

**TOMPKINS-SENECA-TIOGA  
BOARD OF COOPERATIVE EDUCATIONAL SERVICES**

**CODE OF CONDUCT**

# Code of Conduct

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# **I. Introduction**

The Tompkins-Seneca-Tioga Board of Cooperative Educational Services (hereafter called the Board) is committed to providing a safe and caring learning environment. The staff at T-S-T BOCES recognize that people learn best when they feel valued and that a supportive educational community is created when positive relationships are fostered among its members. This Code of Conduct reflects our expectation that together, staff, students and parents can model and promote respectful and socially responsible behavior in our schools.

## **II. Essential Partners**

### **A. Student Rights**

The T-S-T BOCES is committed to safeguarding the rights given to all students under state and federal law. In addition, to promote a safe, healthy, orderly and civil school environment, all T-S-T BOCES students have the right to:

1. Take part in all T-S-T BOCES activities on an equal basis regardless of race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability.
2. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty in connection with the imposition of the penalty.
3. Access school rules and, when necessary, receive an explanation of those rules from school personnel.
4. Be protected from intimidation, harassment, or discrimination [BOCES non-discrimination](#) (as per Policy 3110) based on actual or perceived race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability, by employees or students on school property or at a school sponsored event, function or activity.

### **B. Student Responsibilities**

All T-S-T BOCES students have the responsibility to:

1. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. Abide by all T-S-T BOCES policies, rules and regulations dealing with student conduct.
3. Attend school every day unless they are legally excused and be in class, on time, and prepared to learn.
4. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement.
5. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
6. Work to develop mechanisms to control their anger.
7. Ask questions when they do not understand.
8. Seek help in solving problems that might lead to discipline.
9. Dress appropriately for school and school functions.
10. Accept responsibility for their actions.
11. Conduct themselves as representatives of the T-S-T BOCES when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.

12. Respect one another and treat others fairly in accordance with the District Code of Conduct and the provisions of the Dignity Act. Conduct themselves in a manner that fosters an environment that is free from intimidation, harassment, or discrimination [BOCES non-discrimination](#) (as per Policy 3110). Report and encourage others, to report any incidents of intimidation, harassment or discrimination.
13. Understand to the best of their ability the Code of Conduct and how it relates to them.

### **C. Parent/Guardian Expectations**

All parents/guardians are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the parents/guardians and the school community.
2. Send their children to school ready to participate and learn.
3. Ensure their children attend school regularly and on time.
4. Ensure absences are excused.
5. Insist their children be dressed and groomed in a manner consistent with the student dress code.
6. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
7. Know school rules and help their children understand them.
8. Convey to their children a supportive attitude toward education and the T-S-T BOCES.
9. Build good relationships with teachers, other parents and their children's friends.
10. Help their children deal effectively with peer pressure.
11. Inform school officials of changes in the home situation that may affect student conduct or performance.
12. Provide a place for study and ensure homework assignments are completed.
13. Model respect and dignity for themselves, their children and other students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender/gender identity, or sex, which will strengthen the child's confidence and promote learning in accordance with the Dignity for All Students Act.

### **B. Teacher Expectations**

All T-S-T BOCES teachers are expected to:

1. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender/gender identity, or sex, which will strengthen students' self-concept and promote confidence to learn.
2. Be prepared to teach.
3. Demonstrate interest in teaching and concern for student achievement.
4. Know school policies and rules, and enforce them in a fair and consistent manner.
5. Confront issues of discrimination and harassment in any situation that threatens the emotional or physical health or safety of any students, school employee or any person who is lawfully on school property or at a school function.
6. School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of such acts shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of such acts, and shall also file a written report with the principal, superintendent, or their designee no later than two school days after making an oral report.
7. Communicate to students and parents/guardians:
  - a. Course objectives and requirements
  - b. Marking/grading procedures
  - c. Assignment deadlines

- d. Expectations for students
  - e. Classroom discipline plan.
8. Communicate regularly with students, parents/guardians, and other teachers concerning growth and achievement.
  9. Encourage students to discuss issues that are affecting their ability to be successful and be prepared to refer students to appropriate resources for assistance.

### **C. Pupil Personnel Expectations**

1. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
2. Initiate teacher/student/counselor conferences and parent/guardian/teacher/student/counselor conferences, as necessary, as a way to resolve problems.
3. Maintain and encourage a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender/gender identity, or sex, with an understanding of appropriate appearance, language, and behavior in a school setting, which will strengthen students' self-image and promote confidence to learn.
4. School employees who witness harassment, bullying, and/or discrimination or receive an oral or written report of such acts shall promptly orally notify the principal, superintendent, or their designee not later than one school day after such employee witnesses or receives a report of such acts, and shall also file a written report with the principal, superintendent, or their designee no later than two school days after making an oral report.
5. Regularly review with students their educational progress and career plans.
6. Provide information to assist students with career planning.
7. Encourage students to benefit from the curriculum and extracurricular programs.

