

## STUDENT MISBEHAVIOR

- Department of Education personnel have primary responsibility for intervening in and addressing student misbehavior and in for ensuring consistent application of school rules and policies as set forth in the Discipline Code.
  
- Department of Education personnel shall not request the intervention of School Safety personnel when responding to the following normative child and adolescent behaviors, absent real and immediate threat of serious physical injury to a member of the school community:
  - disorderly conduct (as defined by N.Y. Penal Law §240.20)
  - behaving in a rude, insubordinate, or disruptive manner
  - defying school officials
  - making excessive noise
  - violating the dress code or uniform policy
  - failing or refusing to provide identification upon request<sup>1</sup>
  - profane, obscene, vulgar, or lewd language, gestures, or behavior
  - use of racial or other slurs
  - cutting class, tardiness and unexcused absence
  - leaving school without permission; entering or attempting to enter a school building before or after school hours<sup>2</sup> (not breaking and entering)
  - bullying including cyberbullying, verbal abuse, and/or harassment
  - vandalism and/or graffiti in a school building
  - possession or use of a prohibited item under the Discipline Code that does not violate the Penal Law (e.g., cell phone) and is not a category I weapon as defined in the Discipline Code.
  - Other behaviors categorized as Levels 1, 2, and 3 in the Discipline Code.
  
- The above student behaviors shall be addressed by school administrators pursuant to the Discipline Code. DOE staff, including school administrators may not request that these behaviors be treated as violations of the criminal law to be referred to police or the court system.

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<sup>1</sup> Principal or designee should be contacted if there is a question about a student's identity or appropriateness of their being in the school building.

<sup>2</sup> Principal or designee should be contacted if there is a question about a student's permission to enter.

## ARREST OF STUDENTS

- Except in instances of immediate danger to students or others, in order to arrest a student, a member of the school safety division or a precinct officer must have:
  - (1) probable cause to believe that the student has committed a misdemeanor or felony that is not conduct listed in Student Misbehavior section, and
  - (2) the agreement of the principal or designee that a formal arrest is necessary to preserve student safety.
  
- Students shall not be subject to arrest or criminal prosecution for the crimes of obstructing governmental administration or resisting arrest where the underlying infraction is a school discipline matter, including the conduct listed in Student Misbehavior section.
  
- Under no circumstance shall a summons be issued or an arrest made of a student on school grounds or at a school-sponsored event based solely on a non-criminal violation of the penal law.
  
- Students shall not be arrested in school for the following offenses:
  - Disorderly Conduct (N.Y. Penal Law §240.20)
  - Harassment (N.Y. Penal Law §240.26)
  - Graffiti (N.Y. Penal Law §145.60)
  - Criminal Mischief (N.Y. Penal Law §145.00)
  - Obstructing Governmental Administration (N.Y. Penal Law §195.05) or Resisting Arrest (N.Y. Penal Code § 205.30) when the underlying offense is listed above or in the Student Misbehavior section.