

# STATE OF NEW YORK

1981--A

2019-2020 Regular Sessions

## IN ASSEMBLY

January 18, 2019

Introduced by M. of A. NOLAN, DICKENS, O'DONNELL, PERRY, HYNDMAN, JEAN-PIERRE, PRETLOW, WRIGHT, CAHILL, ORTIZ, GANTT, TITUS, SAYEGH, DE LA ROSA, SIMOTAS, WALKER, JAFFEE, RODRIGUEZ, BICHOTTE, FERNANDEZ, AUBRY, EPSTEIN, REYES, TAYLOR, PHEFFER AMATO, JOYNER, GLICK, CRUZ, SIMON, BRONSON, RIVERA, NIOU, CRESPO, WALLACE, ARROYO, MOSLEY, BLAKE, GOTTFRIED, RAMOS, COOK, McDONALD, LIFTON, WILLIAMS, GRIFFIN, GALEF, STIRPE, RYAN, QUART, FRONTUS, ROMEO, BARRON, L. ROSENTHAL, SANTABARBARA -- Multi-Sponsored by -- M. of A. BUCHWALD, DenDEKKER, WEINSTEIN -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to school codes of conduct and disciplinary action following violations of such codes of conduct and making conforming amendments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2801 of the education law, as added by chapter 181 of the laws of 2000, subdivision 1 as amended by chapter 402 of the laws of 2005, the opening paragraph, paragraph a and paragraph c of subdivision 2 and paragraph a of subdivision 5 as amended by chapter 380 of the laws of 2001, paragraphs l and m as amended and paragraph n of subdivision 2 as added by chapter 482 of the laws of 2010, and subdivision 3 as amended by chapter 123 of the laws of 2003, is amended to read as follows:

§ 2801. Codes of conduct on school property. 1. For purposes of this section, 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, including charter schools; or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; or electronic files and databases; and a school function shall mean a

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD02878-04-9

1 school-sponsored or school-authorized extra-curricular event or activity  
2 regardless of where such event or activity takes place, including any  
3 event or activity that may take place in another state.

4 2. The board of education or the trustees~~[, as defined in section two~~  
5 ~~of this chapter,~~ of every school district ~~[within the state, however~~  
6 ~~created, and every]~~ or the chancellor of the city school district in the  
7 case of the city school district of the city of New York, and every  
8 board of cooperative educational services and ~~[county vocational exten-~~  
9 ~~sion board]~~ charter school, shall adopt and amend, as appropriate, a  
10 code of conduct for the maintenance of order on school property, includ-  
11 ing a school function, which shall promote and sustain a safe, respect-  
12 ful, and supportive school environment and govern the conduct of  
13 students, teachers and other school personnel as well as visitors and  
14 shall provide for the enforcement thereof. Such policy may be adopted by  
15 the ~~[school]~~ board of education or trustees, or the chancellor of the  
16 city school district in the case of the city school district of the city  
17 of New York, or other governing body only after at least one public  
18 hearing that provides for the participation of school personnel,  
19 parents, students and any other interested parties before its adoption.  
20 The school district, board of cooperative educational services, or char-  
21 ter school shall notify the school community and general public about  
22 the hearing at least fifteen days prior to the date of the hearing. Such  
23 notice shall include the date, time, and place of the hearing, the agen-  
24 da, a copy of the proposed code of conduct, and information about a  
25 public comment period as determined by the school district, board of  
26 cooperative educational services, or charter school. The school  
27 district, board of cooperative educational services, or charter school  
28 shall take necessary steps to notify families who do not speak English  
29 and whose children attend a school in the district, a board of cooper-  
30 ative educational services, or a charter school. Such code of conduct  
31 shall define violations of the code of conduct and set clear expecta-  
32 tions for student conduct on school property, including at school func-  
33 tions, and shall include, at a minimum:

34 a. provisions regarding conduct, dress and language deemed appropriate  
35 and acceptable on school property, including a school function, and  
36 conduct, dress and language deemed unacceptable and inappropriate on  
37 school property, including a school function~~[, and];~~

38 a-1. provisions regarding acceptable civil and respectful treatment of  
39 teachers, school administrators, other school personnel, students and  
40 visitors on school property~~[, including a]~~ and at school [function]  
41 functions, including [the appropriate] a range of age-appropriate gradu-  
42 ated disciplinary measures which may be imposed for [violation of]  
43 violating such code, and the roles of teachers, administrators, other  
44 school personnel, the board of education or trustees, or the chancellor  
45 of the city school district in the case of the city school district of  
46 the city of New York, or other governing body, and parents. Schools may  
47 use restorative discipline practices and other interventions to respond  
48 to student behavior that violates the code of conduct. Restorative  
49 discipline may include class meetings, facilitated circles, conferences,  
50 peer mediation, and other interventions that can effectively address  
51 student misconduct, hold students accountable for their behavior, and  
52 foster healthy relationships within the school community. No student,  
53 however, shall be required to participate in a restorative practice  
54 without their consent and the consent of their parents or persons in  
55 parental relations;

1 a-2. provisions that prohibit the suspension of students in pre-kin-  
2 dergarten through grade three, except a student may be suspended if the  
3 student is defined as a violent student pursuant to subparagraphs one,  
4 two, three, four, and five of paragraph a of subdivision two-a of  
5 section thirty-two hundred fourteen of this chapter or if suspension is  
6 necessary to comply with applicable federal laws;

7 b. standards and procedures to assure security and safety of students  
8 and school personnel;

9 c. provisions for the removal from the classroom and from school prop-  
10 erty, including a school function, of students and other persons who  
11 violate the code of conduct;

12 d. disciplinary measures to be taken in incidents involving the  
13 possession or use of illegal substances or weapons, the use of physical  
14 force, vandalism, violation of another student's civil rights and  
15 threats of violence;

16 e. provisions for detention, suspension and removal from the classroom  
17 of students, consistent with section thirty-two hundred fourteen of this  
18 chapter and other applicable federal, state and local laws [~~including~~];

19 e-1. provisions for the school authorities to establish policies and  
20 procedures to ensure the provision of continued educational programming  
21 and activities for students removed from the classroom, placed in  
22 detention, or suspended from school. Provided however when a student is  
23 suspended from school or removed from the classroom, the principal, or  
24 the principal's designee, in consultation with the student's teachers,  
25 shall create an education plan for the student for each class in which  
26 the student is enrolled within twenty-four hours, provided that if such  
27 twenty-four hour period does not end on a school day, it shall be  
28 extended to the corresponding time on the next school day. The education  
29 plan shall make provisions for a student's on-going academic instruction  
30 during the removal or suspension. The student shall have the opportunity  
31 to earn all academic credit he or she would have been eligible to earn  
32 had they been in class including the opportunity to complete any missed  
33 assignments or take any missed examinations or assessments during the  
34 student's removal or suspension. If an examination or assessment cannot  
35 be rescheduled, the student shall be allowed on school property to take  
36 such assessment or examination on the day and time that the assessment  
37 or examination is given;