### **D. Principal/supervisors Expectations**

1. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. Ensure that students and staff have the opportunity to communicate regularly with the principal/supervisor and approach the principal/supervisor for redress of grievances.
3. Evaluate on a regular basis all instructional programs.
4. Support the development of and student participation in appropriate extracurricular activities.
5. Be responsible for enforcing the Code of Conduct and ensuring that all cases are resolved promptly and fairly.
6. Maintain and encourage a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender/gender identity, or sex, with an understanding of appropriate appearance, language, and behavior in a school setting, which will strengthen students' self-image and promote confidence to learn.
7. Lead or supervise the thorough investigation of all reports of harassment, bullying and/or discrimination, and ensure that such investigation is completed promptly after receipt of any written reports.
8. When an investigation verifies a material incident of harassment, bullying, and/or discrimination, the principal or their designee shall take prompt action, reasonably calculated to end the harassment, bullying, and/or discrimination [BOCES non-discrimination](#) (as per Policy 3110) eliminate any hostile environment, create a more positive school culture and climate, prevent recurrence of the behavior, and ensure the safety of the student or students against whom such behavior was directed.

## **E. Superintendent**

1. Promote a safe, orderly and stimulating school environment, free from intimidation, discrimination [BOCES non-discrimination](#) (as per Policy 3110) and harassment, supporting active teaching and learning.
2. Review with T-S-T BOCES administrators the policies of the Board and state and federal laws relating to school operations and management.
3. Inform the Board about educational trends relating to student discipline.
4. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.
5. Ensure that, pursuant to Education Law section 13, retaliation by any school employee or student shall be prohibited against any individual who, in good faith, reports or assists in the investigation of harassment, bullying, and/or discrimination.
5. Work with T-S-T BOCES administrators in enforcing the Code of Conduct and ensuring that all cases are resolved promptly and fairly.

## **F. Board**

1. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a Code of Conduct that clearly defines expectations for the conduct of students, T-S-T BOCES personnel and visitors on school property and at school functions.
2. Adopt and review at least annually the T-S-T BOCES' Code of Conduct to evaluate the Code 's effectiveness and the fairness and consistency of its implementation.
3. Lead by example by conducting Board meetings in a professional, respectful, courteous manner.
4. Appoint a Dignity Act Coordinator in each school building. The Dignity Act Coordinator will be thoroughly trained to handle human relations in the areas of race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender/gender identity, and sex. The Dignity Act Coordinator will be accessible to students and other staff members for consultation and advice as needed on the Dignity Act.

## **III. Student Dress Code**

All students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. Teachers and all other T-S-T BOCES personnel should exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the school setting.

A student's dress, grooming and appearance, including hair style/color, jewelry, make-up and nails, shall:

1. Be safe, appropriate, as decided by the teacher, and not disrupt or interfere with the educational process.
2. Recognize that extremely brief garments and see-through garments may need to be covered. For example, tops may not show cleavage and may be no higher, on the bottom, than the tops of the hips.
3. Include footwear at all times. Footwear that is a safety hazard will not be allowed.
4. Not include, inside the building, the wearing of sunglasses or hats that cover the face.
5. Not include items that are vulgar, obscene, libelous or denigrate others on account of race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability.

6. Be appropriate for a specific job site when the student is on that site or preparing for that site.
7. Not promote and/or endorse the use of alcohol, tobacco or illegal drugs and/or encourage other illegal or violent activities.
8. Not include the use or wearing of personal listening devices or earphones during the school day without permission.

Each building principal/supervisor or his or her designee shall be responsible for informing all students and their parents of the student dress code at the beginning of the school year and any revisions that may be made to the dress Code during the school year.

Students who violate the student dress Code shall be required to modify their appearance by covering or removing the offending item and, if necessary or practical, replacing it with an acceptable item. Any student who refuses to do so shall be subject to discipline, up to and including in-school suspension for the day. Any student who repeatedly fails to comply with the dress Code shall be subject to further discipline, up to and including out of school suspension.

## **IV. Prohibited Conduct**

The Board expects all students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, T-S-T BOCES personnel and other members of the school community, and for the care of school facilities and equipment.

The best discipline is self-imposed, and it is expected that students will assume and accept responsibility for their own behavior, as well as the consequences of their misbehavior. T-S-T BOCES personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' ability to grow in self-discipline.

The Board recognizes the need to make its expectations for student conduct while on school property or engaged in a school function specific and clear. The rules of conduct listed below are intended to do that and focus on safety and respect for the rights and property of others. Students who will not accept responsibility for their own behavior and who violate these school rules will be required to accept the penalties for their conduct.

