

## **SUBJECT: GUN-FREE SCHOOLS POLICY**

No student shall bring onto BOCES premises or have in his/her possession on BOCES premises or bring to any setting that is under the control and supervision of the BOCES, any "firearm" as defined in federal law. The terms "BOCES premises" or "BOCES property" shall mean property owned or leased by BOCES and shall also include BOCES activities off premises, such as field trips. For purposes of this policy, the term "firearm" includes any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; any firearm muffler or silencer; or any "destructive device" (i.e., any explosive, incendiary, or poison gas, including bombs, grenades, rockets or other similar devices). The term does not include a rifle which the owner intends to use solely for sporting, recreational or cultural purposes; antique firearms; or Class C common fireworks.

In accordance with the Gun-Free Schools Act of 1994 and Section 3214(3)(d) of the Education Law, any student who brings a firearm, as defined in federal law, onto BOCES property, or has such a firearm in his/her possession on BOCES premises, or brings such a firearm to any setting that is under the control or supervision of the BOCES, will be referred by the District Superintendent to the appropriate agency or authority for a juvenile delinquency proceeding in accordance with Article 3 of the Family Court Act when the student is under the age of sixteen and will be referred by the District Superintendent to the appropriate law enforcement officials when the student is sixteen years of age or older.

In addition, any student attending a BOCES school who has been found guilty of bringing a firearm to school, after a hearing has been provided pursuant to Section 3214 of the Education Law, shall be suspended for a period of not less than one calendar year and any student attending a non-district school who participates in a program operated by the BOCES using funds from the Elementary and Secondary Education Act of 1965 who is determined to have brought a firearm to a BOCES school or other premises used by the BOCES to provide such programs shall be suspended for a period of not less than one calendar year from participation in such program. Further, after the imposition of the one year penalty has been determined, the District Superintendent has the authority to modify this suspension requirement for each student on a case-by-case basis. In reviewing the student's one year suspension penalty, the District Superintendent may modify the penalty based on factors as set forth in Section 100.2 of the Regulations of the Commissioner of Education and in Commissioner's Decisional Law. The determination of the District Superintendent shall be subject to review by the Board of Education in accordance with Education Law Section 3214(3)(c) and by the Commissioner of Education in accordance with Education Law Section 310.

In the interim, while awaiting determination from the hearing, the student shall be suspended from participation in BOCES programs and shall be provided appropriate alternate instruction, as determined by the District Superintendent and the Superintendent of the local school district.

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**SUBJECT: GUN-FREE SCHOOLS POLICY (Cont'd.))**

The District Superintendent shall notify the parents/guardians of the student involved of the circumstances in finding that their child brought a firearm onto BOCES premises or was in possession of a firearm on BOCES premises. Notification shall also be made to the appropriate agency or authority for juvenile delinquency proceedings for those students under the age of 16 and to appropriate law enforcement officials for those students sixteen years of age or older. Furthermore, this notification shall inform the parents/guardians of the suspension of the student from further participation in BOCES programs pending the determination of the hearing, and the nature of the alternate instruction to be provided the student during this time.

A student with a disability who is determined to have brought a firearm to school may be placed in an interim alternative educational setting, in accordance with federal and state law, for not more than 45 calendar days. If the parent or guardian requests an impartial hearing, the student must remain in the interim alternative placement until the completion of all proceedings, unless the parent or guardian and BOCES can agree on a different placement.

A student with a disability (as classified by the local school district Committee on Special Education) may be given a long term suspension pursuant to the Gun Free Schools Act only if a group of persons knowledgeable about the student, as defined in federal regulations implementing the IDEA, determines that the bringing of a firearm to school was not a manifestation of the student's disability, subject to applicable procedural safeguards. The District Superintendent shall also notify the parents/guardians of a student's referral to the local school district's Committee on Special Education.

If it is determined that the student's bringing of a firearm to school was a manifestation of the student's disability, the District Superintendent must exercise his/her authority under the Gun-Free Schools Act to modify the long term suspension requirement, and determine that the student may not be given a long term suspension for the behavior. The Committee on Special Education may review the student's current educational placement and initiate change in placement proceedings, if appropriate, subject to applicable procedural safeguards.

The BOCES may offer home instruction as an interim alternative educational setting during the pendency of review proceedings only if the student's placement in a less restrictive alternative educational setting is substantially likely to result in injury either to the student or to others.

The BOCES may also seek a court order to immediately remove a student with a disability from school if the BOCES believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.

Students with disabilities continue to be entitled to all rights enumerated in the Individuals With Disabilities Education Act and Article 89 of the Education Law; and this policy shall not be deemed to authorize suspension of students with disabilities in violation of these laws.

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**SUBJECT: GUN-FREE SCHOOLS POLICY (Cont'd.)**

This policy does not prohibit the BOCES from utilizing other disciplinary measures including, but not limited to, out-of-school suspensions for a period of five days or less, or in-school suspensions, in responding to other types of student misconduct which infringe upon the established rules of the school. Additionally, this policy does not diminish the authority of the Board to offer courses in instruction in the safe use of firearms pursuant to Education Law Section 809-a.

The BOCES will continue to provide the suspended student who is of compulsory attendance age with appropriate alternative instruction during the period of the student's suspension.

Goals 2002: Educate America Act,  
P.L. 103-227 (Gun-Free Schools Act of 1994)

18 United States Code (U.S.C.) Section 921  
Education Law Sections 310, 809-a, 3214,  
and Article 89  
8 New York Code of Rules and Regulations

(NYCRR) Section 100.2 and Part 200  
20 United States Code (U.S.C.) Sections 1400-  
1485,

Individuals With Disabilities Education Act (IDEA)

Family Court Act Article 3

NOTE: Refer also to Policies [#2411 -- Unlawful Possession of a Weapon Upon School Grounds](#) and [#6240 -- Weapons in School](#).

Adopted: 7/10/02