38 f. procedures by which violations of the code of conduct are reported  
39 to the appropriate school personnel, the facts are investigated and  
40 determined, and discipline measures [~~imposed and discipline measures~~  
41 ~~carried out~~] are decided and implemented;

42 g. provisions ensuring such code and the enforcement thereof are in  
43 compliance with state and federal laws relating to students with disa-  
44 bilities;

45 h. provisions setting forth the procedures by which local law enforce-  
46 ment agencies shall be notified of [~~code~~] violations of the code of  
47 conduct which constitute a crime;

48 i. provisions setting forth the circumstances under and procedures by  
49 which parents or persons in parental relation to the student accused of  
50 violating the code of conduct and students affected by the student  
51 behavior that violates the code of conduct shall be notified of such  
52 code of conduct violations including notice that any statement by the  
53 student, written or oral, may be used against the student in a criminal,  
54 immigration, or juvenile delinquency investigation and/or proceeding  
55 and/or in a court of law;

j. provisions setting forth the circumstances under and procedures by which a ~~[complaint in criminal court]~~ student may be referred to law enforcement or a juvenile delinquency petition or person in need of supervision petition as defined in articles three and seven of the family court act will be filed;

k. circumstances under and procedures by which ~~[referral to]~~ a student may be referred to academic services, school-based support services, or appropriate human service agencies ~~[shall be made]~~;

l. a minimum suspension period, for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law. For purposes of this section, the definition of "repeatedly are substantially disruptive" shall be determined in accordance with the regulations of the commissioner;

m. a minimum suspension period for acts that would qualify the ~~[pupil]~~ student to be defined as a violent ~~[pupil]~~ student pursuant to paragraph a of subdivision two-a of section thirty-two hundred fourteen of this chapter, provided that the suspending authority may reduce such period on a case by case basis to be consistent with any other state and federal law; and

n. provisions to comply with article two of this chapter.

3. The ~~[district]~~ code of conduct shall be developed in collaboration with ~~[student, teacher, administrator, and]~~ representatives from interested stakeholders including, but not limited to, students, teachers, administrators, parent organizations, school safety personnel, collective bargaining units, and other school personnel and shall be approved by the board of education or trustees, ~~[or]~~ other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community district education council shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

4. ~~[The]~~ At the beginning of each school year, the board of education or trustees, chancellor of the city school district in the case of the city school district of the city of New York, or other governing body shall: translate the code of conduct into the three most commonly spoken languages of the children attending the school district, board of cooperative educational services, or charter school, post the code of conduct on the school district's, charter school's or board of cooperative educational services website, provide copies of a summary of the code of conduct to all students at a general assembly ~~[held at the beginning of the school year and shall make copies of the code available to persons in parental relation to students at the beginning of each school year, and shall]~~ or classroom lesson, mail a plain language summary of such code to all parents or persons in parental relation to students before the beginning of each school year, and make it available thereafter upon request. The board of education or trustees, the chancellor of the city school district in the case of the city school district of the city of New York, or other governing body shall take reasonable steps to ensure community awareness of the code of conduct's provisions.

5. a. The board of education or trustees, the chancellor of the city school district in the case of the city of New York or other governing body shall annually review and update the district's codes of conduct if necessary, taking into consideration the effectiveness of code of conduct provisions and the fairness and consistency of its administration. Each school district is authorized to establish a committee and to facilitate the review of the code of conduct and the district's response to code of conduct violations. Any such committee shall be comprised of similar individuals described in subdivision three of this section. The [~~school~~] board of education or trustees, the chancellor of the city school district in the case of the city of New York, or other governing body shall reapprove any such updated code only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties.

b. Each district, board of cooperative educational services, and charter school shall file a copy of its codes of conduct with the commissioner and [~~all~~] any amendments to such code shall be filed with the commissioner no later than thirty days after their adoption.

§ 2. Subdivision 3 of section 2801 of the education law, as added by chapter 181 of the laws of 2000, is amended to read as follows:

3. The [~~district~~] code of conduct shall be developed in collaboration with [~~student, teacher, administrator, and~~] representatives from interested stakeholders including, but not limited to, students, teachers, administrators, parent organizations, school safety personnel, collective bargaining units, and other school personnel and shall be approved by the board of education or trustees, [~~or~~] other governing body, or by the chancellor of the city school district in the case of the city school district of the city of New York. In the city school district of the city of New York, each community school district board shall be authorized to adopt and implement additional policies, which are consistent with the city district's district-wide code of conduct, to reflect the individual needs of each community school district provided that such additional policies shall require the approval of the chancellor.

§ 3. Section 3214 of the education law, as amended by chapter 181 of the laws of 2000, subparagraph 1 of paragraph c of subdivision 3 as amended by chapter 430 of the laws of 2006, paragraphs d and f of subdivision 3 as amended by chapter 425 of the laws of 2002, paragraph e of subdivision 3 as amended by chapter 170 of the laws of 2006, paragraph g of subdivision 3 as amended by chapter 352 of the laws of 2005, clause (v) of subparagraph 3 of paragraph g of subdivision 3 as amended by chapter 378 of the laws of 2007, paragraphs a, b and c of subdivision 3-a as amended by chapter 147 of the laws of 2001 and subdivision 7 as amended by section 9 of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

§ 3214. Student placement, suspensions and transfers. 1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly or disruptive or violent during such attendance, is a school delinquent.

2. Special day schools. The school authorities of any city [~~or~~], school district, board of cooperative educational services, or charter school may establish schools or set apart rooms in [~~public~~] school buildings or properties for the instruction of school delinquents, and fix the number of days per week and the hours per day of required



1 attendance and instruction, which shall not be less than is required of  
2 minors attending the full time day schools.

3 2-a. a. Violent ~~[pupil]~~ student. For the purposes of this section, a  
4 violent ~~[pupil]~~ student is an elementary or secondary student under  
5 twenty-one years of age who:

6 (1) commits an act of violence upon a teacher, administrator or other  
7 school employee;

8 (2) commits, while on school district property, an act of violence  
9 upon another student or any other person lawfully upon said property;

10 (3) possesses, while on school district property, a gun, knife,  
11 explosive or incendiary bomb, or other dangerous instrument capable of  
12 causing physical injury or death;

13 (4) displays, while on school district property, what appears to be a  
14 gun, knife, explosive or incendiary bomb or other dangerous instrument  
15 capable of causing death or physical injury;

16 (5) threatens, while on school district property, to use any instru-  
17 ment that appears capable of causing physical injury or death;

18 (6) knowingly and intentionally damages or destroys the personal prop-  
19 erty of a teacher, administrator, other school district employee or any  
20 person lawfully upon school district property; or

21 (7) knowingly and intentionally damages or destroys school district  
22 property.

