

## **PROJECT SAVE POLICY**

### **Codes of Conduct for Students, School District Employees and Visitors to Berlin Central School District Property**

#### **Philosophy and Goals**

The Berlin Central School District Board of Education hereby adopts the following philosophy, goals and policies:

- It is the philosophy of Berlin Central School District that individuals will learn when provided with a comprehensive educational program that meets their educational needs.
- All members of the Berlin Central School District school community shall be provided a safe haven for learning and growing, a secure, orderly and nurturing environment in which to achieve their full potential.
- It is a goal of Berlin Central School District to provide educational opportunities that will lead to the development of responsible citizens in our school and communities.
- Berlin Central School District shall provide educational opportunities that will challenge individuals and provide them with the opportunity to realize their full potential and increase their life choices. Regular school attendance is the focus of all learning and is required of all students.
- It is the policy of Berlin Central School District that all individuals be treated with respect. Respectful and ethical behavior is expected of each member of the Berlin Central School District School community.

## **PREFACE TO DISTRICT BILL OF RIGHTS AND CODE OF CONDUCT**

A primary responsibility of Berlin Central School District is to create a stimulating educational environment for all students, in an atmosphere that is conducive to teaching, learning and living. This is achieved in part with a focus on the rights and responsibilities of all members of the community.

It is the philosophy of the staff, faculty and administration of Berlin Central School District that all people be treated with respect. Our students are responsible individuals, each with rights that deserve consideration and deference. Our students also have responsibilities to themselves, each other and to all members of the community.

The premise of this code of conduct is that only the consideration and protection of the rights of all persons preserve the rights of individuals.

It is the intent of the Board of Education that this code of conduct establishes minimum standards of behavior for students and all others who occupy, use or visit school property or any premises under control of the school district. The principal administrator of each school building under the sole control of Berlin Central School District may petition the Board of Education, through the Superintendent, to adopt additional measures applicable to their school community.

The Student Bill of Rights and Code of Conduct and the Code of Conduct for Berlin Central School District Property are applicable on all Berlin Central School District grounds and premises; in all buildings, vehicles, facilities and work sites owned, operated, leased or otherwise utilized by Berlin Central School District; and at any function sponsored by Berlin Central School District regardless of its location. Where Berlin Central School District is leasing or occupying space under the ownership, direction and control of another school district, the policies, rules and regulations adopted by the board of education of that district shall apply to Berlin Central School District students, employees and visitors.

All students and employees of Berlin Central School District are expected to report violations of these codes of conduct to a teacher, counselor, assistant principal, principal or other school personnel as appropriate. All employees of Berlin Central School District are expected to take appropriate action in response to violations they observe or those that are reported to them. Appropriate action may include a direct response or reporting the alleged violation to the school administration. Students and employees must immediately report possession of a weapon, harassment, vandalism, the use or possession of drugs or alcohol or threats of violence on school premises or at a school sponsored event.

## NEW YORK STATE LAW

New York Codes Rules and Regulations (NYCRR Section 100.2 - Policy on School Conduct and Discipline)

Provides that Districts must develop and adopt new codes of conduct on or before July 1, 2001.

The new codes of conduct shall govern the conduct of students, teachers, other school personnel and visitors to the school. The code must be developed in collaboration with student, teacher, administrator and parent organizations and school safety personnel. The new code is to be approved by the board of education of the school district or BOC ES. The code may be adopted only after the conduct of at least one public hearing that provides for participation of school personnel, parents, students and the public.

The required elements of the code include:

- Description of appropriate and inappropriate dress, language and conduct.
- Requirement for civil and respectful treatment of teachers, administrators, students and others.
- The appropriate range of disciplinary measures for violations of the code.
- The roles of teachers, administrators, school personnel and the board of education.
- Standards and procedures for ensuring security and safety of students and school personnel.
- Provisions related to removal of students from the classroom by teachers and from school property and functions for violators of the code.
- Provisions prescribing a period for which a disruptive pupil may be removed from the classroom for each incident subject to the principal making a final determination or expiration of the period of removal.
- Disciplinary measures for serious incidents - those involving illegal substances, weapons, and the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence.
- Provision for detention, suspension and removal consistent with state and federal law.
- Provision for continued educational programming and activities, including "alternative educational programs appropriate to individual student needs" for students removed from the classroom, in detention or on suspension.
- Procedures for reporting and determining violations, imposing discipline and carrying out such discipline.
- Provision for ensuring compliance with state and federal laws concerning students with disabilities.
- Provision for notifying local law enforcement agencies of violations constituting a crime.
- Provision for notifying persons in parental relation of code violations.

- Provisions describing the circumstances in which a complaint in criminal court, a juvenile delinquency petition or PINS petition will be filed.
- Circumstances under which a matter will be referred to human service agencies.
- Minimum suspension periods for those who are "repeatedly substantially disruptive of the educational process" or "substantially interfere with teacher's authority over the classroom" or those who have committed acts of violence.
- A bill of rights and responsibilities of students that focuses on positive student behavior; publicized and explained to students annually.
- Guidelines and programs for in-service training for staff to ensure successful implementation.

Annual review and update of the Code and adoption by Board of Education is required.

A copy of the Code and any amendments to it must be filed with the commissioner within 30 days of adoption.

Each Board of Education or BOCES is required to ensure community awareness of its code as follows:

- Provide copies to all students at a general assembly at the beginning of each school year.
- Mail a plain language summary of the code to all persons in parental relation at the beginning of the school year.
- Provide each teacher and staff person with a copy of the code and a copy of any amendments as soon as practicable following enactment.
- New teachers must be provided with a copy upon employment.
- Community awareness steps include the making a copy of the code available upon request.

When a decision is made to propose suspension of a student, pursuant to the Section 3214 (3), those in parental relation must be notified in writing within 24 hours of the decision. Telephone contact should also occur where possible. The notice shall inform those in parental relation to their right to an immediate informal conference with the principal. This conference must take place prior to the suspension unless "the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process," in which case the conference will take place as soon after the suspension as possible.