Students may be subject to disciplinary action, up to and including suspension from school, when they engage in the following conducts:

- Academic Misconduct
- Disrespect
- Discrimination [BOCES non-discrimination](#) (as per Policy 3110) [based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex as a basis for treating another in a negative manner on school property or at a school function as defined in Education Law §11]
- Failure to Complete Assignments
- Falsification of Statements/Documents
- Horseplay
- Inappropriate Dress
- Inappropriate Language/Gestures
- Insubordination
- Not following Safety Procedures

- Out of Class w/o Permission
- Public Display of Affection
- Sleeping In Class
- Unauthorized Driving/Riding/Parking
- Use of Non-instructional Property without permission
- Bus Misconduct
- Cyber-Bullying
- Danger to Health, Safety, Welfare
- Disruptive Behavior/Incident
- Failure to Attend Detention
- Gambling
- Hazing
- Incendiary Devices
- Indecent Exposure
- Leaving School Building
- Leaving School Grounds
- Possession of Obscene Materials
- Possession/Use of Tobacco or Smoking Paraphernalia
- Trespassing
- Violation of Acceptable Use Policy
- Bomb Threat
- Bullying/Intimidation/ Menacing/Harassment (the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical wellbeing based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability)
- Burglary (on school ground w/intent to commit a crime)
- Criminal Mischief (intentional damage of property)
- False Alarm
- Larceny/Theft
- Minor Altercations (No Physical Injury)
- Riot
- Arson
- Assault w/Physical Injury
- Assault w/Serious Physical Injury
- Forcible Sex Offenses
- Homicide
- Kidnapping
- Other Sex Offenses
- Reckless Endangerment
- Robbery (involves threat or use of physical force)
- Use, Possession or Sale of Alcohol (including designer drugs, bath salts, and chemicals that alter behavior)
- Use, Possession or Sale of Drugs
- Weapons Possession



## **V. Reporting Violations**

All students are expected to promptly report violations of the Code of Conduct to a staff member. Any student observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall report this information immediately to a staff member.

All T-S-T BOCES staff who are authorized to impose disciplinary sanctions are expected to do so in a prompt, fair and lawful manner. T-S-T BOCES staff who are not authorized to impose disciplinary sanctions are expected to promptly report violations of the Code of Conduct to their supervisor, who shall in turn impose an appropriate disciplinary sanction, if so authorized, or refer the matter to a staff member who is authorized to impose an appropriate sanction.

Any weapon, alcohol or illegal substance found shall be confiscated immediately, if possible, followed by notification to the parent of the student involved and the appropriate disciplinary sanction if warranted, which may include permanent suspension and referral for prosecution.

The building principal/supervisor or his or her designee must notify the appropriate local law enforcement agency of those Code violations that constitute a crime and substantially affect the order or security of a school as soon as practical, but in no event later than the close of business the day the principal/supervisor or his or her designee learns of the violation. The notification may be made by telephone, followed by a letter mailed on same day as the telephone call is made. The notification must identify the student and explain the conduct that violated the Code of Conduct and constituted a crime.

## **VI. Disciplinary Penalties, Procedures and Referrals**

Discipline is most effective when it deals directly with the problem at the time and place it occurs, and in a way that students view as fair and impartial. School personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' ability to grow in self-discipline.

Disciplinary action, when necessary, will be firm, fair and consistent so as to be the most effective in changing student behavior. In determining the appropriate disciplinary action, school personnel authorized to impose disciplinary penalties will consider the following:

1. The student's age.
2. The nature of the offense and the circumstances which led to the offense.
3. The student's prior disciplinary record.
4. The effectiveness of other forms of discipline.
5. Information from parents, teachers and/or others, as appropriate
6. Other extenuating circumstances.

As a general rule, discipline will be progressive. This means that a student's first violation will usually merit a lighter penalty than subsequent violations.

### **A. Penalties**

Students who are found to have violated the T-S-T BOCES' Code of Conduct may be subject to the following penalties, either alone or in combination. The school personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

1. Oral warning or written referral - any member of the T-S-T BOCES staff
2. Written notification to parent – principal/supervisor, other administrator or superintendent
3. Detention – teachers, principal/supervisor, superintendent

4. Suspension from transportation – principal/supervisor or superintendent
5. Suspension from social or extracurricular activities – principal/supervisor, superintendent
6. Suspension of other privileges – principal/supervisor, superintendent
7. In-school suspension – principal/supervisor, superintendent
8. Removal from classroom by teacher – teachers, principal/supervisor
9. Short-term (five days or less) suspension from school – principal/supervisor, superintendent, Board
10. Long-term (more than five days) suspension from school – principal/supervisor, superintendent, Board
11. Permanent suspension from school – superintendent, Board.

## **B. Procedures**

The amount of due process a student is entitled to receive before a penalty is imposed depends on the penalty being imposed. In all cases, regardless of the penalty imposed, the school personnel authorized to impose the penalty must inform the student of the alleged misconduct and must investigate, to the extent necessary, the facts surrounding the alleged misconduct. All students will have an opportunity to present their version of the facts to the school personnel imposing the disciplinary penalty in connection with the imposition of the penalty.