23 b. Disruptive ~~[pupil]~~ student. For the purposes of this section, a  
24 disruptive ~~[pupil]~~ student is an elementary or secondary student under  
25 twenty-one years of age who is substantially disruptive of the educa-  
26 tional process or substantially interferes with the teacher's authority  
27 over the classroom.

28 3. Suspension of a ~~[pupil]~~ student. a. The board of education~~[, board~~  
29 ~~of]~~ or trustees [or sole trustee], the chancellor of the city school  
30 district in the case of the city school district of New York, other  
31 governing body, the superintendent of schools, district superintendent  
32 of schools or principal of a school may suspend the following ~~[pupils]~~  
33 students from required attendance upon instruction provided that the  
34 suspension of such student is not prohibited by section twenty-eight  
35 hundred one of this chapter:

36 A ~~[pupil]~~ student who is insubordinate or disorderly or violent or  
37 disruptive, or whose conduct otherwise endangers the safety, morals,  
38 health or welfare of others.

39 b. (1) The board of education~~[, board of]~~ or trustees, [or sole trus-  
40 tee], the chancellor of the city school district in the case of the city  
41 school district of the city of New York, other governing body, super-  
42 intendent of schools, district superintendent of schools and the princi-  
43 pal of the school where the ~~[pupil]~~ student attends shall have the power  
44 to suspend a ~~[pupil]~~ student for a period not to exceed five school days  
45 provided that the suspension of such student is not prohibited by  
46 section twenty-eight hundred one of this chapter. In the case of such a  
47 suspension, the suspending authority shall provide the ~~[pupil]~~ student  
48 with written notice of the charged misconduct including a brief explana-  
49 tion of the basis for the suspension and a description of the alleged  
50 behavior that violated the code of conduct that includes the date, time,  
51 and place of the scheduled informal conference with the principal. [If  
52 the pupil denies the misconduct, the suspending authority shall provide  
53 an explanation of the basis for the suspension.] The ~~[pupil]~~ student and  
54 the parent or person in parental relation to the ~~[pupil]~~ student shall~~[,~~  
55 ~~on request,~~ be given an opportunity for an informal conference with the  
56 principal ~~[at which]~~. At the conference, the [pupil and/or] student and

1 parent or person in parental relation shall be authorized to present the  
2 ~~[pupil's]~~ student's version of the event and to ask questions of the  
3 complaining witnesses. The aforesaid notice and opportunity for an  
4 informal conference shall take place prior to suspension of the ~~[pupil]~~  
5 student unless the ~~[pupil's]~~ student's presence in the school poses a  
6 continuing danger to persons or property or an ongoing threat of  
7 disruption to the academic process, in which case the ~~[pupil's]~~  
8 student's notice and opportunity for an informal conference shall take  
9 place as soon after the suspension as is reasonably practicable.

10 (2) A teacher shall immediately report and refer a violent ~~[pupil]~~  
11 student to the principal or superintendent for a violation of the code  
12 of conduct and a minimum suspension period pursuant to section twenty-  
13 eight hundred one of this chapter, provided that the suspension of such  
14 student is not prohibited by such section.

15 c. (1) No ~~[pupil]~~ student may be suspended for a period in excess of  
16 five school days unless such ~~[pupil]~~ student and the parent or person in  
17 parental relation to such ~~[pupil]~~ student shall have had an opportunity  
18 for a fair hearing, upon reasonable notice, at which such ~~[pupil]~~  
19 student shall have the right of representation by counsel, with the  
20 right to question witnesses against such ~~[pupil]~~ student and to present  
21 witnesses and other evidence on his or her behalf. Where the ~~[pupil]~~  
22 student is a student with a disability or a student presumed to have a  
23 disability, the provisions of paragraph g of this subdivision shall also  
24 apply. Where a ~~[pupil]~~ student has been suspended in accordance with  
25 this subparagraph by a superintendent of schools, district superinten-  
26 dent of schools, or community superintendent, the superintendent shall  
27 personally hear and determine the proceeding or may, in his or her  
28 discretion, designate a hearing officer to conduct the hearing. The  
29 hearing officer shall be authorized to administer oaths and to issue  
30 subpoenas in conjunction with the proceeding before him or her. A record  
31 of the hearing shall be maintained, but no stenographic transcript shall  
32 be required and ~~[a-tape]~~ an audio recording shall be deemed a satisfac-  
33 tory record. The hearing officer shall make findings of fact and recom-  
34 mendations as to the appropriate measure of discipline to the super-  
35 intendent. The report of the hearing officer shall be advisory only, and  
36 the superintendent may accept all or any part thereof. An appeal will  
37 lie from the decision of the superintendent to the board of education  
38 who shall make its decision solely upon the record before it. The board  
39 may adopt in whole or in part the decision of the superintendent of  
40 schools. Where the basis for the suspension is, in whole or in part,  
41 the possession on school grounds or school property by the student of  
42 any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor,  
43 stiletto or any of the weapons, instruments or appliances specified in  
44 subdivision one of section 265.01 of the penal law, the hearing officer  
45 or superintendent shall not be barred from considering the admissibility  
46 of such weapon, instrument or appliance as evidence, notwithstanding a  
47 determination by a court in a criminal or juvenile delinquency proceed-  
48 ing that the recovery of such weapon, instrument or appliance was the  
49 result of an unlawful search or seizure.

50 (2) Where a ~~[pupil]~~ student has been suspended in accordance with this  
51 section by a board of education, the board may in its discretion hear  
52 and determine the proceeding or appoint a hearing officer who shall have  
53 the same powers and duties with respect to the board that a hearing  
54 officer has with respect to a superintendent where the suspension was  
55 ordered by him or her. The findings and recommendations of the hearing  
56 officer conducting the proceeding shall be advisory and subject to final

1 action by the board of education, each member of which shall before  
2 voting review the testimony and acquaint himself or herself with the  
3 evidence in the case. The board may reject, confirm or modify the  
4 conclusions of the hearing officer.

