

POLICY

No. 1040

Page 1 of 6

MAINTENANCE OF PUBLIC ORDER

Section 1. STATEMENT OF PURPOSE

The following rules are adopted in keeping with the spirit of Section 2801 of the Education Law. Said rules shall be subject to amendment or revision as the need may arise. Nothing herein is intended, nor shall it be construed, to limit or restrict the freedom of speech or peaceful assembly. These rules shall not be construed to prevent or limit communication between and among teachers, students and administration, or to relieve the BOCES authorities of their special responsibility for self regulation in the preservation of public order. Their purpose is not to prevent or restrain controversy and dissent but to prevent abuse of the rights of others and to maintain that public order appropriate to the BOCES educational program. They shall be interpreted and applied to that end.

Section 2. APPLICATION OF RULES

The rules hereby adopted shall govern the conduct of students, teachers and other staff members as well as visitors, licensees, invitees and all other persons whenever they are present upon any lands, buildings, or other property under the operation or control, either through ownership, rental, license, or otherwise, of BOCES. When BOCES classes are located in component schools, students and teachers shall be subject to rules and regulations of that school district and, when violations occur, penalties will be imposed either by the local district or by BOCES depending upon the circumstances. The rules hereby adopted shall govern persons, whether or not their presence is authorized, upon BOCES and also upon or with respect to any other premises or property, under the control of such BOCES or any part of its total program.

Adopted: July 21, 1986
Ratified: September 15, 1986
Amended:

Section 3. PROHIBITED CONDUCT

No person, either singly or in concert with others shall:

- a. Willfully cause physical injury to any other person, nor threaten to do so for the purpose of compelling or inducing such other person either to refrain from or do any lawful act.
- b. Physically restrain or detain any other person, nor remove such person from any place where the individual is authorized to remain.
- c. Willfully damage or destroy property of the BOCES or property under its jurisdiction, nor remove or use such property without authorization.
- d. Enter upon and remain in any building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others.
- e. Without authorization, remain in any building or facility after it is normally closed.
- f. Refuse to leave any building or facility after being required to do so by any authorized officer.
- g. Obstruct the free movement of persons and vehicles in any place to which these rules apply.
- h. Deliberately disrupt or prevent the peaceful and orderly conduct of classes and meetings or deliberately interfere with the freedom of any person, including invited speakers, to express personal views.
- i. Knowingly possess upon any premises to which these rules apply, any rifle, shotgun, pistol, revolver, or other firearm or weapon, explosives, or dangerous chemicals, without the written authorization of the District Superintendent whether or not a license to possess the same has been issued to such person.
- j. Willfully incite others to commit any of the acts herein prohibited with specific intent to procure them to do so.
- k. Loiter in the school building or on school grounds (Under Section 240.35 of the State Penal Law, a person is guilty of loitering when that person loiters or remains in or about a school building or grounds, not having any reason or relationship involving custody of, or responsibility for, a student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant same).

1. Picket or demonstrate contrary to the concept of acceptable conduct set forth in Section 4 of these Rules and Regulation.

Section 4. FREEDOM OF SPEECH AND ASSEMBLY: PICKETING AND DEMONSTRATIONS

- a. No student, teacher or other staff member or authorized visitor shall be subject to any limitations or penalty solely for the expression of views nor for having assembled with others for such purpose. Peaceful picketing and other orderly demonstrations will not be interfered with. Those involved in picketing and demonstrations may not, however, engage in specific conduct in violation of the provisions of the preceding section or paragraph (d) of this section.
- b. In regard to actions and demonstrations that tend to endanger life, public or private property or to violate local, state or federal laws, each participant will take the consequence for personal actions as an individual before the law. Any damage to public or private property must be assumed by those legally responsible.
- c. While these rules recognize the right of students, teachers and staff to peaceful protest, always implicit is the understanding that demonstrators will not interfere with or violate the rights of others. It is the obligation of all to assist in maintaining order and to assure courteous reception of any speaker or visitor.
- d. The following pertains to the conduct of those members of the school community who feel compelled to express their dissent through picketing and other forms of demonstration:
 1. Picketing or demonstrating must be orderly at all times and should in no way jeopardize public order or safety or interfere with the BOCES programs.
 2. Picketing and demonstrating must not interfere with entrances to buildings or the normal flow of pedestrian or vehicular traffic.
 3. Students involved in picketing or demonstrating may not interfere by mingling with organized meetings or other assemblies for the purpose of harassment, since this invades the rights of others to assemble and the rights of speakers to free expression.

Section 5. PENALTIES

A person who shall violate any of the provisions of these rules may:

- a. If a licensee or invitee, have authorization to remain upon the school premises withdrawn and shall be directed to leave the premises. In the event of failure or refusal to do so, shall be subject to ejection.
- b. If a trespasser or visitor without specific license or invitation, be subject to rejection.