**BERLIN CENTRAL SCHOOL DISTRICT STUDENT RIGHTS  
AND RESPONSIBILITIES**

**Student Bill of Rights**

- Students have the right to pursue their education in an atmosphere that is safe and conducive to learning, and to achieve all that they are capable of achieving.
- Students have the right to pursue a particular course of study, which is developed with the guidance and assistance of their parents and school personnel as best meeting their educational needs and potential.
- Students have the right to be respected as individuals.
- Students have the right to Procedural due process guaranteed by the United States Constitution and New York State Education Law prior to disciplinary action being taken against them.
- Students have the right to freedom of speech and expression, which does not interfere with the educational process or infringe upon the rights of others in accordance with the United States Constitution and the laws of the United States and the State of New York.
- Students have the right to freedom from discrimination relative to participation in curriculum offerings and extracurricular activities.
- Students have the right to have rules clearly stated, explained and distributed at the beginning of every school year or at the start of their enrollment in Berlin Central School District.
- Students have the right to freedom from unreasonable search and seizure.
- Students with special needs have the right to have their educational needs and their behavior evaluated on the basis of their special needs.

### **Student Responsibilities**

- Students will conduct themselves with respect for themselves, fellow students, teachers and others.
- Students will strive to achieve their potential in all areas.
- Students will follow the directions of the staff, faculty and administration.
- Students will fulfill all classroom and other educational obligations.
- Students will show respect for Berlin Central School District property and for the property of others.
- Students will strive to demonstrate good conduct and positive attitude at all times in all Berlin Central School District activities.
- Students will dress and groom themselves neatly in clothes that are suitable for school activities. Students will wear footwear at all times and refrain from wearing hats in the **school building while school is in session** unless for a medical or religious purpose. All clothing, accessories or appearance, which interferes with the learning process, is not compatible with safety or interferes with the ability to engage in the activities required by the educational program, is prohibited. Specifically, students shall refrain from clothing, accessories or appearance that: is sexually suggestive or provocative; does not provide appropriate coverage of the body, including the torso and undergarments worn on the torso; is vulgar, obscene or libelous; is denigrating to the race, color, creed, gender, national origin, disability, sexual orientation or physical condition of another; features, promotes or encourages violent behavior or use of guns, knives or other instruments of violence; features, promotes or encourages the use of illegal drugs, alcohol and tobacco.
- Students are financially responsible for texts, tools, locks or any other Berlin Central School District property or equipment provided to them.

### **SCHOOL RESPONSE TO STUDENT BEHAVIOR**

Berlin Central School District subscribes to the philosophy that student behavior management is best focused on behavioral change rather than punishment. Punishment merely perpetuates the misbehavior/punishment cycle.

Fear of punishment generates student anger, which is not conducive to behavior change. Administrators and teachers can use punishment as a means of retribution or out of frustration. Punishment can have detrimental effects on the student's self-concept and relations with teachers. It may reduce a student's ability to maintain self-control over the long-term and can be used by students as a means of raising status with peers. Punishment is an undesirable model for solving problems.

The best form of behavior management is self-discipline. Administrators and teachers should strive to develop a school environment that fosters the development of self-discipline in our students.

Addressing student behavior issues is primarily the responsibility of the classroom teacher. Consistent and fair response to student behavior issues is critical to maintaining an appropriate learning environment. Teachers must routinely document their efforts to address student behavior issues. When a teacher has exhausted all reasonable efforts to address a particular student behavior without desired results, s/he should refer the student to the appropriate building administrator.

The challenge of addressing student behavior issues in a learning environment is to develop a school response that: encourages and allows students to accept responsibility for their actions; places importance on the value of maintaining academic participation and achievement; builds positive self-image and teaches appropriate methods of dealing with problems. Students need to know that the school response inappropriate behavior will be fair and consistent and hold them accountable for such behavior.

### **ADDRESSING STUDENT BEHAVIOR ISSUES**

Any student who violates the student code of conduct shall be subject to immediate and appropriate school response, which may include one or more of the following: warning, reprimand, parental notification, counseling (not psychiatric counseling), loss of privileges, compulsory restitution, temporary removal from class, suspension or exclusion and/or police involvement in accordance with provisions and proceedings of the Education Law.

A student will not be subject to lower grades because of inappropriate behavior unless such behavior is related to his or her academic performance, such as cheating on an exam, failing to turn in homework, assigned papers, or being illegally absent.

Out of school suspension is to be used judiciously and only when other responses would be ineffective in addressing student behavior. The provisions of Section 3214 of the Education Law shall be followed when suspension occurs.

Law enforcement authorities will be informed about any activity constituting a crime, including:

- Persons participating in unlawful activities in or on any Berlin Central School District building, facility, vehicle, property, or premises.
- Persons threatening, planning or attempting to damage or destroy or damaging or destroying Berlin Central School District property.
- Persons selling, offering for sale, purchasing, possessing, or using drugs or illegal substances in or on any Berlin Central School District building, facility, vehicle, property, or premises.
- Persons or situations posing a significant threat to the health, safety or welfare of the occupants of Berlin Central School District buildings, facilities, vehicles, property or premises.