5 d. (1) Consistent with the federal gun-free schools act, any public  
6 school [~~pupil~~] student who is determined under this subdivision to have  
7 brought a firearm to or possessed a firearm at a public school shall be  
8 suspended for a period of not less than one calendar year and any  
9 nonpublic school pupil participating in a program operated by a public  
10 school district using funds from the elementary and secondary education  
11 act of nineteen hundred sixty-five who is determined under this subdivi-  
12 sion to have brought a firearm to or possessed a firearm at a public  
13 school or other premises used by the school district to provide such  
14 programs shall be suspended for a period of not less than one calendar  
15 year from participation in such program. The procedures of this subdivi-  
16 sion shall apply to such a suspension of a nonpublic school [~~pupil~~]  
17 student. A superintendent of schools, district superintendent of schools  
18 or community superintendent shall have the authority to modify this  
19 suspension requirement for each student on a case-by-case basis. The  
20 determination of a superintendent shall be subject to review by the  
21 board of education pursuant to paragraph c of this subdivision and the  
22 commissioner pursuant to section three hundred ten of this chapter.  
23 Nothing in this subdivision shall be deemed to authorize the suspension  
24 of a student with a disability in violation of the individuals with  
25 disabilities education act or article eighty-nine of this chapter. A  
26 superintendent shall refer the [~~pupil~~] student under the age of sixteen  
27 who has been determined to have brought a weapon or firearm to school in  
28 violation of this subdivision to a presentment agency for a juvenile  
29 delinquency proceeding consistent with article three of the family court  
30 act except a student fourteen or fifteen years of age who qualifies for  
31 juvenile offender status under subdivision forty-two of section 1.20 of  
32 the criminal procedure law. A superintendent shall refer any [~~pupil~~]  
33 student sixteen years of age or older or a student fourteen or fifteen  
34 years of age who qualifies for juvenile offender status under subdivi-  
35 sion forty-two of section 1.20 of the criminal procedure law, who has  
36 been determined to have brought a weapon or firearm to school in  
37 violation of this subdivision to the appropriate law enforcement offi-  
38 cials.

39 (2) Nothing in this paragraph shall be deemed to mandate such action  
40 by a school district pursuant to subdivision one of this section where  
41 such weapon or firearm is possessed or brought to school with the writ-  
42 ten authorization of such educational institution in a manner authorized  
43 by article two hundred sixty-five of the penal law for activities  
44 approved and authorized by the trustees or board of education or other  
45 governing body of the public school and such governing body adopts  
46 appropriate safeguards to ensure student safety.

47 (3) As used in this paragraph:

48 (i) "firearm" shall mean a firearm as defined in subsection a of  
49 section nine hundred twenty-one of title eighteen of the United States  
50 Code; and

51 (ii) "weapon" shall be as defined in paragraph 2 of subsection g of  
52 section nine hundred thirty of title eighteen of the United States Code.

53 e. Procedure after suspension. Where a [~~pupil~~] student has been  
54 suspended pursuant to this subdivision and said [~~pupil~~] student is of  
55 compulsory attendance age, immediate steps shall be taken for his or her  
56 attendance upon instruction elsewhere or for supervision or detention of



1 said [~~pupil~~] student pursuant to the provisions of article seven of the  
2 family court act. Where a [~~pupil~~] student has been suspended for cause,  
3 the suspension may be revoked by the board of education whenever it  
4 appears to be for the best interest of the school and the [~~pupil~~]  
5 student to do so. The board of education may or trustees, the chancellor  
6 of the city school district in the case of the city school district for  
7 the city of New York, or other governing body, also condition a  
8 student's early return to school and suspension revocation on the  
9 [~~pupil's~~] student's voluntary participation in counseling or specialized  
10 classes, including anger management or dispute resolution, where appli-  
11 cable.

12 f. Whenever the term "board of education or superintendent of schools"  
13 is used in this subdivision, it shall be deemed to include board of  
14 trustees, other governing body, the chancellor of the city school  
15 district in the case of the city school district for the city of New  
16 York, community boards of education and community superintendents  
17 governing community districts in accordance with the provisions of arti-  
18 cle fifty-two-A of this chapter.

19 g. Discipline of students with disabilities and students presumed to  
20 have a disability for discipline purposes. (1) Notwithstanding any other  
21 provision of this subdivision to the contrary, a student with a disabili-  
22 ty as such term is defined in section forty-four hundred one of this  
23 chapter and a student presumed to have a disability for discipline  
24 purposes, may be suspended or removed from his or her current educa-  
25 tional placement, provided that the suspension of such student is not  
26 prohibited by section twenty-eight hundred one of this chapter, for  
27 violation of school rules only in accordance with the procedures estab-  
28 lished in this section, the regulations of the commissioner implementing  
29 this paragraph, and subsection (k) of section fourteen hundred fifteen  
30 of title twenty of the United States code and the federal regulations  
31 implementing such statute, as such federal law and regulations are from  
32 time to time amended. Nothing in this paragraph shall be construed to  
33 confer greater rights on such students than are conferred under applica-  
34 ble federal law and regulations, or to limit the ability of a school  
35 district to change the educational placement of a student with a disa-  
36 bility in accordance with the procedures in article eighty-nine of this  
37 chapter.

38 (2) As used in this paragraph:

39 (1) a "student presumed to have a disability for discipline purposes"  
40 shall mean a student who the school district is deemed to have knowledge  
41 was a student with a disability before the behavior that precipitated  
42 disciplinary action under the criteria in subsection (k) (5) of section  
43 fourteen hundred fifteen of title twenty of the United States code and  
44 the federal regulations implementing such statute; and

45 (ii) a "manifestation team" means a representative of the school  
46 district, the parent or person in parental relation, and relevant  
47 members of the committee on special education, as determined by the  
48 parent or person in parental relation and the district.

49 (3) In applying the federal law consistent with this section:

50 (i) in the event of a conflict between the procedures established in  
51 this section and those established in subsection (k) of section fourteen  
52 hundred fifteen of title twenty of the United States code and the feder-  
53 al regulations implementing such statute, such federal statute and regu-  
54 lations shall govern.

55 (ii) the trustees or board of education of any school district, a  
56 district superintendent of schools or a building principal shall have

1 authority to order the placement of a student with a disability into an  
2 appropriate interim alternative educational setting, another setting or  
3 suspension, provided that the suspension of such student is not prohib-  
4 ited by section twenty-eight hundred one of this chapter, for a period  
5 not to exceed five consecutive school days where such student is  
6 suspended pursuant to this subdivision and, except as otherwise provided  
7 in clause (vi) of this subparagraph, the suspension does not result in a  
8 change in placement under federal law.