- c. If a student, be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant including suspension, exclusion from extracurricular activities, reprimand or warning.
- d. If a teacher, be deemed guilty of conduct unbecoming a teacher, and be subject to dismissal or termination of employment or such lesser disciplinary action as the facts may warrant including suspension without pay, fine or reprimand.
- e. If a staff member in the classified service of the civil service described in Section 75 of the Civil Service Law, be guilty of misconduct, and be subject to the penalties prescribed in said section.
- f. If an administrator or a staff member other than one described above in subdivisions (d) and (a), be subject to dismissal, suspension without pay, fine or reprimand.

Section 6. PROCEDURE

- a. The District Superintendent or appointed designee shall inform any licensee or invitee who shall violate any provisions of these rules that his/her license or invitation is withdrawn and shall direct him/her to leave the school property. In the event of failure or refusal to do so, such officer shall cause ejection from such property.
- b. In the case of any other violator, who is neither a student nor teacher or other staff member, the District Superintendent or appointed designee shall inform him/her that he/she is not authorized to remain on the property of the school and direct him/her to leave such premises. In the event of failure to do so, such officer shall cause ejection from such property. Nothing in this subdivision shall be construed to authorize the presence of any such person at any time prior to such violation nor to affect that person's liability to prosecution for trespassing or loitering as prescribed in the Penal Law.
- c. In the case of a student, charges for violation of any of these rules shall be presented and shall be heard and determined in the manner hereinafter provided in Section 9.
- d. In the case of a tenured teacher, charges of misconduct in violation of these rules shall be made, heard and determined in accordance with Section 3020-a of the Education Law. In the case of a non-tenured teacher, the provisions of Chapter 866 of the Law of 1972, if applicable, shall be observed.
- e. In the case of any staff member who holds a position in the classified civil service, described in Section 75 of the Civil Service Law, charges of misconduct in violation of these rules shall be made, heard and determined as prescribed in that section.

- f. Any other employee, staff member, or administrator, who shall violate any provisions of these rules shall be dismissed, suspended, fined or reprimanded by the appointing authority subject to any applicable law, rule or regulation.

Section 7. ENFORCEMENT PROGRAM

- a. The District Superintendent shall be responsible for the enforcement of these rules and shall designate the other administrative officers who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.
- b. It is not intended by any provision herein to curtail the right of students, teachers, or staff to be heard upon any matter affecting them in their relations with the school. In the case of any apparent violation of these rules by such persons which, in the judgment of the District Superintendent or appointed designee, does not pose any immediate threat to person or property, such officer may make reasonable effort to learn the cause of the conduct in question and to resort to permissible methods for the resolution of any issues which may be presented. In doing so such officer shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any school premises where their continued presence and conduct is in violation of these rules.
- c. In any case where violation of these rules does not cease after such warning and in other cases of willful violation of such rules, the District Superintendent or appointed designee shall cause the ejection of the violator from any premises occupied in such violation and shall initiate disciplinary action as hereinbefore provided.
- d. The District Superintendent or appointed designee may apply to the public authorities for any aid deemed necessary in causing the ejection of any violator of these rules and may request the school attorney to apply to any court of appropriate jurisdiction for any injunction to restrain the violation or threatened violation of such rules.

Section 9. DETERMINATION OF CHARGES AGAINST STUDENTS

- a. The term "District Superintendent," as used in these rules, shall be deemed to mean and include an appointed designee or any person authorized to exercise the powers of that office during a vacancy therein or during the absence or disability of the incumbent.
- b. Whenever a complaint is made to the District Superintendent, or appointed designee, of a violation by a student or students or whenever knowledge is possessed that such a violation may have occurred, the District Superintendent, or appointed designee, shall cause an investigation to be made and the statements of the complaints, if any, and of other persons having knowledge of the facts reduced to writing. If satisfied from such investigation and statements that there is reasonable ground to believe that there has been such violation, the District Superintendent, or appointed designee, shall discuss the matter with the alleged violator or violators and determine the extent

of any such violation. Upon a determination of a violation, the District Superintendent, or appointed designee, shall take disciplinary action as is deemed warranted under the particular circumstances, having in mind always the limitations, if any, imposed by law.

- c. The nature of such disciplinary action for student violations may take the form of reprimand, exclusion from extra-curricular activities, suspension or permanent expulsion, subject to limitations and procedures prescribed by Section 3214 of the Education Law.
- d. The District Superintendent may suspend the student charged with a violation of these rules and regulations pending determination thereof, whenever it is judged that the continued presence of such student would constitute a clear danger to the safety, morale, health or welfare of any person or persons or to the safety of property on the premises of the school or would pose an immediate threat of disruptive interference with the normal conduct of the school's activities and functions, provided, however, that the District Superintendent shall grant an immediate hearing on request of any student so suspended with respect to the basis for such suspension.

NOTE: Education Law Section 2801 requires boards to adopt rules and regulations for the maintenance of public order on school property. These regulations bind students, teachers and other staff members, as well as visitors. The penalties contained in these regulations must be clearly set forth and must include provisions for the ejection of violators and appropriate discipline for students and teachers.

Education Law 2801 (1) mandates that these rules be filed with the Board of Regents and the Commissioner of Education. Any amendments must be filed within 10 days after their adoption.