

Smyrna School District

Elementary Code of Conduct

School Year 2021/2022



Smyrna School District is committed to the philosophy of progressive discipline. Each school administrator, therefore, has the discretion to determine the necessary punitive action based upon the severity and/or regularity of each offense. Each school administrator will, of course, select among the punitive action options outlined for each infraction in the student code of conduct. If deemed necessary by administration, an administrator also has the authority to assign a time-out for any student.

The following Discipline Code of Conduct is in force:

- On school property prior to, during, and following regular school hours.
- While students are on a school bus for any purpose.
- At all Smyrna School District building-sponsored events and other activities at which school administrators or staff have jurisdiction over students.
- Off-School Property resulting in criminal charges.

The Discipline Code of Conduct shall apply to out-of-school conduct by a student if the District believes that the nature of such conduct indicates that the student presents a threat to the health, safety, or welfare of other students and staff. Out-of-school conduct rising to this level of severity may result in an expulsion recommendation of up to/including 180 school days and shall include but is not limited to:

- Acts of violence, which are punishable by law.
- Sexual offenses, which are punishable by law.
- The sale, transfer or possession of drugs and drug paraphernalia, which would constitute an offense punishable by law.
- Felony charges.

Procedures for Search and Seizure

Student lockers are the property of the school and may be subjected to search with or without reasonable suspicion of a student's use, possession or distribution of alcohol, a drug, a drug-like substance, a drug look-alike substance, or drug paraphernalia in the school environment may result in the student's locker being opened to look for such items. Furthermore, the same procedure will be followed with respect to weapons and/or dangerous items.

614 Uniform Definitions for Student Conduct Which May Result in Alternative Placement or Expulsion

Pursuant to 14 Del.C. §122(b) (26), this regulation provides uniform definitions for student conduct which may result in alternative placement or expulsion. This regulation shall apply to all school districts and charter schools. Nothing contained here shall be interpreted to require the alternative placement or expulsion of a student, nor shall this regulation be interpreted to restrict the ability of school districts and charter schools to determine which student conduct shall result in expulsion or an alternative placement.

School Administration & "in loco parentis" Rights

The term *in loco parentis*, [Latin](#) for "in the place of a parent", refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a [parent](#). Originally derived from British [common law](#), it allows institutions such as colleges and schools to act in the best interests of the [students](#) as they see fit, allowing what would otherwise be considered violations of the students' [civil liberties](#).

Title 14 – Chapter 7: Lawful Authority of Teachers over Pupils

(b) While a student is entrusted in their care or supervision, public school teachers and administrators have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian, guardian or other person similarly responsible for the care and supervision of the student except as provided in § 702 of this title. The authority includes removing a student from a classroom or school-sponsored activity.

Accumulation of Referrals/Expulsion

Once students have accumulated a total of 10 discipline referrals they are subject to a Behavior Contract. If a student violates the terms of the Behavior Contract they will be subject to the following: Possible Discipline Hearing/Expulsion/Alternative Placement.

Uniform Definitions for Student Conduct Which May Result in Alternative Placement or Expulsion

Legal definitions may be found at the following

link: <http://regulations.delaware.gov/AdminCode/title14/600/614.shtml#TopOfPage>

You may view a complete listing of all the Department of Education Discipline Codes at pertaining to Education - Title 14 at the following link: <https://www.doe.k12.de.us/Page/3371>

The Smyrna School District subscribes to a Restorative and Trauma informed approach to discipline. **Restorative practices** is a social science that studies how to improve and repair relationships between people and communities. The purpose is to build healthy communities, increase social learning, decrease antisocial behavior, repair harm and restore relationships. Restorative practice may be accomplished by the use of any of the following: conference with the teacher, conference between students, conference with the counseling team, conference with administration, and/or classroom restorative circle.