9 (iii) the superintendent of schools of a school district, either  
10 directly or upon recommendation of a hearing officer designated pursuant  
11 to paragraph c of this subdivision, may order the placement of a student  
12 with a disability into an interim alternative educational setting,  
13 another setting or suspension, provided that the suspension of such  
14 student is not prohibited by section twenty-eight hundred one of this  
15 chapter, for up to ten consecutive school days, inclusive of any period  
16 in which the student is placed in an appropriate interim alternative  
17 educational setting, another setting or suspension pursuant to clause  
18 (ii) of this subparagraph for the behavior, where the superintendent  
19 determines in accordance with the procedures set forth in this subdivi-  
20 sion that the student has engaged in behavior that warrants a suspen-  
21 sion, and, except as otherwise provided in clause (vi) of this subpara-  
22 graph, the suspension does not result in a change in placement under  
23 federal law.

24 (iv) the superintendent of schools of a school district, either  
25 directly or upon recommendation of a hearing officer designated pursuant  
26 to paragraph c of this subdivision, may order the change in placement of  
27 a student with a disability to an interim alternative educational  
28 setting for up to forty-five school days under the circumstances speci-  
29 fied in subsection (k)(1)(G) of section fourteen hundred fifteen of  
30 title twenty of the United States code and the federal regulations  
31 implementing such statute or a longer period where authorized by federal  
32 law under the circumstances specified in subsection (k)(1)(C) of section  
33 fourteen hundred fifteen of title twenty of the United States code and  
34 the federal regulations implementing such statute, but in neither case  
35 shall such period exceed the period of suspension ordered by a super-  
36 intendent in accordance with this subdivision, provided that the suspen-  
37 sion of such student is not prohibited by section twenty-eight hundred  
38 one of this chapter.

39 (v) the terms "day," "business day," and "school day" shall be as  
40 defined in section 300.11 of title thirty-four of the code of federal  
41 regulations.

42 (vi) notwithstanding any other provision of this subdivision to the  
43 contrary, upon a determination by a manifestation team that the behavior  
44 of a student with a disability was not a manifestation of the student's  
45 disability, such student may be disciplined pursuant to this section in  
46 the same manner and for the same duration as a nondisabled student,  
47 except that such student shall continue to receive services to the  
48 extent required under federal law and regulations, and such services may  
49 be provided in an interim alternative educational setting, provided that  
50 the suspension of such student is not prohibited by section twenty-eight  
51 hundred one of this chapter.

52 (vii) an impartial hearing officer appointed pursuant to subdivision  
53 one of section forty-four hundred four of this chapter may order a  
54 change in placement of a student with a disability to an appropriate  
55 interim alternative educational setting for not more than forty-five  
56 school days under the circumstances specified in subsections (k)(3) and

(k)(4) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statutes, provided that such procedure may be repeated, as necessary, provided that the suspension of such student is not prohibited by section twenty-eight hundred one of this chapter.

(viii) nothing in this section shall be construed to authorize the suspension or removal of a student with a disability from his or her current educational placement for violation of school rules following a determination by a manifestation team that the behavior is a manifestation of the student's disability, except as authorized under federal law and regulations.

(ix) the commissioner shall implement this paragraph by adopting regulations which coordinate the procedures required for discipline of students with disabilities, and students presumed to have a disability for discipline purposes, pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, with the general procedures for student discipline under this section.

h. When a student is suspended from school consistent with this section and section twenty-eight hundred one of this chapter, the principal, or the principal's designee, in consultation with the student's teachers, shall create an education plan for the student for each class in which the student is enrolled within twenty-four hours, provided that if such twenty-four hours period does not end on a school day, it shall be extended to the corresponding time on the next school day. The education plan shall make provisions for a student's on-going academic instruction during the suspension. The student shall have the opportunity to earn all academic credit he or she would have been eligible to earn had they been in class including the opportunity to complete any missed assignments or take any missed examination or assessments during the student's suspension. If an examination or assessment cannot be rescheduled, the student shall be allowed on school property to take such assessment or examination on the day and time that the assessment or examination is given.

3-a. Teacher removal of a disruptive [~~pupil~~] student. In addition, any teacher shall have the power and authority to remove a disruptive [~~pupil~~] student, as defined in subdivision two-a of this section, from such teacher's classroom consistent with discipline measures contained in the code of conduct adopted by the board pursuant to section twenty-eight hundred one of this chapter. The school authorities of any school district, board of cooperative educational services, or charter school shall establish policies and procedures to ensure the provision of continued educational programming and activities for students removed from the classroom pursuant to this subdivision [~~and provided further that nothing~~]. When a student is removed from the classroom, the principal, or the principal's designee, in consultation with the student's teachers, shall create an education plan for the student for each class in which the student is enrolled within twenty-four hours, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day. The education plan shall make provisions for a student's on-going academic instruction during the removal. The student shall have the opportunity to earn all academic credit including the opportunity to complete any missed assignments or take any missed examinations or assessments during the student's removal. If an examination or assessment cannot be rescheduled, the student shall be allowed on school property to take

1 such assessment or examination on the day and time that the assessment  
2 or examination is given. Nothing in this subdivision shall authorize the  
3 removal of a [~~pupil~~] student in violation of any state or federal law or  
4 regulation. No [~~pupil~~] student shall return to the classroom until the  
5 principal makes a final determination pursuant to paragraph c of this  
6 subdivision, or the period of removal expires, whichever is less.

7 a. Such teacher shall inform the [~~pupil~~] student and the school prin-  
8 cipal of the reasons for the removal. If the teacher finds that the  
9 [~~pupil's~~] student's continued presence in the classroom does not pose a  
10 continuing danger to persons or property and does not present an ongoing  
11 threat of disruption to the academic process, the teacher shall, prior  
12 to removing the student from the classroom, provide the student with an  
13 explanation of the basis for the removal and allow the [~~pupil~~] student  
14 to informally present the [~~pupil's~~] student's version of relevant  
15 events. In all other cases, the teacher shall provide the [~~pupil~~]  
16 student with an explanation of the basis for the removal and an informal  
17 opportunity to be heard within twenty-four hours of the [~~pupil's~~]  
18 student's removal, provided that if such twenty-four hour period does  
19 not end on a school day, it shall be extended to the corresponding time  
20 on the next school day.