### **Progressive Response to Behavior Issues**

The code of conduct is designed to provide for a progressive school response to student behavior issues. The code of conduct recognizes that certain inappropriate behavior is more serious and presents a greater disruption to the educational process. The code describes inappropriate behaviors in three categories and offers a range of school responses for implementation by teachers and/or administrators for each category. This will encourage and facilitate the application of the code to inappropriate student behavior by teachers and administrators in proportion to the severity of the behavior. Generally, the categories are as follows:

- Category I prohibits certain student behaviors. Teachers are primarily responsible for addressing these behaviors with their students. Teachers are responsible for documenting an incident and the school response, which must be consistent with the range of responses authorized in the code of conduct for this category. Documentation about such incidents should be sent to the building administration office to keep the building administration informed. Forms are available in the principal administrator's office.
- Category II prohibits certain other student behaviors and addresses situations of repeated Category I behavior. Teachers are primarily responsible for initiating response to such behaviors but will introduce the guidance counselor, parents and guardians and appropriate building administrators into the response.
- Category III prohibits certain serious or threatening behaviors and situations where a student persists in exhibiting certain Category I and II behaviors. It also includes students who are "repeatedly substantially disruptive of the educational process," those who "substantially interfere with a teacher's authority over the classroom" or those who have committed acts of violence. Students engaging in Category III behaviors are immediately referred to building administrators who will confer with parents / guardians, teachers and the student and implement an appropriate Category III school response. Students who are "repeatedly substantially disruptive of the educational process," those who "substantially interfere with a teacher's authority over the classroom" and those who have committed acts of violence are subject to minimum periods of out of school suspension.

### **Corporal Punishment and Physical Restraint**

Berlin Central School District does not permit the use of corporal punishment under any circumstances.

Corporal punishment is any act of physical force against a student for the purpose of punishing that student. Corporal punishment is distinguished from the act of exercising reasonable physical force to protect oneself from imminent injury, to protect another from imminent physical injury, to protect the property of Berlin Central School District or of others from destruction, or to restrain or remove a student whose behavior is interfering with the orderly exercise and performance of school functions and the educational process, if a student has refused to comply with a request to refrain from further disruptive acts.

The use of reasonable, prudent and necessary physical force or physical restraint is permitted in situations in which it is required to protect any individual from imminent physical harm or injury. Physical restraint may be used to protect property from destruction.

#### **Reporting Requirements**

By July 15 and January 15 of each year, the Superintendent is required to file a report with the Commissioner of Education detailing each complaint about the use of corporal punishment, the results of the investigation of that complaint and the action, if any, taken in that particular case. Each building principal shall maintain records related to such complaints to the Superintendent of Schools in writing immediately upon receipt. 8 NYCRR, Sections 19.5, and 100.2 (1)

### **Student Right to Procedural Due Process, Generally**

Students will be afforded procedural due process in all instances where student behavior in violation of this code of conduct may result in the imposition of a school response.

Generally, such due process shall include the following:

- A. The student must be given notice verbally or in writing of the specific behavior in question and how it violates this code of conduct.
- B. The student must be given the opportunity to appear informally before the person authorized to impose a school response to the alleged behavior in order to discuss the allegation. The student must be given an opportunity to address the allegation.

- C. After consideration of all the facts, the person authorized to impose a school response to the alleged behavior shall determine whether a school response is in order. If so, the response shall be consistent with the range of responses prescribed for the inappropriate behavior in the code of conduct. In determining the school response, the following factors shall be taken into consideration: any mitigating or aggravating circumstances surrounding the behavior; the student's prior record of conduct; the student's age; the student's intent; and other information deemed pertinent.

### **Student Right to Procedural Due Process, Removal from the Classroom**

A teacher may remove a student from the classroom for disciplinary and non-disciplinary reasons. Non-disciplinary removal would include a visit to the principal's office, guidance or counselor's office to discuss inappropriate behavior or a "time-out" in the hallway to enable a student to regain control or composure.

Disciplinary removal will constitute removal by a teacher from the classroom of a disruptive student as a response to a violation of the student code of conduct. A student removed from a classroom for disciplinary reasons shall be placed in an alternative classroom where educational programming shall be provided. A teacher may remove a disruptive student from his / her classroom for up to 1 day. In the event a teacher wishes to remove a student from the classroom, the student shall be afforded procedural due process follows:

1. The teacher must inform the student that s/he is going to be removed from the classroom.
2. The teacher must specifically explain to the student why s/he is to be removed.
3. The teacher must give the student an opportunity to explain or respond.
4. The teacher may then decide to remove the student from the classroom.

A teacher may remove a student who poses a danger or ongoing threat of disruption from his / her classroom immediately. In the event of such removal, the following procedures must be followed within 24 hours of the removal:

1. The teacher must explain to the student why s/he was removed from the classroom.
2. The teacher must give the student the opportunity to provide an explanation of the incident(s) that led to the removal.

When a teacher removes a student from the classroom, the teacher must immediately notify the principal administrator of the school. The student must be sent to the principal's office or an alternative classroom specifically designated for the purpose of receiving students who have been removed from class. The teacher must complete the Berlin Central School District prescribed student

removal form and provide it to the principal administrator of the school as soon as possible but no later than the end of the school day.

As soon as possible and no later than 24 hours after the removal, the principal must provide telephonic and written notification to the student's home school district and the student's parents or guardian of the removal and the circumstances that led to the removal. The notice must inform the parents of their right to request an informal meeting with the principal to discuss the reasons for the removal. Written notice must be by personal delivery, express mail or some other means to reasonably ensure parental notification within 24 hours. If requested by the parents, the informal meeting must be held within 48 hours of the removal. If the parents agree, the meeting may be held at another mutually convenient time. The principal may require the teacher who removed the student from the classroom to be present at the informal conference with the parents.

A principal or designee may overturn a teacher's removal of a student from the classroom upon a finding that:

1. The charges against the student are not supported by substantial evidence;
2. The removal is in violation of the law or Berlin Central School District's policies, regulations or procedures; or
3. The conduct warrants suspension from school pursuant to a superintendent's hearing (Education Law S3214) and such suspension will be imposed.

Such determination may be made at any time from the principal's receipt of the student removal form to the close of the business day following the 48-hour period for the informal conference.

A disruptive student removed from the classroom by a teacher shall be provided continued educational programming and activities until allowed back into the classroom.