Level 1 – Classroom Teacher Intervention. Parent/Guardian notification should be enacted by the teacher, at the appropriate level for all offenses. Teacher should note all Restorative Measures taken. Teacher should be following the Individual Educational Plan (IEP) for behavior goals.		
Violation	Definition	
1st	2nd	Subsequent
Academic Cheating/Plagiarism S0141	The act of intentionally presenting the work and/or knowledge of another as one's own, copying.	
Conference w/teacher Loss of assignment Credit	Conference w/teacher Loss of assignment Credit Parent/Guardian conference with teacher, counselor, administrator	Loss of assignment Credit Parent/Guardian conference with teacher, counselor, administrator
Loitering/Out of Area/ Misuse of Pass S0071	Student is out of his or her assigned area during the school day, uses a hall pass in a way not intended by the user, or is caught in a hall sweep of student tardy to class.	
Warning	Restorative Practices Counseling Referral	Restorative Practices Counseling Referral Parent/Guardian Conference
Possession of Non-school unsafe items/Laser Pointer S0131/S0314	The possession of any item not normally found in a school setting, excluding a dangerous item.	

Warning/Confiscated	Restorative Practices Counseling Referral	Restorative Practices Parent/Guardian conference Counseling Referral
Skippping/Cutting Class S0041	Intentionally cutting or skipping class/and or more than 15 minutes late to a class.	
Restorative Practices Counseling Referral	Restorative Practices Parent/Guardian conference	Restorative Practices Parent/Guardian conference/ Behavior contract
Use Of Profanity/Not staff directed S0011	Use of Profanity/curse words.	
Restorative Practices Parental Conference Counseling Referral	Restorative Practices Parental Conference Counseling Referral	Restorative Practices Parent/Guardian conference Time Out
Minor Classroom Disruptions	Refusing to do classwork, putting head on the desk, sleeping, other minor lack of participation behaviors.	
Restorative Practices	Restorative Practices Parental Conference	Restorative Practices Parental Conference Counseling Referral
Use of Cell Phone S0312	Cell phones must be secured out of sight from the start of class through the end of class, unless the classroom teacher has given permission otherwise. Unauthorized use of a cell phone during instructional time includes, but is not limited to, using the phone to check the time, playing with apps, text messages, social media, and charging the phone.	
Restorative Practices	Restorative Practices Counseling Referral Parent Conference	Restorative Practices Counseling Referral Parent Conference
Inappropriate Behavior S0101	Classroom behavior, which produces distractions and/or disturbances, which repeatedly interfere with the effective functioning of a teacher, the student or the class.	
Restorative Practices	Restorative Practices Parent Conference Time Out	Restorative Practices Parent Conference Counseling Referral SBIP

Level 2 – Guidance/Administration Intervention. Parent/Guardian notification should be enacted at every level for all offenses. Prior to writing a referral, check Individual Educational Plan (IEP) for behavior goals.

Violation	Definition	
1st	2nd	Subsequent
Abusive Language S0301	Written or spoken language or gestures that are considered offensive, obscene, or vulgar.	
Restorative Practices Counseling Referral	Restorative Practices Parent/Guardian Conference Counseling Referral	Restorative Practices Counseling Referral
Defiance of School Authority S0081	(1) A verbal or non-verbal refusal to immediately comply with a reasonable request from school personnel, or refusal to identify oneself at the request of school personnel, and/or refusal to comply with disciplinary action; or (2) A verbal or non-verbal display of disrespect and/or uncivil behavior toward school personnel	
Insubordination		