21 b. The principal shall inform the parent or person in parental  
22 relation to such [~~pupil~~] student of the removal and the reasons therefor  
23 within twenty-four hours of the [~~pupil's~~] student's removal, provided  
24 that if such twenty-four hour period does not end on a school day, it  
25 shall be extended to the corresponding time on the next school day. The  
26 [~~pupil~~] student and the parent or person in parental relation shall,  
27 upon request, be given an opportunity for an informal conference with  
28 the principal to discuss the reasons for the removal. If the [~~pupil~~]  
29 student denies the charges, the principal shall provide an explanation  
30 of the basis for the removal and allow the [~~pupil~~] student and/or person  
31 in parental relation to the [~~pupil~~] student an opportunity to present  
32 the [~~pupil's~~] student's version of relevant events. Such informal hear-  
33 ing shall be held within forty-eight hours of the [~~pupil's~~] student's  
34 removal, provided that if such forty-eight hour period does not end on a  
35 school day, it shall be extended to the corresponding time on the second  
36 school day next following the [~~pupil's~~] student's removal. For purposes  
37 of this subdivision, "school day" shall mean a school day as defined  
38 pursuant to clause (v) of subparagraph three of paragraph g of subdivi-  
39 sion three of this section.

40 c. The principal shall not set aside the discipline imposed by the  
41 teacher unless the principal finds that the charges against the [~~pupil~~]  
42 student are not supported by substantial evidence or that the [~~pupil's~~]  
43 student's removal is otherwise in violation of law or that the conduct  
44 warrants suspension from school pursuant to this section and a suspen-  
45 sion will be imposed. The principal's determination made pursuant to  
46 this paragraph shall be made by the close of business on the day  
47 succeeding the forty-eight hour period for an informal hearing contained  
48 in paragraph b of this subdivision.

49 d. The principal may, in his or her discretion, designate a school  
50 district administrator, to carry out the functions required of the prin-  
51 cipal under this subdivision.

52 4. Expense. a. The expense attending the commitment and costs of main-  
53 tenance of any school delinquent shall be a charge against the city or  
54 district where he or she resides, if such city or district employs a  
55 superintendent of schools; otherwise it shall be a county charge.

b. The school authorities may institute proceedings before a court having jurisdiction to determine the liability of a parent or person in parental relation to contribute towards the maintenance of a school delinquent under sixteen years of age ordered to attend upon instruction under confinement. If the court shall find the parent or person in parental relation able to contribute towards the maintenance of such a minor, it may issue an order fixing the amount to be paid weekly.

5. Involuntary transfers of [~~pupils~~] students who have not been determined to be a student with a disability or a student presumed to have a disability for discipline purposes.

a. The board of education [~~, board of~~] or trustees [~~or sole trustee,~~], the chancellor of the city school district in the case of the city school district of New York, other governing body, the superintendent of schools, or district superintendent of schools may transfer a [~~pupil~~] student who has not been determined to be a student with a disability as defined in section forty-four hundred one of this chapter, or a student presumed to have a disability for discipline purposes as defined in paragraph g of subdivision three of this section from regular classroom instruction to an appropriate educational setting in another school upon the written recommendation of the school principal and following independent review thereof. For purposes of this section of the law, "involuntary transfer" does not include a transfer made by a school district as part of a plan to reduce racial imbalance within the schools or as a change in school attendance zones or geographical boundaries.

b. A school principal may initiate a non-requested transfer where it is believed that such a [~~pupil~~] student would benefit from the transfer, or when the [~~pupil~~] student would receive an adequate and appropriate education in another school program or facility.

No recommendation for [~~pupil~~] student transfer shall be initiated by the principal until such [~~pupil~~] student and a parent or person in parental relation has been sent written notification of the consideration of transfer recommendation. Such notice shall set a time and place of an informal conference with the principal and shall inform such parent or person in parental relation and such [~~pupil~~] student of their right to be accompanied by counsel or an individual of their choice.

c. After the conference and if the principal concludes that the [~~pupil~~] student would benefit from a transfer or that the [~~pupil~~] student would receive an adequate and appropriate education in another school program or facility, the principal may issue a recommendation of transfer to the superintendent. Such recommendation shall include a description of behavior and/or academic problems indicative of the need for transfer; a description of alternatives explored and prior action taken to resolve the problem. A copy of that letter shall be sent to the parent or person in parental relation and to the [~~pupil~~] student.

d. Upon receipt of the principal's recommendation for transfer and a determination to consider that recommendation, the superintendent shall notify the parent or person in parental relation and the [~~pupil~~] student of the proposed transfer and of their right to a fair hearing as provided in paragraph c of subdivision three of this section and shall list community agencies and free legal assistance which may be of assistance. The written notice shall include a statement that the [~~pupil~~] student or parent or person in parental relation has ten days to request a hearing and that the proposed transfer shall not take effect, except upon written parental consent, until the ten day period has elapsed, or, if a fair hearing is requested, until after a formal decision following the hearing is rendered, whichever is later.



1 Parental consent to a transfer shall not constitute a waiver of the  
2 right to a fair hearing.

3 6. Transfer of a ~~[pupil]~~ student. Where a suspended ~~[pupil]~~ student  
4 is to be transferred pursuant to subdivision five of this section, he or  
5 she shall remain on the register of the original school for two school  
6 days following transmittal of his or her records to the school to which  
7 he or she is to be transferred. The receiving school shall immediately  
8 upon receiving those records transmitted by the original school, review  
9 them to insure proper placement of the ~~[pupil]~~ student. Staff members  
10 who are involved in the ~~[pupil's]~~ student's education must be provided  
11 with pertinent records and information relating to the background and  
12 problems of the ~~[pupil]~~ student before the ~~[pupil]~~ student is placed in  
13 a classroom.

14 7. Transfer of disciplinary records. Notwithstanding any other  
15 provision of law to the contrary, each local educational agency, as such  
16 term is defined in subsection thirty of section eighty-one hundred one  
17 of the Elementary and Secondary Education Act of 1965, as amended, shall  
18 establish procedures in accordance with section eighty-five hundred  
19 thirty-seven of the Elementary and Secondary Education Act of 1965, as  
20 amended, and the Family Educational Rights and Privacy Act of 1974, to  
21 facilitate the transfer of disciplinary records relating to the suspen-  
22 sion or expulsion of a student to any public or nonpublic elementary or  
23 secondary school in which such student enrolls or seeks, intends or is  
24 instructed to enroll, on a full-time or part-time basis.