Students who are to be given penalties other than an oral warning, written warning or written notification to their parents are entitled to additional rights before the penalty is imposed. These additional rights are explained below.

### *1. Detention*

Teachers, principal/supervisors and the superintendent may use after school detention as a penalty for student misconduct in situations where removal from the classroom or suspension would be inappropriate. Detention will be imposed as a penalty only after the student's parent has been notified to confirm that there is no parental objection to the penalty and the student has appropriate transportation home following detention.

### *2. Suspension from transportation*

If a student does not conduct himself/herself properly on a bus, the bus driver is expected to bring such misconduct to the building principal/supervisor's attention. Students who become a serious disciplinary problem may have their riding privileges suspended by the home-school principal or the superintendent or their designees. In such cases, the student's parent will become responsible for seeing that his or her child gets to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the home school district will make appropriate arrangements to provide for the student's education.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the building principal/supervisor or the principal/supervisor's designee to discuss the conduct and the penalty involved.

### *3. In-school suspension*

The Board recognizes the school must balance the need of students to attend school and the need for order in the classroom to establish an environment conducive to learning. As such, the Board authorizes building principal/supervisors and the superintendent to place students who would otherwise be suspended from school as the result of a Code of Conduct violation in "in-school suspension." The in-school suspension teacher will be a certified teacher.

A student subjected to an in-school suspension is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the T-S-T BOCES official imposing the in-school suspension to discuss the conduct and the penalty involved.

#### 4. *Teacher disciplinary removal of disruptive students*

A student's behavior can affect a teacher's ability to teach and can make it difficult for other students in the classroom to learn. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include practices that involve the teacher directing a student to briefly leave the classroom to give the student an opportunity to regain his or her composure and self-control in an alternative setting. Such practices may include, but are not limited to: (1) short-term "time out" in an elementary classroom or in an administrator's office; (2) sending a student into the hallway briefly; (3) sending a student to the principal/supervisor's office for the remainder of the class time only; or (4) sending a student to a guidance counselor or other T-S-T BOCES staff member for counseling. Time-honored classroom management techniques such as these do not constitute disciplinary removals for purposes of this Code.

On occasion, a student's behavior may become disruptive. For purposes of this Code of Conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom. A substantial disruption of the educational process or substantial interference with a teacher's authority occurs when a student demonstrates a persistent unwillingness to comply with the teacher's instructions or repeatedly violates the teacher's classroom behavior rules.

A classroom teacher may remove a disruptive student from class for one day. The removal from class applies to the class of the removing teacher only.

If the disruptive student does not pose a danger or ongoing threat of disruption to the academic process, the teacher must provide the student with an explanation for why he or she is being removed and an opportunity to explain his or her version of the relevant events before the student is removed. Only after the informal discussion may a teacher remove a student from class.

If the student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24-hours.

The teacher must complete a T-S-T BOCES-established disciplinary removal form and meet with the principal/supervisor or his or her designee as soon as possible, but no later than the end of the school day, to explain the circumstances of the removal and to present the removal form. If the principal/supervisor or designee is not available by the end of the same school day, the teacher must leave the form with the secretary and meet with the principal/supervisor or designee prior to the beginning of classes on the next school day.

Within 24-hours after the student's removal, the principal/supervisor or another T-S-T BOCES administrator designated by the principal/supervisor must notify the student's parents, in writing, that the student has been removed from class and why. The notice must also inform the parent that he or she has the right, upon request, to meet informally with the principal/supervisor or the principal/supervisor's designee to discuss the reasons for the removal.

The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the student's removal at the last known address for the parents. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents.

The principal/supervisor may require the teacher who ordered the removal to attend the informal conference.

If at the informal meeting the student denies the charges, the principal/supervisor or the principal/supervisor's designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. The informal meeting must be held within 48 hours of the student's removal. The timing of the informal meeting may be extended by mutual agreement of the parent and principal/supervisor.

The principal/supervisor or the principal/supervisor's designee may overturn the removal of the student from class if the principal/supervisor finds any one of the following:

- a. The charges against the student are not supported by substantial evidence.
- b. The student's removal is otherwise in violation of law, including the T-S-T BOCES' Code of Conduct.
- c. The conduct warrants suspension from school pursuant to Education Law §3214 and a suspension will be imposed.

The principal/supervisor or his or her designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference, if a conference is requested. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the principal/supervisor makes a final determination, or the period of removal expires, whichever is less.

Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he or she is permitted to return to the classroom.

Each teacher must keep a complete log (on a T-S-T BOCES provided form) for all cases of removal of students from his or her class. The principal/supervisor must keep a log of all removals of students from class.

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement. Accordingly, no teacher may remove a student with a disability from his or her class until he or she has verified with the principal/supervisor or the chairperson of the Committee on Special Education that the removal will not violate the student's rights under state or federal law or regulation.

##### *5. Suspension from school*

Suspension from school is a severe penalty, which may be imposed only upon students who are insubordinate, disorderly, violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.