S0082	which either causes a substantial disruption or material interference with school activities.	
Restorative Practices	Restorative Practices Parent/guardian conference	Restorative Practices Administrator Conference
Criminal Mischief (Vandalism) D0301	A student, in the School Environment, intentionally or recklessly: (1) Damages tangible property of another person or entity; or (2) Tamper with tangible property of another person so as to endanger person or property	
Restorative Practices Parent Conference Restitution	Restorative Practices Restitution	Restorative Practices Parent/Guardian conference Restitution District Office Notification
Disruption of the educational process S0091	Behavior that causes disruption to the normal operation of the school.	
Restorative Practices Parent/Guardian Conference	Restorative Practices Parent/Guardian Conference Outside Agency Referral	Restorative Practices Parent/Guardian conference Outside Agency Referral District Office Notification
Failure to Perform Properly in SBIP S0201	Behavior which produces distractions and/or disturbances, which repeatedly interfere with the classroom atmosphere, failure to follow ISS rules or expectations.	
Restorative Practices OSS for Remainder of the day Student to make-up SBIP time upon return	Restorative Practices OSS for Remainder of the day Student to make-up SBIP time upon return	Restorative Practices OSS for Remainder of the day Student to make-up SBIP time upon return
Felony Theft D0601 >\$1500	(a) When a person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it; or (b) When a person, in any capacity, legally receives, takes, exercises control over or obtains property of another which is the subject of Theft, and fraudulently converts the property to the person's own use. The Theft is considered a felony when the value of the property received, retained, or disposed of is \$1500 or more or the victim is 62 years of age or older, or an "adult who is impaired" as defined in § 3902(2) of Title 31, or a "person with a disability" as defined in § 3901(a)(2) of Title 12.	
Restitution Parent/Guardian Conference	Police Notification/Restitution Counseling Referral	Police Notification District Office Notification
Forgery/Falsification Verbal/Written/Failure to Provide Identity When Requested S0321/S0322	The act of intentionally providing false information, written or unwritten as authentic. Failure to provide the proper given name to a staff member upon request.	
Restorative Practices Parent Contact	Restorative Practices Parent/guardian conference Administrator Conference	Restorative Practices Administrator Conference
Gambling S0241	Participation in games of chance for money or other things of value.	

Restorative Practices	Restorative Practices Parent/guardian Conference Counseling Referral	Restorative Practices Parent/guardian Conference Administrator Conference
Improper use of Food Account S0251	The act of intentionally using information that belongs to another (i.e. free and/or reduced lunch information).	
Warning/Parent Notification Restitution	Restorative Practices Restitution Counseling Referral	Restorative Practices Restitution Parent/guardian conference
Inappropriate Behavior: Careless & Reckless Behavior S0107	Unintentional behavior that threatens to or causes injury or property damage or intentional behavior that causes or may cause unintentional injury or property damage.	
Restorative Practices Parent/guardian conference	Restorative Practices Parent/guardian conference	Restorative Practices Parent/guardian conference
Inappropriate Behavior: Consensual Sexual Misconduct S0108	Consensual sexual act(s) between two individuals within the School Environment.	
Restorative Practices Parent/guardian conference	Restorative Practices Parent/guardian conference	Restorative Practices Up to 10 Days OSS Parent/guardian conference Possible District Hearing
Inappropriate Behavior: Safety Violation S0102	Any action that could endanger the safety and welfare of students.	
Restorative Practices Parent Notification	Restorative Practices Parent/guardian conference	Administrator Conference
Inhalant Abuse D1201	Chemical vapors that are inhaled for their mind-altering effects.	
Restorative Practices	Restorative Practices Administrator Conference Outside Agency Referral	Restorative Practices Administrator Conference Outside Agency Referral
Instigation S0302	The act of causing a disruption and/or fight by relaying information between parties.	
Restorative Practices Parent/guardian conference Counseling Referral	Restorative Practices Parent/guardian conference Counseling Referral	Restorative Practices Administrator Conference SBIP
Intimidation /Inappropriate Behavior, Disrespect towards a student S0105	Any attempt or threat to do bodily harm to another individual and/or property.	
Restorative Practices	Restorative Practices Parent Conference Counseling Referral	Restorative Practices Administrator Conference SBIP
Intimidation /Inappropriate Behavior, Disrespect towards a staff member S0104	Any attempt or threat to do bodily harm to another individual and/or property.	