25 § 4. Subparagraph 1 of paragraph c of subdivision 3 of section 3214 of  
26 the education law, as amended by chapter 380 of the laws of 2001, is  
27 amended to read as follows:

28 (1) No ~~[pupil]~~ student may be suspended for a period in excess of five  
29 school days unless such ~~[pupil]~~ student and the parent or person in  
30 parental relation to such ~~[pupil]~~ student shall have had an opportunity  
31 for a fair hearing, upon reasonable notice, at which such ~~[pupil]~~  
32 student shall have the right of representation by counsel, with the  
33 right to question witnesses against such ~~[pupil]~~ student and to present  
34 witnesses and other evidence on his or her behalf. Where a ~~[pupil]~~  
35 student has been suspended in accordance with this subdivision by a  
36 superintendent of schools, district superintendent of schools, or commu-  
37 nity superintendent, the superintendent shall personally hear and deter-  
38 mine the proceeding or may, in his or her discretion, designate a hear-  
39 ing officer to conduct the hearing. The hearing officer shall be  
40 authorized to administer oaths and to issue subpoenas in conjunction  
41 with the proceeding before him or her. A record of the hearing shall be  
42 maintained, but no stenographic transcript shall be required and [~~a~~  
43 ~~tape~~] an audio recording shall be deemed a satisfactory record. The  
44 hearing officer shall make findings of fact and recommendations as to  
45 the appropriate measure of discipline to the superintendent. The report  
46 of the hearing officer shall be advisory only, and the superintendent  
47 may accept all or any part thereof. An appeal will lie from the decision  
48 of the superintendent to the board of education who shall make its deci-  
49 sion solely upon the record before it. The board may adopt in whole or  
50 in part the decision of the superintendent of schools. Where the basis  
51 for the suspension is, in whole or in part, the possession on school  
52 grounds or school property by the student of any firearm, rifle, shot-  
53 gun, dagger, dangerous knife, dirk, razor, stiletto or any of the weap-  
54 ons, instruments or appliances specified in subdivision one of section  
55 265.01 of the penal law, the hearing officer or superintendent shall not  
56 be barred from considering the admissibility of such weapon, instrument

1 or appliance as evidence, notwithstanding a determination by a court in  
2 a criminal or juvenile delinquency proceeding that the recovery of such  
3 weapon, instrument or appliance was the result of an unlawful search or  
4 seizure.

5 § 5. Paragraphs d and f of subdivision 3 of section 3214 of the educa-  
6 tion law, as amended by chapter 181 of the laws of 2000, are amended to  
7 read as follows:

8 d. Consistent with the federal gun-free schools act of nineteen  
9 hundred ninety-four, any public school [~~pupil~~] student who is determined  
10 under this subdivision to have brought a weapon to school shall be  
11 suspended for a period of not less than one calendar year and any  
12 nonpublic school [~~pupil~~] student participating in a program operated by  
13 a public school district using funds from the elementary and secondary  
14 education act of nineteen hundred sixty-five who is determined under  
15 this subdivision to have brought a weapon to a public school or other  
16 premises used by the school district to provide such programs shall be  
17 suspended for a period of not less than one calendar year from partic-  
18 ipation in such program. The procedures of this subdivision shall apply  
19 to such a suspension of a nonpublic school [~~pupil~~] student. A super-  
20 intendent of schools, district superintendent of schools or community  
21 superintendent shall have the authority to modify this suspension  
22 requirement for each student on a case-by-case basis. The determination  
23 of a superintendent shall be subject to review by the board of education  
24 pursuant to paragraph c of this subdivision and the commissioner pursu-  
25 ant to section three hundred ten of this chapter. Nothing in this subdi-  
26 vision shall be deemed to authorize the suspension of a student with a  
27 disability in violation of the individuals with disabilities education  
28 act or article eighty-nine of this chapter. A superintendent shall refer  
29 the [~~pupil~~] student under the age of sixteen who has been determined to  
30 have brought a weapon to school in violation of this subdivision to a  
31 presentment agency for a juvenile delinquency proceeding consistent with  
32 article three of the family court act except a student fourteen or  
33 fifteen years of age who qualifies for juvenile offender status under  
34 subdivision forty-two of section 1.20 of the criminal procedure law. A  
35 superintendent shall refer any [~~pupil~~] student sixteen years of age or  
36 older or a student fourteen or fifteen years of age who qualifies for  
37 juvenile offender status under subdivision forty-two of section 1.20 of  
38 the criminal procedure law, who has been determined to have brought a  
39 weapon to school in violation of this subdivision to the appropriate law  
40 enforcement officials.

41 f. Whenever the term "board of education or superintendent of schools"  
42 is used in this subdivision, it shall be deemed to include board of  
43 trustees, other governing body, the chancellor of the city school  
44 district in the case of the city school district for the city of New  
45 York, community boards of education and community superintendents  
46 governing community districts in accordance with the provisions of arti-  
47 cle fifty-two-A of this chapter. For the purpose of this subdivision,  
48 the term "weapon" means a firearm as such term is defined in section  
49 nine hundred twenty-one of title eighteen of the United States code.

50 § 6. Paragraph g of subdivision 3 of section 3214 of the education  
51 law, as amended by chapter 181 of the laws of 2000, clause (ii) of  
52 subparagraph 3 as amended by chapter 380 of the laws of 2001, is amended  
53 to read as follows:

54 g. Discipline of students with disabilities and students presumed to  
55 have a disability for discipline purposes. (1) Notwithstanding any other  
56 provision of this subdivision to the contrary, a student with a disabil-

ity as such term is defined in section forty-four hundred one of this chapter and a student presumed to have a disability for discipline purposes, may be suspended or removed from his or her current educational placement, provided that the suspension of such student is not prohibited by section twenty-eight hundred one of this chapter, for violation of school rules only in accordance with the procedures established in this section, the regulations of the commissioner implementing this paragraph, and subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, as such federal law and regulations are from time to time amended. Nothing in this paragraph shall be construed to confer greater rights on such students than are conferred under applicable federal law and regulations, or to limit the ability of a school district to change the educational placement of a student with a disability in accordance with the procedures in article eighty-nine of this chapter.

(2) As used in this paragraph, a "student presumed to have a disability for discipline purposes" shall mean a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in subsection (k)(8) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute.

(3) In applying the federal law consistent with this section:

(i) in the event of a conflict between the procedures established in this section and those established in subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the federal regulations implementing such statute, such federal statute and regulations shall govern.

(ii) the trustees or board of education of any school district, a district superintendent of schools or a building principal shall have authority, provided that the suspension of such student is not prohibited by section twenty-eight hundred one of this chapter, to order the placement of a student with a disability into an appropriate interim alternative educational setting, another setting or suspension for a period not to exceed five consecutive school days where such student is suspended pursuant to this subdivision and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law.

(iii) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the placement of a student with a disability into an interim alternative educational setting, another setting or suspension for up to ten consecutive school days, inclusive of any period in which the student is placed in an appropriate interim alternative educational placement, another setting or suspension pursuant to clause (ii) of this subparagraph for the behavior, where the superintendent determines in accordance with the procedures set forth in this subdivision that the student has engaged in behavior that warrants a suspension, and, except as otherwise provided in clause (vi) of this subparagraph, the suspension does not result in a change in placement under federal law, provided that the suspension of such student is not prohibited by section twenty-eight hundred one of this chapter.