Berlin Central School District shall prescribe forms upon which each teacher shall maintain a record of all cases of removal of a student from their classroom and upon which each principal shall maintain a record of each removal of a student from a classroom in the school for which s/he is responsible.

No teacher may remove a student with a disability from a classroom without first consulting with the principal or the chair of the committee on special education to ensure that such removal will not constitute a change in placement.

**Student Right to Procedural Due Process, Suspension from School**

A home school superintendent or a home school principal may suspend a student from school for a period not to exceed five days. In the event of suspension of a student for a period not to exceed five days, the student shall be afforded procedural due process follows:

1. The student must be verbally notified.
2. If the student denies the allegations, s/he must be provided with an explanation of the rationale for the suspension.
3. As soon as possible and within 24 hours of the decision to propose suspension, the Berlin Central School District principal administrator must provide telephonic and written notification to the student's home school district and parents or guardian of the proposed suspension and the circumstances that led to the decision. The notice must include the specific charges against the student and a description of the incident that led to the charges. It shall also provide notification of the parent's/guardian's right to request an informal meeting with the principal/superintendent to discuss the reasons for the suspension. Written notice must be by personal delivery, express mail or some other means to reasonably ensure parental notification within 24 hours.
4. If requested by the parents, the informal meeting must be held within 48 hours of the removal. If the parents agree, the meeting may be held at another mutually convenient time. The principal/superintendent may require the teacher who removed the student from the classroom to be present at the informal conference with the parents. The parents shall have the opportunity to ask questions of complaining witnesses at such informal conference subject to procedures established by the principal/superintendent.
5. The student shall not be suspended until after the informal conference unless the student poses a continuing danger to persons, property, or an ongoing threat of disruption to the educational process. In such case, the notice and the informal conference shall take place as soon as is reasonably possible after the suspension is imposed.
6. After the conference, the parents will be provided with a written decision on the matter.
7. The parents may appeal such decision to the superintendent of schools within 5 business days.

8. The superintendent shall hear such appeal and issue a written decision regarding the matter within 5 business days of receiving the appeal.
9. If the parents are not satisfied with the decision of the superintendent, they may file an appeal with the board of education within 5 days of receipt of the superintendent's decision. Only upon a final decision of the board of education may the parents appeal a decision to the Commissioner of Education.

In the event the school response to student behavior may result in suspension of the student for a period in excess of 5 school days, the student and his or her parents must be given an opportunity for a hearing on reasonable notice. The notice shall advise the student of the behavior that gives rise to the proceeding. Parents may attend the hearing and the student has a right to be represented by an attorney, to testify on his or her own behalf, to present witnesses and evidence and to cross-examine witnesses against the student.

Notice of such charges and hearing shall be provided to the parents/guardians of the student by registered certified mail return receipt requested. The hearing on the charges must be conducted within 5 days of the notice unless otherwise agreed between the parties.

The Superintendent of Schools may preside at the hearing or designate a hearing officer who will render a recommendation to the Superintendent, which s/he is free to accept or reject in whole or in part. The decision of the Superintendent in such matters may be appealed to the Board of Education within 5 days in accordance with the rules and procedures established by the Board. The Board may accept or reject the superintendent's decision in whole or in part. Only upon a final decision of the board of education may the parents appeal a decision to the Commissioner of Education.

### **Student Right to Procedural Due Process, Students with Disabilities**

#### **General Principles and Definitions**

A disciplinary change in placement shall mean a suspension or removal from a student's current educational placement that is:

- for more than 10 consecutive school days; or
- for a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because: (1) they cumulate to more than 10 school days in a school year; and (2) the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another, as well as other factors, create a pattern.

Placement in an interim alternative educational setting shall mean a temporary educational placement for a period of up to forty-five days that is different from the student's current placement at the time the behavior occurred. An interim alternative educational setting shall enable the student to continue to progress in the general curriculum and to continue to receive those special education services and modifications, including those described in the student's current IEP that will enable the student to meet the goals set out in his or her IEP. At the same time, the interim alternative educational setting shall include services and modifications to address the behavior that precipitated such placement, which are designed to prevent the behavior from recurring.

The duration of any suspension or removal will not exceed the amount of time that a non-disabled student would be suspended or removed for the same behavior.

Removal shall mean a removal from the student's current educational placement for disciplinary reasons other than a suspension, a removal to an interim alternative educational setting, or a change in placement due to a drugs or weapons violation or expedited proceeding because of dangerous situation.

For purposes of this section of the policy, rules and procedures, "student" refers to a student with a disability, unless otherwise noted.

When required by law and the terms of this policy, CSE manifestation determinations shall be conducted to review the relationship between the student's disability and the behavior subject to disciplinary action to determine if there is a nexus between the two. Manifestation determinations shall be conducted according Federal and State laws and regulations. Where a nexus is found, a disciplinary change in placement shall not be imposed.

#### **Suspension or Removal for 5 Days or Less, Students with Disabilities**

**Authority to Suspend or Remove.** Each building principal has the authority to order a student to be placed into an appropriate interim alternative educational setting or another setting or to be suspended for a period not to exceed 5 consecutive school days.

**Procedures for Suspensions (5 days or less).** Where a principal has imposed a suspension, the student's parents shall have the opportunity for an informal conference with the principal. At such conference, the parents may ask questions of complaining witnesses, and the principal will follow the Board's policy and procedures for suspending non-disabled students for 5 days or less.

Procedures for Removals. A student may be removed for 5 days or less and such removal shall be conducted in accordance with the due process procedures applicable to such removals of non-disabled students.

**Suspensions or Removals for More than 5 Days, Students with Disabilities**

Authority to impose Suspension or Removal (more than 5 days). A superintendent of schools, either directly or upon the recommendation of a hearing officer designated to conduct a §3214 hearing, may order the placement of a student with a disability into an interim alternative educational setting, another setting, or suspension for up to 10 consecutive school days without a manifestation determination conducted by the CSE. Any suspension for more than 5 consecutive school days will not be imposed unless a §3214 hearing has been conducted.