Restorative Practices Parent/guardian Conference SBIP	Restorative Practices Parent/guardian Conference SBIP	Restorative Practices Parent/guardian Conference SBIP
Leaving Class S0052	Leaving class without permission from the teacher.	
Restorative Practices	Restorative Practices Parent/guardian Conference	Restorative Practices Parent/guardian Conference SBIP
Leaving School Grounds S0051	Leaving school grounds without the proper authority to do so.	
Restorative Practices Police Notification (when necessary) Parent/Guardian Contact	Restorative Practices Up to 2 Days SBIP Police Notification (when necessary) Parent/Guardian Contact	Restorative Practices Up to 3-5 Days SBIP Police Notification (when necessary) Parent/Guardian Conference
Misuse of Technology/ Acceptable use Policy Violation S0181	<p>The use of school technology equipment in:</p> <p>Soliciting, using, receiving or sending pornographic or obscene material; or</p> <p>Accessing unauthorized email; or</p> <p>The unauthorized downloading and/or installing of files; or</p> <p>Intentionally damaging technology equipment in the School Environment; or</p> <p>A situation in which a student deliberately:</p> <p>Tampers with, damages, alters, accesses, crashes, or corrupts the computer/communications system in the School Environment resulting in the loss or corruption of information or the ability of the system to operate; or</p> <p>In any way disrupts or degrades the school or District's technology infrastructure.</p>	
Restorative Practices	Restorative Practices Loss of computer privileges for 30 school days Parent/Guardian Conference	Restorative Practices Parent/Guardian Conference Loss of computer privileges for 45 school days
Repeated Violations of the Student Code of Conduct S0333	Five or more violations of the school's Code of Conduct within a school year, excluding chronic infractions for tardiness or unexcused absences to school/class.	
Restorative Practices Counseling Referral Parent/guardian conference	Restorative Practices Counseling Referral Parent/guardian conference	Restorative Practices Counseling Referral Parent/guardian conference Referral to Outside Agency
Medications: Inappropriate Possession and/or Use D1601	Possessing or using Nonprescription Medication or Prescription Drugs of any type in the School Environment in violation of 14 DE Admin. Code 612.	
Counseling Referral/Parent Contact	Parent/guardian conference Referral to Outside Agency	Parent/guardian conference Referral to Outside Agency
Stealing S0111 <\$1500	Taking, exercising control over or obtaining property of another person intending to deprive that person of it or appropriate it.	
Restorative Practices Restitution Parent/guardian conference	Restorative Practices Counseling Referral Restitution Parent/guardian conference	Restorative Practices Counseling Referral Restitution Parent/guardian conference District Office Notification
Tobacco Possession and/or Use D1401	The use and/or possession of tobacco products on school property. <i>(This includes e-cigarettes/vapor pens)</i>	

Restorative Practices
Parent/guardian conference
Counseling Referral

Restorative Practices
Parent/guardian conference
Referral to Outside Agency

Restorative Practices
Parent/guardian conference
Referral to Outside Agency

Trespassing/remains unlawfully on school property S0271	Trespassing is when a student knowingly or unknowingly is in a Smyrna School District area without a legitimate purpose/permission.	
Parent/guardian Conference Restorative Practices Police Notification (when necessary)	Parent/guardian Conference Restorative Practices Police Notification (when necessary)	Parent/guardian Conference Restorative Practices Police Notification (when necessary) District Office Notification
Violation of Electronics, Communication and Equipment Policy S0311	The unauthorized use of electronic communications equipment such as radios, CD players, iPods, tape recorders, headphones, ear buds, and other electronic devices during instructional time. This includes charging electronic devices.	
Restorative Practices	Restorative Practices Parent/guardian conference	Restorative Practices Parent/guardian conference

Level 3— Administration/District Intervention. Parent/Guardian notification should be enacted at every level for all offenses. Prior to writing a referral, check Individual Educational Plan (IEP) for behavior goals.		
Violation	Definition	
1st	2nd	Subsequent
Aggravated Act of Intimidation /Staff C0156	Disorderly conduct causes public inconvenience, annoyance or alarm or creates a risk thereof by: engaging in fighting or violent tumultuous or threatening behavior or making an unreasonable noise or an offensively coarse utterance or gesture or display or addressing, abusive language to any person present.	
OSS Pending Discipline Hearing/Expulsion Police Notification		
Aggravated Act of Intimidation/Student C0156	Disorderly conduct causes public inconvenience, annoyance or alarm or creates a risk thereof by: engaging in fighting or violent tumultuous or threatening behavior or making an unreasonable noise or an offensively coarse utterance or gesture or display or addressing, abusive language to any person present.	
Up to 10 Days OSS Police Notification (if required) DOE conduct report/Parent notified/Behavior Plan Discipline Hearing/Expulsion Possible	Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police Notification	
Arson C0134 – 1st C0133 – 2nd	A person recklessly or intentionally damages a building by intentionally starting a fire or causing an explosion.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police/Fire Marshall notification DOE Student Conduct Report Restitution Recommendation for Counseling Report filed with Fire Marshal's Office		