(iv) the superintendent of schools of a school district, either directly or upon recommendation of a hearing officer designated pursuant to paragraph c of this subdivision, may order the change in placement of

1 a student with a disability to an interim alternative educational  
2 setting for up to forty-five days, but not to exceed the period of  
3 suspension ordered by a superintendent in accordance with this subdivi-  
4 sion, under the circumstances specified in subsection (k)(1) of section  
5 fourteen hundred fifteen of title twenty of the United States code and  
6 the federal regulations implementing such statute, provided that the  
7 suspension of such student is not prohibited by section twenty-eight  
8 hundred one of this chapter.

9 (v) the terms "day," "business day," and "school day" shall be as  
10 defined in section 300.9 of title thirty-four of the code of federal  
11 regulations.

12 (vi) notwithstanding any other provision of this subdivision to the  
13 contrary, upon a determination by the committee on special education  
14 that the behavior of a student with a disability was not a manifestation  
15 of the student's disability, such student may be disciplined pursuant to  
16 this section in the same manner as a nondisabled student, except that  
17 such student shall continue to receive services to the extent required  
18 under federal law and regulations, provided that the suspension of such  
19 student is not prohibited by section twenty-eight hundred one of this  
20 chapter.

21 (vii) an impartial hearing officer appointed pursuant to subdivision  
22 one of section forty-four hundred four of this chapter may order a  
23 change in placement of a student with a disability to an appropriate  
24 interim alternative educational setting for not more than forty-five  
25 days under the circumstances specified in subsections (k)(2) and (k)(7)  
26 of section fourteen hundred fifteen of title twenty of the United States  
27 code and the federal regulations implementing such statutes, provided  
28 that such procedure may be repeated, as necessary, provided that the  
29 suspension of such student is not prohibited by section twenty-eight  
30 hundred one of this chapter.

31 (viii) nothing in this section shall be construed to authorize the  
32 suspension or removal of a student with a disability from his or her  
33 current educational placement for violation of school rules following a  
34 determination by the committee on special education that the behavior is  
35 a manifestation of the student's disability, except as authorized under  
36 federal law and regulations.

37 (ix) the commissioner shall implement this paragraph by adopting regu-  
38 lations which coordinate the procedures required for discipline of  
39 students with disabilities, and students presumed to have a disability  
40 for discipline purposes, pursuant to subsection (k) of section fourteen  
41 hundred fifteen of title twenty of the United States code and the feder-  
42 al regulations implementing such statute, with the general procedures  
43 for student discipline under this section.

44 § 7. Paragraphs a, b and c of subdivision 3-a of section 3214 of the  
45 education law, as added by chapter 181 of the laws of 2000, are amended  
46 to read as follows:

47 a. Such teacher shall inform the [~~pupil~~] student and the school prin-  
48 cipal of the reasons for the removal. If the teacher finds that the  
49 [~~pupil's~~] student's continued presence in the classroom does not pose a  
50 continuing danger to persons or property and does not present an ongoing  
51 threat of disruption to the academic process, the teacher shall, prior  
52 to removing the student from the classroom, provide the student with an  
53 explanation of the basis for the removal and allow the [~~pupil~~] student  
54 to informally present the [~~pupil's~~] student's version of relevant  
55 events. In all other cases, the teacher shall provide the [~~pupil~~]  
56 student with an explanation of the basis for the removal and an informal

1 opportunity to be heard within twenty-four hours of the [~~pupil's~~]  
2 ~~student's~~ removal.

3 b. The principal shall inform the parent or person in parental  
4 relation to such [~~pupil~~] student of the removal and the reasons therefor  
5 within twenty-four hours of the [~~pupil's~~] student's removal. The [~~pupil~~]  
6 student and the parent or person in parental relation shall, upon  
7 request, be given an opportunity for an informal conference with the  
8 principal to discuss the reasons for the removal. If the [~~pupil~~] student  
9 denies the charges, the principal shall provide an explanation of the  
10 basis for the removal and allow the [~~pupil~~] student and/or parent or  
11 person in parental relation to the [~~pupil~~] student an opportunity to  
12 present the [~~pupil's~~] student's version of relevant events. Such  
13 informal hearing shall be held within forty-eight hours of the [~~pupil's~~]  
14 student's removal.

15 c. The principal shall not set aside the discipline imposed by the  
16 teacher unless the principal finds that the charges against the [~~pupil~~]  
17 student are not supported by substantial evidence or that the [~~pupil's~~]  
18 student's removal is otherwise in violation of law or that the conduct  
19 warrants suspension from school pursuant to this section and a suspen-  
20 sion will be imposed. The principal's determination made pursuant to  
21 this paragraph shall be made by the close of business on the day  
22 succeeding the forty-eight hour period for an informal hearing contained  
23 in paragraph b of this subdivision.

24 § 8. This act shall take effect immediately; provided, however that:

25 a. the amendments to subdivision 3 of section 2801 of the education  
26 law made by section one of this act shall be subject to the expiration  
27 and reversion of such subdivision pursuant to section 34 of chapter 91  
28 of the laws of 2002, as amended, when upon such date the provisions of  
29 section two of this act shall take effect;

30 b. the amendments to subparagraph 1 of paragraph c of subdivision 3 of  
31 section 3214 of the education law made by section three of this act  
32 shall be subject to the expiration and reversion of such subparagraph  
33 pursuant to subdivision (a) of section 8 of chapter 430 of the laws of  
34 2006, as amended, when upon such date the provisions of section four of  
35 this act shall take effect;

36 c. the amendments to paragraphs d and f of subdivision 3 of section  
37 3214 of the education law made by section three of this act shall be  
38 subject to the expiration and reversion of such paragraphs pursuant to  
39 section 4 of chapter 425 of the laws of 2002, as amended, when upon such  
40 date the provisions of section five of this act shall take effect;

41 d. the amendments to paragraph g of subdivision 3 of section 3214 of  
42 the education law made by section three of this act shall be subject to  
43 the expiration and reversion of such paragraph pursuant to section 22 of  
44 chapter 352 of the laws of 2005, as amended, when upon such date the  
45 provisions of section six of this act shall take effect;

46 e. the amendments to paragraphs a, b and c of subdivision 3-a of  
47 section 3214 of the education law made by section three of this act  
48 shall be subject to the expiration and reversion of such paragraphs  
49 pursuant to section 12 of chapter 147 of the laws of 2001, as amended,  
50 when upon such date the provisions of section seven of this act shall  
51 take effect; and

52 f. the amendments to subdivision 7 of section 3214 of the education  
53 law, made by section three of this act, shall not affect the repeal of  
54 such subdivision and shall be deemed repealed therewith.