The Board retains its authority to suspend students, but places primary responsibility for the suspension of students with the superintendent and the building principal/supervisors.

Any staff member may recommend to the principal/supervisor that a student be suspended. All staff members must immediately report and refer a violent student to the principal/supervisor for a violation of the Code of Conduct. All recommendations and referrals shall be made in writing unless the conditions underlying the recommendation or referral warrant immediate attention. In such cases a written report is to be prepared as soon as possible by the staff member recommending the suspension.

The principal/supervisor, upon receiving a recommendation or referral for suspension or when processing a case for suspension, shall gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

a. Short-term (5 days or less) suspension from school

When the superintendent or principal/supervisor (referred to as the “suspending authority”) proposes to suspend a student charged with misconduct for five days or less pursuant to Education Law §3214(3), the suspending authority must immediately notify the student orally. If the student denies the misconduct, the suspending authority must provide an explanation of the basis for the proposed suspension. The suspending authority must also notify the student’s parents in writing that the student may be suspended from school. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the decision to propose suspension at the last known address for the parents. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting the parents.

The notice shall provide a description of the charges against the student and the incident for which suspension is proposed and shall inform the parents of the right to request an immediate informal conference with the principal/supervisor. Both the notice and informal conference shall be in the dominant language or mode of communication used by the parents. At the conference, the parents shall be permitted to ask questions of complaining witnesses under such procedures as the principal/supervisor may established.

The notice and opportunity for an informal conference shall take place before the student is suspended unless the student’s presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process. If the student’s presence does pose such a danger or threat of disruption, the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

After the conference, the principal/supervisor shall promptly advise the parents in writing of his or her decision. The principal/supervisor shall advise the parents that if they are not satisfied with the decision and wish to pursue the matter, they must file a written appeal to the superintendent within five business days, unless they can show extraordinary circumstances precluding them from doing so. The superintendent shall issue a written decision regarding the appeal within 10 business days of receiving the appeal. If the parents are not satisfied with the superintendent’s decision, they must file a written appeal to the Board with the T-S-T BOCES clerk within 10 business days of the date of the superintendents’ decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board may be appealed to the Commissioner within 30 days of the decision.

b. Long-term (more than 5 days) suspension from school

When the superintendent or building principal/supervisor determines that a suspension for more than five days may be warranted, he or she shall give reasonable notice to the student and the student’s parents of their right to a fair hearing. At the hearing the student shall have the right to be

represented by counsel, the right to question witnesses against him or her and the right to present witnesses and other evidence on his or her behalf.

The superintendent shall personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him or her. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof.

An appeal of the decision of the superintendent may be made to the Board that will make its decision based solely upon the record before it. All appeals to the Board must be in writing and submitted to the T-S-T BOCES clerk within 10 business days of the date of the superintendent's decision, unless the parents can show that extraordinary circumstances precluded them from doing so. The Board may adopt in whole or in part the decision of the superintendent. Final decisions of the Board may be appealed to the Commissioner within 30 days of the decision.

c. Permanent suspension

Permanent suspension is reserved for extraordinary circumstances, such as student conduct which poses a life-threatening danger to the safety and well-being of other students, school personnel or any other person lawfully on school property or attending a school function.

**C. Minimum Periods of Suspension**

1. Students who bring a weapon to school

Any student found guilty of bringing a weapon onto school property will be subject to suspension from school for at least one calendar year. Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the following:

1. The student's age.
2. The student's grade in school.
3. The student's prior disciplinary record.
4. The superintendent's belief that other forms of discipline may be more effective.
5. Input from parents, teachers and/or others.
6. Other extenuating circumstances.

A student with a disability may be suspended only in accordance with the requirements of state and federal law.

2. Students who commit violent acts other than bringing a weapon to school

Any student who is found to have committed a violent act, other than bringing a weapon onto school property, shall be subject to suspension from school for at least five days. If the proposed penalty is the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

3. Students who are repeatedly substantially disruptive of the educational process or repeatedly substantially interfere with the teacher's authority over the classroom

Any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom will be suspended from school for at least five days. For purposes of this Code of Conduct, "repeatedly is substantially disruptive" means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law §3214(3-a) and this Code on four or more occasions during a semester. If the proposed penalty is the minimum five-day suspension, the student and the student's parent will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

#### **D. Referrals**

1. Counseling

The Pupil Personnel staff shall handle all referrals of students to counseling.

2. PINS Petitions

The T-S-T BOCES' administrators may file a PINS (person in need of supervision) petition in Family Court on any student under the age of 18 who demonstrates that he or she requires supervision and treatment by:

- a. Being habitually truant and not attending school as required by part one of Article 65 of the Education Law.
- b. Engaging in an ongoing or continual course of conduct which makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.
- c. Knowingly and unlawfully possesses marijuana in violation of Penal Law § 221.05. A single violation of § 221.05 will be a sufficient basis for filing a PINS petition.