Assault Staff C0107 – Assault 1st C0106 – Assault 2nd C0201 – Assault 3rd	A person intentionally or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a Deadly Weapon or a Dangerous Instrument.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police Notification (if required) DOE student conduct Report Parent Contact		
Assault Student C0107 – Assault 1st C0106 – Assault 2nd C0201 – Assault 3rd	A person intentionally or recklessly causes physical injury to another person; or (2) With criminal negligence the person causes physical injury to another person by means of a Deadly Weapon or a Dangerous Instrument.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police notification (if required) DOE student conduct report Parent contact/ Behavior Plan		
Attorney General’s Report S0161 – (Off-Campus Only) S0162 – CDAP	<i>Juvenile Arrest Warrant and Complaint</i> - the Department of Justice’s report of out-of-school criminal conduct, regardless of jurisdiction, which shows disregard for health, safety and welfare of others, including, but not limited to acts of violence, weapons offenses, and Drug offenses.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion		
Breaking and Entering S0272	Unauthorized entry of any locked area of the school environment during or after school; including, but not limited to, rooms, classrooms, auditorium, gym, shops, offices, lockers, cabinets and vehicles.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police Notification DOE conduct report/Counseling Referral		
Bullying/Cyberbullying D0701	Any intentional written, electronic, verbal or physical act or actions against another student, school volunteer or school employee that a reasonable person under the circumstances should know will have the effect of: (1) Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damage to his or her property; or (2) Creating a hostile, threatening, humiliating or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target; or (3) Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or (4) Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.	
1-2 Days OSS Police Notification when necessary Restitution, Restoration if applicable DOE Student Conduct Report/ Acts of bullying will be documented and placed in a student’s disciplinary file. Behavior Plan/Parent contact/Counseling Referral	Up to 3 – 5 days OSS Police Notification when necessary Restitution, Restoration if applicable DOE Conduct Report/Acts of bullying will be documented and placed in a student’s disciplinary file Behavior Plan REVISED/Parent contact/Counseling Referral	Up to 10 Days OSS Pending Discipline Hearing/Expulsion

Criminal Deadly Weapon C0601 C0602 C0603 C0604 C0605 C0606 C0607	The Commission by a student of an offense prohibited by 11 Del.C. §§1442 through 1458 inclusive.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Hearing/Parent Contact Notify DOE Student Conduct Report Police Notification		
Criminal Drug Offense C0701 – C0704 C0701 – Prescription Drug C0702 – Cocaine/Powder Substance C0703 – Marijuana C0704 – Look-Alike Drugs	The Commission by a student of the unlawful Possession, Distribution, or use of Alcohol, a Drug-Like Substance, and/or Drug Paraphernalia.	
OSS Pending Discipline Hearing/Expulsion Police Notification (if necessary) DOE Student Conduct Report/Counseling Referral Mandatory Drug/Alcohol Referral to Licensed Agency		
Dangerous Instrument C0621	The Commission by a student of an offense prohibited by 11 Del.C. §§1442 through 1458 inclusive. (BB-guns are not considered a dangerous instrument)	
OSS Pending Discipline Hearing/Expulsion Hearing/Parent Contact Notify DOE Student Conduct Report Police Notification		
Drug Use/Influence D0502	In the School Environment, a student unlawfully Possesses, Uses or is under the influence of Alcohol, a Drug, Drug Paraphernalia, or any substance or paraphernalia consistent with the definitions of these substances or paraphernalia.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police Notification (if required) DOE Student Conduct Report Parent Contact/Counseling Referral		
Extortion C0141	To obtain or attempt to obtain money, goods, services, or information from another by force or the threat of force.	
Up to 10 Days OSS Pending Discipline Hearing/Expulsion Restitution Police Notification (if required) DOE Student Conduct Report/Parent Contact Probation Officer Notified/Behavior Plan		
Fighting D1101	Any aggressive physical altercation between two or more individuals.	