Additional Suspensions or Removals. The superintendent may order additional suspensions or removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct, so long as a disciplinary change in placement does not result.

Procedures for §3214 Hearings (suspensions of more than 5 days). For suspensions of more than 5 consecutive school days, a §3214 hearing will be conducted. Similar to §3214 hearings for non-disabled students, this hearing shall be bifurcated and conducted by the superintendent or a designated hearing officer, and the same notification procedures for parents shall apply.

In addition, the following procedures will be followed:

- As soon as notice is given to the student's parents, the CSE will be requested to make a manifestation determination. This request will be withdrawn if the student is found to be not guilty or if a suspension of more than 10 days is not considered.
- If the student is found guilty, the superintendent/hearing officer will determine if a suspension or removal in excess of 10 consecutive school days (i.e., a disciplinary change in placement) should be considered.
  - A. If the superintendent/hearing officer determines that a suspension or removal in excess of 10 days should be considered, the §3214 hearing will be adjourned until the manifestation determination is completed by the CSE.
    - 1. If the CSE determines that the student's behavior was not a manifestation of his or her disability, such student may be disciplined in the same manner as a non-disabled student.

2. If the CSE determines that the student's behavior was a manifestation of his or her disability, the superintendent/hearing officer shall dismiss the §3214 hearing (except where the superintendent/hearing officer determines that the student should be placed in an interim alternative educational setting).
- B. If it is determined that a suspension or removal in excess of 10 days should not be considered, the hearing shall proceed to the penalty phase, and referral to the CSE for a manifestation determination will be withdrawn.
- The penalty phase of the hearing will follow the procedures for §3214 hearings for non-disabled students, including the admission of anecdotal evidence of past instances of misconduct.

**Placement of Students with Disabilities in Interim Alternative Education Setting for Not More Than 45 Days.**

Weapons or Illegal Drugs/Controlled Substances. A superintendent may order the change in placement of a student with a disability to an appropriate interim alternative educational setting for up to 45 days, but not to exceed the period of suspension ordered pursuant to a §3214 hearing, where the student (1) carries or possesses a weapon at school, on school premises, or at a school function; or (2) possesses, uses, sells, or solicits the sale of an illegal drug/controlled substance while at school, on school premises, or at a school function.

Upon a determination that a student is guilty of the alleged misconduct at the §3214 hearing, the superintendent or hearing officer may order a change in placement to an interim alternative educational setting for up to 45 days. Such placement must be determined by the CSE and cannot exceed the length of time that a non-disabled student would be suspended for the same misconduct under the school district's student discipline policy. The superintendent may order such change in placement, even where the CSE determines that the student's behavior is a manifestation of the student's disability.

Dangerous Conduct. An impartial hearing officer in an expedited due process hearing may order a change in placement to an appropriate interim alternative educational setting for not more than 45 days, if the hearing officer: (1) determines that Berlin Central School District has demonstrated by substantial evidence that the student's current placement is substantially likely to result in injury to the student or to others; (2) considers the appropriateness of the student's current placement; (3) determines that Berlin Central School District has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and (4) determines that the proposed interim alternative educational setting is appropriate. The impartial hearing officer may order such change in placement,

even where the CSE determines that the student's behavior is a manifestation of the student's disability.

### **Expedited Due Process Hearings, Students with Disabilities**

Expedited due process hearings shall be conducted by an impartial hearing officer under the following circumstances: (1) Berlin Central School District requests one in order to place the student in an interim alternative educational setting because Berlin Central School District feels that it is dangerous to keep the student in his or her current educational setting in general or during the pendency of a §3214 hearing; (2) the parent requests one to appeal a determination that the student's behavior was not a manifestation of his or her disability; or (3) the parent requests one due to any decision related to the student's placement.

Such expedited due process hearings shall follow the procedures required by law.

### **CSE Functional Behavioral Assessments and Behavioral Intervention Plans**

No later than 10 business days after first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes a disciplinary change in placement, including a change in placement to an interim alternative educational setting, the CSE shall meet to review, develop and/or implement a functional behavioral assessment and behavioral intervention plan in order to address the behavior that the student is being disciplined for.

### **Provision of Services during Suspensions, Students with Disabilities**

Initial suspension or removal for up to 10 days. If a suspension or removal for up to 10 school days does not constitute a disciplinary change in placement, the following will occur:

- Students of compulsory attendance age will be provided with alternative instruction on the same basis as non-disabled students.
- Students not of compulsory attendance age will be entitled to receive alternative instruction during such suspension or removal only to the extent that alternative instruction is provided to non-disabled students of the same age who have been similarly suspended or removed.

Subsequent suspensions or removals for up to 10 days. If subsequent suspensions or removals for periods of 10 consecutive school days or less, which in aggregate total more than 10 school days in a school year (but do not constitute a disciplinary change in placement), the following will occur:

- Students will be provided with alternative instruction and special education services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP; and

The building principal or superintendent shall determine, in consultation with the student's special education teacher, the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

Disciplinary Change in Placement. During any period of suspension for more than 10 consecutive school days, and/or during any other disciplinary change in placement, the following will occur:

- The student will be provided with alternative instruction and special education services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP; and
- The CSE shall determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

Placement in interim alternative educational setting. If the student has been placed in an interim alternative educational setting for up to 45 days because he or she has engaged in conduct that involves a weapon or illegal drugs/controlled substances, the CSE will determine the services to be provided.

If the student has been placed in an interim alternative educational setting for up to 45 days because an impartial hearing officer has determined in an expedited due process hearing that the student presents a threat of dangerous conduct, the impartial hearing officer will determine the services to be provided after reviewing a proposed setting determined by school personnel and the student's special education teacher. Such setting will:

- Enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those modifications, including those described in the student's current IEP, that will enable the child to meet the goals set out in that IEP; and
- Include services and modifications to address the behavior that is subject to disciplinary action, which are designed to prevent the behavior from recurring.