3. Juvenile Delinquents and Juvenile Offenders

The superintendent is required to refer the following students to the County Attorney for a juvenile delinquency proceeding before the Family Court:

- a. Any student under the age of 16 who is found to have brought a weapon to school, or
- b. Any student 14 or 15 years old who qualifies for juvenile offender status under the Criminal Procedure Law §1.20 (42).

The superintendent is required to refer students age 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

## **VII. Alternative Instruction**

When a student of any age is removed from class by a teacher or a student of compulsory attendance age is suspended from school pursuant to Education Law §3214, the home school district will take immediate steps to provide alternative means of instruction for the student.

## **VIII. Discipline of Students with Disabilities**

The Board recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities to address disruptive or problem behavior. The Board also recognizes that students with disabilities enjoy certain procedural protections whenever school authorities intend to impose

discipline upon them. The Board is committed to ensuring that the procedures followed for suspending, removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable laws and regulations.

This Code of Conduct affords students with disabilities subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state law and regulations.

## **IX. Corporal Punishment**

Corporal punishment is any act of physical force upon a student for the purpose of punishing that student. Corporal punishment of any student by any T-S-T BOCES employee is strictly forbidden.

However, in situations where alternative procedures and methods that do not involve the use of physical force cannot reasonably be used, reasonable physical force may be used to:

1. Protect oneself, another student, teacher or any person from physical injury.
2. Protect the property of the school or others.
3. Restrain or remove a student whose behavior interferes with the orderly exercise and performance of school T-S-T BOCES functions, powers and duties, if that student has refused to refrain from further disruptive acts.

The T-S-T BOCES will file all complaints about the use of corporal punishment with the Commissioner of Education in accordance with Commissioner's regulations.

## **X. Student Searches and Interrogations**

The Board is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary penalty on a student may question a student about an alleged violation of law or the T-S-T BOCES Code of Conduct. Students are not entitled to any sort of "Miranda"-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, school officials will tell all students why they are being questioned.

In addition, the Board authorizes the superintendent, directors, and building principal/supervisors to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the T-S-T BOCES Code of Conduct.

An authorized school official may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the school official has a legitimate reason for the very limited search.

An authorized school official may search a student or the student's belongings based upon information received from a reliable informant. Individuals, other than the T-S-T BOCES employees, will be considered reliable informants if they have previously supplied information that was accurate and verified, or they make an admission against their own interest, or they provide the same information that is received independently from other sources, or they appear to be credible and the information they are communicating relates to an immediate threat to safety. T-S-T BOCES employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.



Before searching a student or the student's belongings, the authorized school official should attempt to get the student to admit that he or she possesses physical evidence that he/she violated the law or the T-S-T BOCES Code of Conduct, or get the student to voluntarily consent to the search. Searches will be limited to the extent necessary to locate the evidence sought.

Whenever practicable, searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched.

#### **A. Student Lockers, Desks and other School Storage Places**

The rules in this Code of Conduct regarding searches of students and their belongings do not apply to student lockers, desks and other school storage places. Students have no reasonable expectation of privacy with respect to these places and school officials retain complete control over them. This means that student lockers, desks and other school storage places may be subject to search at any time by school officials, without prior notice to students and without their consent.

#### **B. Strip Searches**

A strip search is a search that requires a student to remove any or all of his or her clothing, other than an outer coat or jacket. Strip searches are intrusive in nature and are almost never justified. If school officials have highly credible evidence that such a search would prevent danger or yield evidence, such a search may be conducted under exigent circumstances. In the alternative, if school authorities believe there is an emergency situation that could threaten the safety of others, the student shall, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.

Strip searches may only be conducted by an authorized school official of the same sex as the student being searched and in the presence of another T-S-T BOCES professional employee who is also of the same sex as the student.

In every case, the school official conducting a strip search must have probable cause – not simply reasonable suspicion – to believe the student is concealing evidence of a violation of law or the T-S-T BOCES Code. In addition, before conducting a strip search, the school official must consider the nature of the alleged violation, the student's age, the student's record and the need for such a search.

School officials will attempt to notify the student's parent by telephone before conducting a strip search, or in writing after the fact if the parent could not be reached by telephone.

#### **C. Documentation of Searches**

The authorized school official conducting the search shall be responsible for promptly recording the following information about each search:

1. Name, age and grade of student searched.
2. Reasons for the search.
3. Name of any informant(s).
4. Purpose of search (that is, what item(s) were being sought).
5. Type and scope of search.
6. Person conducting search and his or her title and position.
7. Witnesses, if any, to the search.
8. Time and location of search.
9. Results of search (that is, what items(s) were found).
10. Disposition of items found.
11. Time, manner and results of parental notification.

The authorized person conducting the search shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The principal/supervisor or his or her designee shall clearly label each item taken from the student and retain control of the item(s), until the items is turned over to the police. The person conducting the search shall be responsible for personally delivering dangerous or illegal items to police authorities.