Restorative Practices SBIP Up to 3 Days OSS Parent/guardian Conference	Restorative Practices Up to 3 Days OSS Parent/guardian Conference	Restorative Practices Up to 5 Days OSS Parent/guardian Conference
Hate Crimes C0151	Victimizing a person with a crime(s) when motivated by hostility to the victim as a member of a group (as one based on color, creed, gender, or sexual orientation).	
Up to 10 Days OSS Police Notification (if required) DOE Student Conduct Report/Counseling Referral Parent Conference/Probation Officer Notified Restitution, restoration if applicable Acts will be documented and placed in student's discipline file. Possible Discipline Hearing/Expulsion	Up to 10 Days OSS Pending Discipline Hearing/Expulsion Police Notification (if required) DOE Student Conduct Report Probation Officer Notified/Counseling Referral Restitution, restoration if applicable	
Offensive Touching Employee Victim D0802	Intentionally touching another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm to such other person; or Intentionally striking another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.	
Restorative Practices Counseling Referral Parent/guardian Conference Up to 3 Days OSS	Restorative Practices Counseling Referral Parent/guardian Conference Up to 3 Days OSS	Restorative Practices Counseling Referral Parent/guardian Conference Up to 5 Days OSS District Office Notification
Offensive Touching Student Victim D0801	Intentionally touching another person either with a member of his or her body or with any instrument, knowing that the person is thereby likely to cause offense or alarm to such other person; or Intentionally striking another person with saliva, urine, feces or any other bodily fluid, knowing that the person is thereby likely to cause offense or alarm to such other person.	
Restorative Practices Counseling Referral Parent/guardian Conference SBIP	Restorative Practices Counseling Referral Parent/guardian Conference SBIP	Restorative Practices Counseling Referral Parent/guardian Conference Up to 3 Days OSS
Pornography D0101	The possession, sharing, or production of any known obscene material in the School Environment.	
Parent/guardian Conference Counseling Referral	Parent/guardian Conference Counseling Referral Referral to Outside Agency	Parent/guardian Conference Counseling Referral Referral to Outside Agency
Rape or Attempted Rape C0122-C0125	Sexual intercourse and attempted sexual intercourse without consent of the victim in both cases.	

OSS Pending Discipline Hearing/Expulsion Police Notification DOE Student Conduct Report/Parent Contact		
Reckless Burning S0152	When a person intentionally or recklessly starts a fire or causes an explosion and recklessly places a building or property in danger of destruction or damage or places another person in danger of physical injury.	
OSS Pending Discipline Hearing Police Notification		
Sexual Harassment/Staff D1001	When the person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or the person suggests, solicits, request, commands, importunes, or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense, or alarm to that person.	
OSS Pending Discipline Hearing Police Notification DOE Student Conduct Report Counseling Referral/Parent Contact		
Sexual Harassment/Student D1001	When the person threatens to engage in conduct likely to result in the commission of a sexual offense against any person; or the person suggests, solicits, request, commands, importunes, or otherwise attempts to induce another person to have sexual contact or sexual intercourse or unlawful sexual penetration with the actor, knowing that the actor is thereby likely to cause annoyance, offense, or alarm to that person.	
Up to 10 Days OSS Police Notification DOE Student Conduct Report Counseling Referral/Parent Contact Discipline Hearing	OSS Pending Discipline Hearing Police Notification DOE Student Conduct Report Counseling Referral/Parent Contact	
Tampering with Public Records D0401	A person knowingly without valid authorization removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any original record or other written material filed with, deposited in or otherwise constituting a record of a public office or public servant.	
Up to 10 Days OSS Pending Discipline Hearing		
Threat Terroristic Threatening Student Victim/Employee Victim D0901	(1) A person threatens to commit any Crime likely to result in death or in serious injury to person or property; or (2) A person commits an act with intent of causing an individual to believe that the individual has been exposed to a substance that will cause the individual death or serious injury.	
Up to 10 Days OSS Pending Discipline Hearing Police Notification DOE conduct report/Counseling Referral		
Threat Terroristic Threatening – Bomb Threat D0902	Security Threat - when a person makes a false statement or statements: (1) Knowing that the statement or statements are likely to cause evacuation in the School Environment; (2) Knowing that the statement or statements are likely to cause serious	