## **STUDENT CODE OF CONDUCT CATEGORY I**

### **STUDENT BEHAVIOR**

Category I behavior is activity on the part of the student, which impedes orderly classroom procedures or interferes with the orderly operation of the school and shall include the following:

- Behavior, which interferes with the educational program and normal operation of the school community.
- Inappropriate language, gestures or symbols (obscene, profane, vulgar, abusive).
- Violation of the dress code.
- Tardiness to school or class.
- Leaving class without permission.
- Out of class without a pass.
- Excessive or offensive public displays of affection.
- Possession or use of radios, headphones, Walkman, beeper, cell phone or other disruptive device or equipment unless otherwise permitted for the purpose of student participation in emergency services activities; or used for instructional and educational purposes under the direction of a teacher or other employee of Berlin Central School District or a school district.
- Inappropriate use of the school computer network.
- Insubordination or disrespect, including the failure to follow the reasonable and lawful directions of school personnel.
- Possession of tobacco or tobacco products
- Lying to school personnel

## **SCHOOL RESPONSE**

Category One behavior will usually be addressed by an individual staff member but may, at times, require the intervention of other school support personnel.

There will be immediate intervention by the staff member who is supervising the student or who observes the behavior.

Repeated behavior requires a parent / teacher conference; conference with the counselor and or administrators.

The staff member will maintain a proper and accurate record of student actions and school response.

The range of possible school responses includes:

- A warning
- Teacher will discuss behavior with student
- Behavior contract
- Parent / guardian contact
- Referral to principal, guidance or social worker
- Verbal reprimand
- Reduction in classroom privileges

## **CATEGORY II**

### **STUDENT BEHAVIOR**

Behavior, overt or otherwise, whose frequency or seriousness tends to disrupt the learning climate of the school shall include:

- Repeated incidents of Category I prohibited behavior
- Abusive or hateful language, gestures or symbols involving the use of slurs regarding ethnicity, disability, religion, race, sexual orientation or physical condition of another
- Any form of sexual harassment
- Leaving school without permission
- Excessive absences (Monday/Friday patterns, 3 day consecutive, 5 days per quarter)
- Selling, trading, using or possessing obscene materials
- Smoking on school property including all school grounds, facilities, vehicles or property or at any school sponsored activity
- Unauthorized driving or riding to or from school premises, facilities or property

## **SCHOOL RESPONSE**

The school response to Category II prohibited behavior shall include one or more of the following:

A teacher may initiate a meeting with the student and his/her guidance counselor to discuss the situation. Teachers must notify the building administrator and the student's parent/guardian.

The building administrator may initiate an investigation of the allegation and confer with staff on the appropriate school response.

The building administrator may meet with the student and confer with his/her parent/guardian about the student's conduct and resulting school response.

The building administrator will maintain a proper and accurate record of student behaviors and school response.

The range of possible school responses includes:

- Behavior contract/Functional Behavior Assessment
- Parent conference
- Referral to guidance and or social worker or psychologist
- Reduction of school privileges (e.g. driving)
- Reduction of classroom privileges
- Referral to administration
- Home school contact
- In school suspension
- Out of school suspension
- A teacher may remove a "disruptive student" from the classroom

## CATEGORY III

### STUDENT BEHAVIOR

Category III behavior is demonstrated when a student shows no sign of modifying prohibited behavior after having been requested to do so by school personnel. Such behavior also includes that which constitutes academic dishonesty and misconduct or poses a direct threat to the emotional and physical well being of others, or is in violation of the law. Category III prohibited behavior includes:

- Chronic incidents of Category I behavior and repeated or chronic incidents of category II behavior.
- Exposure of the private parts of the human body.
- Illegal gambling in or on school premises or property.
- Making false or misleading statements about another individual or group of individuals.
- Discrimination or harassment based upon race, sex, religion, national origin, disability, sexual orientation or physical condition.
- Intimidation or bullying in any form.
- Hazing, including intentional or reckless acts directed against another for the purpose of obtaining or maintaining membership on a team or in a club, activity or organization sponsored by Berlin Central School District.
- Forgery
- Academic dishonesty and misconduct, including plagiarism, cheating and alteration of academic records.
- Use or attempted use of physical force on another, including a teacher, administrator or student.
- Stealing, larceny or petty theft.
- Trespassing (entering or remaining on school property without authorization, license or invitation).
- Possession and or transfer of firearms or deadly weapons in or on school premises, facilities, vehicles or property.
- Possession of what appears to be a weapon.
- Speeding or reckless driving on school premises or property. Vandalism or destruction of private or public property.

- Use, possession, sale or attending school under the influence of: illegal drugs, alcohol or other unauthorized controlled substances.
- Assault or battery.
- Violent behavior of any kind or the threat of such behavior.
- Harassment, intimidation, threats, threatening language, or any intentional and unauthorized contact with another.
- Endangering the health, safety or welfare of another

Category III behavior also includes students who are "repeatedly substantially disruptive of the educational process," those who "substantially interfere with a teacher's authority over the classroom" or those who have committed acts of violence.

## SCHOOL RESPONSE

The school response to Category III prohibited behavior shall include one or more of the following:

The building administrator will investigate the allegations and consult with staff as to the appropriate consequences if the allegations are supported by substantial and credible evidence.

The building administrator will meet with the student and confer with the parent / guardian about the student's conduct and the resulting school response.

The building administrator will maintain a proper and accurate record of student behavior and school response.

