possession too punitive in certain instances with regard to the disciplinary process?

Yes 44.83%
No 55.17%

- 6) With respect to the present cell phone and rules, is it your opinion that it is taking too much of your staff time to administer the same or about what you would expect?

Too much staff time spent on this single issue 36.67%
About what I would expect 63.33%

- 7) If you were seeking a change to any aspect of consequences for policy violations, would you seek more flexibility for minor or unintended violations?

Yes 80%
No 20%

- 8) Would amendments to the policy and Code of Conduct along the lines of the example in Mr. Burkhalter's April 23, 2015, memo, in your opinion, be beneficial to you or, more burdensome for you?

Beneficial for our school 80%
More burdensome for our school 20%