	inconvenience in the School Environment; or (3) In reckless disregard of the risk of causing terror or serious inconvenience in the School Environment.	
Up to 10 Days OSS Pending Discipline Hearing Police Notification DOE conduct report/Counseling Referral		
Unlawful Sexual Contact III/Employee Contact C0301	When a student has sexual contact with another person or causes the victim to have sexual contact with the student or a third person and the student knows that the contact is either offensive to the victim or occurs without the victim's consent.	
OSS Pending Discipline Hearing Police Notification DOE Student Conduct Report Parent Contact/Counseling Referral		

Delaware's Model Policy for Bully Prevention & Cyber-bullying

The Smyrna School District/Charter School (hereinafter referred to as “The District/Charter School”) recognizes that safe learning environments are necessary for students to learn and achieve high academic standards. The District/Charter School strives to provide safe learning environments for all students and all employees.

I. Prohibition of Bullying Which Includes Cyber-bullying

To further these goals and as required by 14 Del. C. 4112D, the District/Charter School hereby *prohibits the bullying of any person on school property or at school functions or by use of data or computer software that is accessed through a computer, computer system, computer network or other electronic technology of a school district or charter school from grades kindergarten through grade twelve. In addition, cyber-bullying (as defined herein) is prohibited by students directed at other students. Incidents of cyber-bullying shall be treated by each school district and charter school in the same manner as incidents of bullying. The District/Charter School further prohibits reprisal, retaliation or false accusation against a target, witness or one with reliable information about an act of bullying.* [\[1\]](#)

"School function" includes any field trip or any officially sponsored public or charter school event.

"School property" means any building, structure, athletic field, sports stadium or real property that is owned, operated, leased or rented by any public school district or charter school including, but not limited to, any kindergarten, elementary, secondary, or vocational-technical school or charter school, or any motor vehicle owned, operated, leased, rented or subcontracted by any public school or charter school.

II. Definition of Bullying & Cyber-bullying

A. As used in this policy, bullying means any intentional written, electronic, verbal or physical act or actions against a student, school volunteer or school employee that a reasonable person, under the circumstances should know will have the effect of:

- 1. Placing a student, school volunteer or school employee in reasonable fear of substantial harm to his or her emotional or physical well-being or substantial damage to his or her property; or*
- 2. Creating a hostile, threatening, humiliating or abusive educational environment due to the pervasiveness or persistence of actions or due to a power differential between the bully and the target; or*
- 3. Interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities or benefits; or*
- 4. Perpetuating bullying by inciting, soliciting or coercing an individual or group to demean, dehumanize, embarrass or cause emotional, psychological or physical harm to another student, school volunteer or school employee.*

B. As used in this policy, cyber-bullying means the use of uninvited and unwelcome electronic communication directed at an identifiable student or group of students, through means other than face-to-face interaction which (1) interferes with a student's physical well-being; or (2) is threatening or intimidating; or (3) is so severe, persistent, or pervasive that it is reasonably likely to limit a student's ability to participate in or benefit from the educational programs of the

school district or charter school. Communication shall be considered to be directed at an identifiable student or group of students if it is sent directly to that student or group, or posted in a medium that the speaker knows is likely to be available to a broad audience within the school community.