Unless otherwise provided by law, the range of possible school responses may include:

- In-school suspension
- Out of school suspension
- Conference with home school principal
- Mediation
- Restitution
- Loss of privileges
- Conference with teacher
- Superintendent's hearing
- Parent conference
- Police notification
- Criminal charges
- Referral to Student Services
- Confiscation of contraband
- Recommend Persons in Need of Supervision (PINS) petition
- A teacher may remove a "disruptive student" from the classroom
- Expulsion

Minimum Periods of Out of School Suspension. The school response to students who are "repeatedly substantially disruptive of the educational process," those who "substantially interfere with a teacher's authority over the classroom" or those who have committed acts of violence shall include minimum out of school suspension periods as follows:

- Repeated substantial disruption of the educational process - minimum 2 days out of school suspension
- Substantial interference with a teacher's authority over the classroom - minimum 2 days out of school suspension
- Act(s) of violence - minimum 5 days out of school suspension
- Weapons on school property - minimum one-year out of school suspension.

Additionally, unless otherwise provided by law, the school response may include:

- Referral to Student Services
- Recommend Persons in Need of Supervision (PINS) petition

## **CODE OF CONDUCT FOR PERSONS ON BERLIN CENTRAL SCHOOL DISTRICT PROPERTY**

The primary purpose of Berlin Central School District is to provide an optimal environment for learning and education. Integral to that purpose is the maintenance of an environment that establishes a model of civility and respect in the interactions of individuals and serves as a constructive model for our students. Any action by an individual or group that is inconsistent with this purpose or is aimed at disrupting, interfering with, or delaying the educational process, or any action having such effect, is hereby declared to be in violation of Board policy.

Additionally, the Board also has a responsibility to protect school property. Berlin Central School District shall take any and all legal action to prevent the damage or destruction of District property. In addition, Berlin Central School District will also seek restitution from, and prosecution of, any person or persons who willfully damage school property.

It is not the intent of this policy to limit or inhibit freedom of speech or freedom to assemble peaceably. Free inquiry and free expression are indispensable to the objectives of a school district, and are a fundamental feature of our national life. The sole purpose of this policy, and of such rules and regulations as may be required to implement it, is to prevent abuse or inhibition of the rights of others and to maintain the educational enterprise and public order on school premises and property.

These rules govern the conduct of students, faculty and other staff, licensees, invitees, and all other persons upon property of Berlin Central School District, and any other premises or property under the control of Berlin Central School District and used in its teaching programs and activities, and in its administrative, cultural, recreational, athletic, and other programs and activities.

Any use of the buildings and grounds under the control of Berlin Central School District must be preceded by notification of the following information: location of fire exits; form of notification of the need to exit (I.E. alarm, announcement etc.); reminder of the need to exit in a calm and orderly manner and prohibition on parking of motor vehicles in designated fire lanes or spaces for the disabled.

## **PROHIBITED BEHAVIOR**

No person, acting either alone or in concert with others, shall:

1. intentionally cause physical injury to any other person or threaten to do so.
2. physically restrain or detain any other person, nor remove such person from any place where she/he is authorized to remain;
3. intentionally damage or destroy property of Berlin Central School District or property under its jurisdiction, or the property of an administrator, teacher or other officer or employee of Berlin Central School District or remove or use such property without authorization;
4. enter into the school building or premises or any private office of an administrative officer, member of the faculty, or staff member without permission;
5. enter and remain in any school building, facility or premises for any purpose other than authorized uses or in a manner obstructing its authorized use by others;
6. remain in any school building, facility or premises after it is normally closed, without authorization by Berlin Central School District;
7. fail or refuse to leave any school building, facility or premises after being requested to do so by an authorized administrative officer, member of the faculty, or staff member;
8. obstruct the free movement of persons or vehicles in any school building, facility or premises;
9. disrupt or prevent the peaceful and orderly conduct of classes, lectures, and meetings, or deliberately interfere with the freedom of any person to express her/his views, including invited speakers in any school building, facility or premises;
10. possess any rifle, shotgun, pistol, revolver, or other firearm, knife with a blade in excess of 2 ½ inches or other device intended for use as a weapon, in any school building, facility or premises, without the express written authorization of the Superintendent of Schools;
11. incite others to engage in or commit any prohibited conduct with specific intent to procure them to do so;

12. engage in smoking or use of any tobacco products on school property including all school grounds, facilities, vehicles or property or at any school sponsored activity.
13. use, consume, sell, distribute or offer for sale alcoholic beverages;
14. possess, use, consume, sell, distribute or offer for sale, distribution, use or consumption illegal drugs or controlled substances without written authorization of a physician;
15. use, possess, wear or in any way depict or demonstrate obscene materials or engage in or present obscene conduct or behavior. The term "obscene" refers to verbal, written, graphic, pictorial, and other means of presenting materials, when such materials violate generally accepted social and community standards. Obscene material appeals to prurient interest, is utterly without redeeming social importance, goes beyond customary limits of candor in description or representation, is characterized by patent offensiveness and is pornographic, indecent, vulgar and salacious;
16. park a motor vehicle in any fire lane or other no parking zone or park in any parking space designated for use by the disabled without a valid permit visibly displayed on or in the vehicle.
17. use or display inappropriate language, gestures or symbols (obscene, profane, vulgar, abusive).
18. engage in excessive or offensive public displays of affection.
19. Use or display abusive or hateful language involving the use of slurs regarding ethnicity, disability, religion, race, sexual orientation, perceived sexual orientation or physical condition of another.
20. Engage in any form of sexual harassment or any harassment based upon ethnicity, disability, religion, race, sexual orientation, perceived sexual orientation or physical condition of another.
21. Otherwise engage in any behavior which interferes with the educational program.

## **PENALTIES AND PROCEDURES**

A person who shall violate any of the provisions of these rules shall be subject to the following penalties and procedures:

If a visitor (member of the public, licensee) her/his authorization to remain upon the grounds or other property shall be withdrawn and she/he shall be directed to leave the premises. In the event of failure to do so, she/he shall be subject to removal from the premises by law enforcement officials.

