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Dangerous Instruments and Weapons on ESBOCES Property

The Board, cognizant of its responsibilities to provide for a safe and healthy environment wherein students can learn, sets forth and establishes a policy prohibiting dangerous instruments and weapons on ESBOCES property.

No student or employee shall bring onto ESBOCES property or possess on ESBOCES property any dangerous instrument, firearm, dangerous chemical, explosive device, or weapon. Law enforcement authorities, including the juvenile delinquency system, where applicable, will be notified when any student is found to have brought a firearm onto ESBOCES property or possessed a firearm on ESBOCES property.

Definitions

For the purpose of this policy, adopted in conformance with the Gun-Free Schools Act, the following definitions will apply:

Firearm means:

1. 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;
2. the frame or receiver of such weapon;
3. any firearm muffler or firearm silencer; or
4. any destructive device, including:
 - a. any explosive, incendiary, or poison gas:
 - i. bomb
 - ii. grenade;
 - iii. rocket having a propellant charge of more than four (4) ounces;
 - iv. missile having an explosive or incendiary charge of more than one-quarter ($\frac{1}{4}$) ounce;
 - v. mine; or
 - vi. device similar to any of the devices described in the preceding clauses.

- b. any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half ($\frac{1}{2}$) inch in diameter; and
- c. any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (a) and (b) and from which a destructive device may be readily assembled.

The term *firearm* does not include an antique firearm unless it is capable of being fired.

Weapon means any device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half ($2\frac{1}{2}$) inches in length. Included within the definition of weapon, but not intended as a limitation on the definition, are switchblade knives; gravity knives; pilum ballistic knives; cane swords; electronic dart guns; chukka sticks; kung-fu stars; any of the objects or instruments referred to in §265.01 of the NYS Penal Law; any air-gun, spring-gun, or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge; and any object that could be considered a reasonable facsimile of a weapon. The previous enumeration of weapons is not intended to be exhaustive but merely illustrative.

Dangerous Instruments means items or implements that, under the circumstances in which such instruments are used, attempted to be used, or threatened to be used, are readily capable of inflicting bodily harm.

ESBOCES Property means any building, structure, athletic playing field, playground, parking lot, or land owned or leased by ESBOCES; in or on a school bus, as defined in Vehicle and Traffic Law §142, which is transporting students to or from an ESBOCES center or ESBOCES function; or at any ESBOCES function.

In the event the definitions herein are inconsistent with §§921(a) and/or 930(g)(2) of Title 18 of the United States Code, those provisions of Federal law will be controlling.

This policy shall not be construed so as to prohibit ESBOCES from disciplining students for violations of the ESBOCES Code of Conduct or other policies and regulations adopted to safeguard ESBOCES students, employees, visitors, and/or property.

Any exception to the prohibition set forth in this policy may be made with prior approval and arrangements made with the principal (e.g., where a weapon is part of a dramatic or music performance or is used as an artifact in an instrumental unit).

New York State peace officers and police officers are the only individuals, as permitted by law, to have a weapon, dangerous instrument, or firearm in their possession on ESBOCES Property.

Any student found to be in violation of this Policy shall be subject to suspension in accordance with the ESBOCES Code of Conduct and pursuant to Education Law §3214.

References:

- 18 United States Code (USC) §§921(a), 922(q), and 930(g)(2)
- Gun-Free Schools Act as reauthorized by the No Child Left Behind Act of 2001
- [NYS Education Law §§809-a and 3214](#)
- [NYS Penal Law §§265.01-265.06, 265.20](#)
- [NYS Public Law §§103-227](#) - Goals 2001: Educate America Act, (Gun-Free Schools Act of 1994)
- [NYS Public Law 101-476](#), Individuals with Disabilities Education Act (IDEA)
- [NYS Vehicle and Traffic Law §142](#)
- 8 New York Code of Rules and Regulations (NYCRR) §100.2 and Part 200
- Administrative Regulation 2410R.1 - Code of Conduct

First Adopted: 7/1/2003

Readopted: 7/11/2007

Readopted: 3/2/2011

Readopted: 1/25/2012

Readopted: 9/17/2014