- 1. Whether speech constitutes cyber-bullying will be determined from the standpoint of a reasonable student of the same grade and other circumstances as the victim.*
- 2. The place of origin of speech otherwise constituting cyber-bullying is not material to whether it is considered cyber-bullying under this policy, nor is the use of school or district materials.*

Explanation: Bullying is usually defined as involving repeated acts of aggression that aim to dominate another person by causing pain, fear or embarrassment. However, one act alone may constitute bullying if the requisite intent and effect set forth in the definition are met. Bullying may be perpetuated by an individual or a group. It may be direct or indirect. Although a person may be repeatedly bullied, a different person might be doing the bullying each time, which may make it difficult to recognize that bullying is occurring. An act is intentional if it is the person's conscious objective to engage in conduct of that nature. The actions listed below are some examples of intentional actions which may become bullying depending on their reasonably foreseeable effect:

Physical bullying: Pushing, shoving, kicking, destroying of property, tripping, punching, tearing clothes, pushing books from someone's hands, shooting/throwing objects at someone, gesturing, etc.

Verbal bullying: Name calling, insulting, making offensive comments, using offensive language, mimicking, imitating, teasing, laughing at someone's mistakes, using unwelcome nicknames, threatening.

Relational Bullying: Isolation of an individual from his or her peer group, spreading rumors.

Cyber-bullying: Bullying by using information and communication technologies. Cyber-bullying may include but is not limited to:

1. Denigration: spreading information or pictures to embarrass,
2. Flaming: heated unequal argument online that includes making rude, insulting or vulgar remarks,
3. Exclusion: isolating an individual from his or her peer group,
4. Impersonation: Using someone else's screen name and pretending to be them
5. Outing or Trickery: forwarding information or pictures meant to be private.

Sexual Bullying:

Unwanted touch of a sexual nature, unwanted talking about private parts, unwanted comments about target's sexuality or sexual activities.

This list should be used by way of example only, and is by no means exhaustive. These actions become bullying if they meet the definition with regard to intent and reasonably foreseeable effect. This policy is not intended to prohibit expression of religious, philosophical or political views, provided that the expression does not substantially disrupt the education environment. Similar behaviors that do not rise to the level of bullying may still be prohibited by other district/charter school policies or building, classroom or program rules.

[1] Legal or Regulatory Requirements are in *italics* throughout this model policy. Green and blue highlights also indicate changes to the model policy due to the passage of HB 268 and SB 193, respectively, of the 146th General Assembly and 14 DE Admin Code 624 – School District/Charter School Policy Prohibiting Cyber-bullying.

Grievance Process

Student Safeguards:

Students and their parents, as their representatives, have all the rights given to every citizen by the Fifth and fourteenth Amendments to the U.S. Constitution. Many of these rights, which pertain specifically to education, are defined in this document. These rights are protected through a procedure called Due Process. This information defines the Due Process procedures for corporal punishment, suspension, and assignment to an alternative program, expulsion, and filing a grievance.

Student Grievance:

It is desirable for school officials to provide a means for the expression and resolution of student grievances and complaints. Students should be encouraged to discuss their grievance or complaint informally with the person involved. To this end, functional orderly procedures have been established through which consideration of student problems and concerns can be discussed and resolved quickly and equitably.

Grievance Procedure:

1. The grievant should request a conference with the teacher or person(s) who allegedly treated the student unfairly.
2. If the conference fails to resolve the issue, within (5) school days the grievant shall file a written grievance with the principal who shall issue a decision, in writing, not later than five (5) school days following receipt of the written grievance.
3. A grievant wishing to appeal the principal's written decision must file a written appeal with the Superintendent or designee not later than five (5) days from the date of the receipt of the Principal's written decision.
4. The Superintendent or designee shall schedule a conference to hear the grievance no later than five (5) school days following receipt of the notice of appeal and shall issue a decision, in writing, no later than five (5) school days following the grievance conference.
5. The decision of the Superintendent shall be the final decision of the school system. A copy of the Superintendent's final decision shall be sent to all involved parties no later than ten (10) school days following receipt of the appeal by the Superintendent.