#### **D. Police Involvement in Searches and Interrogations of Students**

T-S-T BOCES officials are committed to cooperating with police officials and other law enforcement authorities to maintain a safe school environment. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work. Police officials may enter school property or a school function to question or search a student or to conduct a formal investigation involving students only if they have:

1. A search or an arrest warrant; or
2. Probable cause to believe a crime has been committed on school property or at a school function; or
3. Been invited by school officials.

Before police officials are permitted to question or search any student, the building principal/supervisor or his or her designee shall first try to notify the student's parent to give the parent the opportunity to be present during the police questioning or search. If the student's parent cannot be contacted prior to the police questioning or search, the questioning or search shall not be conducted. The principal/supervisor or designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school. This means:

1. They must be informed of their legal rights.
2. They may remain silent if they so desire.
3. They may request the presence of an attorney.

#### **E. Child Protective Services Investigations**

Consistent with the T-S-T BOCES' commitment to keep students safe from harm and the obligation of school officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, the T-S-T BOCES will cooperate with local child protective services workers who wish to conduct interviews of students on school property relating to allegations of suspected child abuse, and/or neglect, or custody investigations.

## **XI. Visitors to the Schools**

The Board encourages parents and other component school district citizens to visit the T-S-T BOCES' schools and classrooms to observe the work of students, teachers and other staff. Since schools are a place of work and learning, however, certain limits must be set for such visits. The building principal/supervisor or his or her designee is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the schools:

1. Anyone who is not a regular staff member or student of the school will be considered a visitor.
2. All visitors to the school must report to the main office of building/departments upon arrival at the school. There they will be required to sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in the school or on school grounds. The visitor must return the identification badge to the principal/supervisor's office before leaving the building.

3. Visitors attending school functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
4. Parents or citizens who wish to observe a classroom while school is in session are required to arrange such visits in advance with the classroom teacher(s) and T-S-T BOCES administrator so that class disruption is kept to a minimum.
5. Teachers are expected to not take class time to discuss individual matters with visitors.
6. Any unauthorized person on school property will be reported to the principal/supervisor or his or her designee. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.
7. All visitors are expected to abide by the rules for public conduct on school property contained in this Code of Conduct.

## **XII. Public Conduct on School Property**

The T-S-T BOCES is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on school property and at school functions. For purposes of this section of the Code, “public” shall mean all persons when on school property or attending a school function including students, teachers and T-S-T BOCES personnel.

The restrictions on public conduct on school property and at school functions contained in this Code are not intended to limit freedom of speech or peaceful assembly. The T-S-T BOCES recognizes that free inquiry and free expression are indispensable to the objectives of the T-S-T BOCES. The purpose of this Code is to maintain public order and prevent abuse of the rights of others.

All persons on school property or attending a school function shall conduct themselves in a respectful and orderly manner. In addition, all persons on school property or attending a school function are expected to be properly attired for the purpose they are on school property.

### **A. Prohibited Conduct**

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten to do so.
2. Intentionally damage or destroy T-S-T BOCES property or the property of others, this includes graffiti.
3. Disrupt the orderly conduct of classes, school programs or other school activities.
4. Distribute or wear materials on school grounds or at school functions that are vulgar, obscene, appear libelous, advocate illegal action, obstruct the rights of others, denigrate others on account of race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability, or are disruptive to the school program.
5. Intimidate, harass or discriminate against any person on the basis of race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability.
6. Enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed.
7. Obstruct the free movement of any person in any place to which this Code applies.
8. Violate the traffic laws, parking regulations or other restrictions on vehicles;
9. Possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.
10. Possess or use weapons in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by the Board.

11. Loiter on or about school property.
12. Gamble on school property or at school functions.
13. Refuse to comply with any reasonable order of identifiable school district officials performing their duties.
14. Willfully incite others to commit any of the acts prohibited by this Code.
15. Violate any federal or state statute, local ordinance or Board policy while on school property or while at a school function.
16. Smoke on school property.

## **B. Penalties**

Persons who violate this Code shall be subject to the following penalties:

1. Visitors. Their authorization, if any, to remain on school grounds or at the school function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to ejection.
2. Students. They shall be subject to disciplinary action as the facts may warrant, in accordance with the due process requirements.
3. Tenured faculty members. They shall be subject to disciplinary action as the facts may warrant in accordance with Education Law §3020-a or any other legal rights that they may have.
4. Staff members in the classified service of the civil service entitled to the protection of Civil Service Law §75. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant in accordance with Civil Service Law §75 or any other legal rights that they may have.
5. Staff members other than those described in subdivisions 4 and 5. They shall be subject to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

## **C. Enforcement**

The building principal/supervisor or his or her designee shall be responsible for enforcing the conduct required by this Code.