If a trespasser (one without authorization or invitation) she/he shall be subject to removal from the premises by law enforcement officials.

If a student she/he shall be subject to disciplinary action as the facts of the case may warrant. This may include suspension, probation, loss of privileges, reprimand, or warning, as prescribed by Section 3214 of the Education Law of the State of New York and the policies, rules and regulations of Berlin Central School District. She/he shall also be subject to removal from the premises.

If a tenured faculty member, she/he shall be subject to ejection, warning, reprimand, suspension, or other disciplinary action or combination of such actions, as prescribed by and in accordance with Section 3020-a of the Education Law.

If a staff member in the classified service of the civil service, she/he shall be subject to the penalties and procedures prescribed in Section 75 of the Civil Service Law, or such other penalties allowed by law or negotiated by the parties and be subject to ejection.

If an officer or administrator, s/he shall be subject to ejection, warning, reprimand, suspension, other disciplinary action or a combination of such actions as provided by law, an individual employment agreement or an applicable collective bargaining agreement.

If a staff member other than those described above, she/he shall be subject to dismissal, suspension without pay, or censure, and be subject to ejection.

### **Enforcement Program**

The Superintendent shall be responsible for enforcement of these rules, and she/he shall designate the other personnel who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.

In the case of any apparent violation of these rules by such persons, which, in the judgment of the Superintendent or her/his designee, does not pose any immediate threat of injury to person or property, such school official may make reasonable effort to learn the cause of the conduct in question and to persuade those engaged therein to desist and to resort to permissible methods for the resolution of any issues that may be presented. In doing so such school official shall warn such persons of the consequences of persistence in the prohibited conduct, including their ejection from any District properties where their continued presence and conduct is in violation of these rules.

In any case where violation of these rules does not cease after such warning, and in other cases of willful violation of such rules, the Superintendent or her/his designee shall cause the removal of the violator from any premises which she/he occupies in such violation or, if appropriate, make recourse to police authorities, or both.

The Superintendent or her/his designee may apply to the public authorities for any aid that she/he deems necessary in causing the ejection of any violator of these rules and she/he deems necessary in causing the ejection of any violator of these rules, and she/he may request the school attorney to apply to any court of proper jurisdiction for an injunction to restrain the violation or threatened violation of these rules.

## **RESPONSIBILITIES OF THE SCHOOL COMMUNITY**

### **Board of Education and Superintendent of Schools**

The Superintendent and Board of Education shall provide full support to the administration and staff charged with the responsibility for implementing and administering this Code of Conduct. Administration of this Code of Conduct shall at all times, be consistent with the policies of Berlin Central School District and the laws of the State of New York and the United States of America.

### **Administrator and Faculty**

Administrators and faculty shall:

- Provide information about this code of conduct and associated procedures to parents, students, home school districts and the community.
- Support and enforce this code of conduct and implement prescribed procedures and school responses in a reasonable, fair and consistent manner.
- Protect and uphold the rights of students, parents, faculty, and community in all matters related to student behavior.
- Promptly notify parents of student behavior that is inconsistent with this code of conduct.
- Seek educational approaches to addressing student conduct issues in an effort to promote positive and constructive behavior that enhances learning, citizenship and mutual respect in the Berlin Central School District community.
- Periodically review and evaluate this code of conduct as it relates to community and school goals.

### **Parent(s)/Guardian(s)**

The support of parents and guardians of students is critical to encouraging and achieving positive behavior by students in the school environment. Parents and guardians are asked to take this responsibility seriously and to fulfill it as follows:

- Be aware and supportive of the student code of conduct and the rights and responsibilities of students and their families.
- Discuss the student code of conduct with students and reinforce the importance of compliance as a way to enrich the educational and social experiences of all students.
- Be an active participant in the efforts of Berlin Central School District administrators, faculty and students to resolve student behavior issues.
- Participate in efforts to evaluate the effectiveness of this code of conduct and make suggestions for improvements.
- Monitor student attendance at school, ensuring that it is regular and punctual and that all absences are properly excused as required by New York State Law.
- Accept their financial responsibility for texts, tools, locks or any other Berlin Central School District equipment assigned to the student.

Each student of Berlin Central School District shall:

- Achieve an understanding of the student code of conduct and associated procedures.
- Comply with the code of conduct at all times.
- Seek help from teachers and school administrators in resolving questions about the requirements of the code of conduct or to discuss issues that might lead to behavior problems
- Accept responsibility for personal behavior at all times.
- Assist teachers and administrators in maintaining the school environment as a safe haven for learning by reporting any behavior that may disrupt learning or threaten the safety of the school community.

### **GUIDELINES FOR DISTRIBUTION OF AND EDUCATION ABOUT THE CODE OF CONDUCT**

To ensure school community awareness of this Code of Conduct, the Superintendent of Schools shall:

- Provide copies to all students at a general assembly at the beginning of each school year.
- Post a copy on the Berlin Central School District website.
- Mail a plain language summary of the code to all persons in parental relation at the beginning of the school year.
- Provide each teacher, staff person, and substitute teacher with a copy of the code and a copy of any amendments as soon as practicable following enactment.
- New teachers must be provided with a copy upon employment.
- Community awareness steps include the making a copy of the code available upon request.

### **PROVISIONS FOR ANNUAL REVIEW AND REVISION OF THE CODE OF CONDUCT**

A Berlin Central School District Code of Conduct Committee shall be established by the Superintendent to conduct an annual review and make recommendations concerning this code of conduct.

The recommendations of the Committee together with petitions of principals for supplemental building level codes of conduct will be submitted to the Superintendent prior to May 1 of each year.

The recommendations will be reviewed and the Superintendent will determine whether to make a recommendation to the Board of Education concerning the student code of conduct.

A copy of the recommendations will be maintained on file with the Clerk of the Board and shall be available for review by any interested individual(s).