When the building principal/supervisor or his or her designee sees an individual engaged in prohibited conduct, which in his or her judgment does not pose any immediate threat of injury to persons or property, the principal/supervisor or his or her designee shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The principal/supervisor or his or her designee shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the prohibited conduct, or if the person's conduct poses an immediate threat of injury to persons or property, the principal/supervisor or his or her designee shall have the individual removed immediately from school property or the school function. If necessary, local law enforcement authorities will be contacted to assist in removing the person.

The T-S-T BOCES shall initiate disciplinary action against any student or staff member, as appropriate, with the "Penalties" section above. In addition, the T-S-T BOCES reserves its right to pursue a civil or criminal legal action against any person violating the Code.

# **XIII. Dissemination and Review**

## **A. Dissemination of Code of Conduct**

The Board will work to ensure that the community is aware of this Code of Conduct by:

1. Providing copies of a summary of the Code to all students in an age-appropriate, plain language version at a general school assembly held at the beginning of each school year.

2. Providing copies of the Code available to all parents at the beginning of the school year.
3. Mailing a summary of the Code of Conduct written in plain language to all parents of T-S-T BOCES students before the beginning of the school year and making this summary available, later, upon request.
4. Providing all current teachers and other staff members with a copy of the Code and a copy of any amendments to the Code as soon as practicable after adoption.
5. Providing all new employees with a copy of the current Code of Conduct when they are first hired.
6. Making copies of the Code available for review by students, parents and other community members.

The Board will sponsor an in-service education program for all T-S-T BOCES staff members to ensure the effective implementation of the Code of Conduct. The superintendent may solicit the recommendations of the T-S-T BOCES staff, particularly teachers and administrators, regarding in service programs pertaining to the management and discipline of students.

The Board will review this Code of Conduct every year and update it as necessary. In conducting the review, the Board will consider how effective the code's provisions have been and whether the Code has been applied fairly and consistently.

The Board may appoint an advisory committee to assist in reviewing the Code and the T-S-T BOCES' response to Code of Conduct violations. The committee will be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

Before adopting any revisions to the Code, the Board will hold at least one public hearing at which school personnel, parents, students and any other interested party may participate.

The District shall post the complete Code of Conduct (with all amendments and annual updates) on the District's website, if available. The District shall file a copy of its Code of Conduct and any amendments with the Commissioner, in a manner prescribed by the Commissioner, no later than thirty (30) days after their respective adoptions.

## **IVX. Definitions**

For purposes of this Code, the following definitions apply.

“Disruptive student” means an elementary or secondary student under the age of 21 who is substantially disruptive of the educational process or substantially interferes with the teacher’s authority over the classroom.

“Parent” means parent, guardian or person in parental relation to a student.

“School Property” means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of a public elementary or secondary school; or in or on a school bus (Education Law §11[1]).

“School Bus” means every motor vehicle owned and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or, privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities (Education Law Section 11[1] and Vehicle and Traffic Law Section 142).

“School function” means any school-sponsored extra-curricular event or activity (Education Law Section 11[2]).

“Disability” means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term must be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held (Education Law Section 11[4] and Executive Law Section 292[21]).

“Discrimination” means discrimination against any student by a student or students and/or employee or employees on school property or at a school function including, but not limited to, discrimination [BOCES non-discrimination](#) (as per Policy 3110) based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

“Emotional harm” that takes place in the context of “harassment or bullying” means harm to a student’s emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a student’s education.

“Employee” means any person receiving compensation from a school district or employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine B of article five of the Social Services Law, and consistent with the provisions of such title for the provision of services to such district, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact (Education Law Section 11[4] and 1125[3]).

“Sexual Orientation” means actual or perceived heterosexuality, homosexuality, or bisexuality (Education Law Section 11[5]).

“Gender” means actual or perceived sex and includes a person's gender identity or expression (Education Law Section 11[6]).

“Harassment/bullying” means the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying as defined in Education Law §11(8), that:

- (a) has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being; or
- (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or
- (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or

(d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. For purposes of this definition, the term “threats, intimidation or abuse” shall include verbal and non-verbal actions. (Education Law §11[7]) Acts of harassment and bullying that are prohibited include those acts based on a person’s actual or perceived membership in the following groups including, but not limited to: race, color, weight, national origin, ethnic group, religion, or religious practice, sex, gender/gender identity, sexual orientation, or disability, (which includes a person’s actual or perceived sex, as well as gender identity and expression).

“Cyberbullying” means harassment/bullying, as defined above, through any form of electronic communication.

“Violent student” means a student under the age of 21 who:

1. Commits an act of violence upon a school employee, or attempts to do so.

2. Commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function, or attempts to do so.
3. Possesses, while on school property or at a school function, a weapon.
4. Displays, while on school property or at a school function, what appears to be a weapon.
5. Threatens, while on school property or at a school function, to use a weapon.
6. Knowingly and intentionally damages or destroys the personal property of any school employee or any person lawfully on school property or at a school function.
7. Knowingly and intentionally damages or destroys school T-S-T BOCES property.

“Weapon” means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

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