



STATE OF HAWAII
Laupahoehoe Community Public Charter School

CHAPTER 19

**STUDENT MISCONDUCT,
DISCIPLINE,
SCHOOL SEARCHES & SEIZURES,
REPORTING OFFENSES,
POLICE INTERVIEWS & ARRESTS,
and RESTITUTION for VANDALISM**

CHAPTER 19

STUDENT MISCONDUCT, DISCIPLINE, SCHOOL SEARCHES AND SEIZURES, REPORTING OFFENSES, POLICE INTERVIEWS AND ARRESTS, AND RESTITUTION FOR VANDALISM

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Historical Note: This chapter is based substantially upon Department of Education “Rule 21, Relating to Student Discipline” [Eff 3/28/64; am 11/29/73; am 5/01/76; R 9/1/82]; “Rule 3, Relating to Police Interview and Arrest of Students During School Hours” [Eff 9/23/63; am 6/20/77; R 9/1/82]; “Rule 24, Relating to Students Smoking on School Premises” [Eff 3/28/64; R 9/1/82].

SUBCHAPTER 1

GENERAL PROVISION

§8-19-1 Philosophy. (a) Hawaii has established and supports a state wide system of public education. The compulsory nature of school attendance ensures that a student shall have the opportunity for an education. In addition to the education provided during the regular school year, the department offers students the opportunity to receive additional instruction and educational services through a self-supporting summer school program on a voluntary attendance basis. The department is committed to:

- (1) Provide the student with optimal learning conditions;
- (2) Select appropriate teachers for the student's instruction; and
- (3) Other programs that will help the student to succeed.

In 1996, the Hawaii state department of education initiated a collaborative and systemic reform known as the Comprehensive Student Support System (CSSS), which provides a continuum of academic, social, emotional, and physical environmental supports and services to all students to facilitate their learning and their meeting of high educational standards. It is a CSSS community of caring and supportive relationships among students, teachers, families, and agencies working together that promote timely and appropriate services for all students. The goal of the school system is to provide learning experience that allows all students to achieve the Vision of the Public School Graduate, 2005-2008 Department of Education Strategic Plan, State of Hawaii Department of Education, Office of the Superintendent, June 2005, in safe, caring, nurturing, and orderly teaching and learning environments.

(b) It is the responsibility of every student to demonstrate respectful, responsible, safe, and ethical behaviors on Public Charter School transportation or during Public Charter School sponsored activity on or off school property. The Public Charter School supports this through the establishment of a proactive systems approach to school wide discipline.

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(c) However, when a student's behavior violates established policies, rules or regulations of the Public Charter School, state or local laws, the Public Charter School may take appropriate disciplinary action in accordance with this chapter.

The purpose of school administered discipline is to:

- (1) Promote and maintain a safe and secure educational environment;
- (2) Teach and acknowledge proper behavior which is beneficial the educational process and self-development;
- (3) Deter students from acts which interfere with the purpose of education or which are self-destructive, self-defeating or anti-social; and
- (4) Maintain proper student conduct to ensure that educational Activities and responsibilities remain uninterrupted.
- (d) An educational worker conducting or participating in a school Program, activity or function sponsored or approved by the Public Charter School, or hired function, has a reasonable expectation to be free of undue disruption and threat of disorder be free of undue disruption and threat of disorder or acts of violence, or both, committed against them by students.
- (e) In addition to the disciplinary action taken under this chapter, Restitution for vandalism or for negligence shall be made in accordance with the provisions in this chapter. The purpose of restitution is to discourage acts of vandalism and negligence and ensure recovery of the cost of Public property damaged by acts of violence and negligence.
- (f) On occasion it is necessary for police officers to interview students or take them into custody. This chapter is also intended to safeguard the rights and interests of students in attendance, to cooperate with police officers in the performance of their duties, to preserve the school milieu, and to delineate responsibilities of school personnel. [EFF 9/1/82; am 5/23/86; am and comp 7/19/93; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302-A-1112) (IMP: Hawaii Const. Art. X, §302-A-1112)

§8-19-2 Definitions. As used in this chapter:

“Abusive language” means verbal messages that use words in an inappropriate way and may include but is not limited to swearing, name-calling, or profanity.

“Assault” means intentionally, knowingly, recklessly, or negligently causing serious bodily injury or bodily injury to another person with or without a dangerous instrument.

“Bullying means any written, verbal, graphic, or physical act that a student or group of students exhibits towards other particular student(s) and the behavior causes mental or physical harm to the other student(s); and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening or abusive educational environment for the other student(s).

“Burglary” means entering or remaining without school authorization in a building that is either owned or operated by the charter school with the intent to commit an offense against a person, or against school property or other property located at the school.

“Class cutting” means an unauthorized absence of a student from class.

“Board Chair” means the Chair of the school governing board.

“Contraband” means property or other than which is unlawful to produce or possess, which is defined by local school rules, is prohibited on school premises has in the past lead to bodily injury or disruption of school operations.

“Controlled substance” means a drug or substance as defined in I through V in chapter 329, Hawaii Revised Statutes.

“Correction and conference with student” means a student meets with administrator, their teacher(s), and/or parent and receives instruction on demonstrating appropriate behaviors.

“Crisis removal” means the immediate exclusion of a student from school in an emergency, because the conduct of the student presents a clear, immediate threat to the physical safety of self or others, or the student is so extremely disruptive as to make the immediate removal of the student necessary to preserve the right of other students to pursue their education free from undue disruption.

“Cyberbullying” means electronically transmitted acts, i.e., Internet, cell phone, personal digital assistance (PDA), or wireless hand-held device that a student has exhibited toward another student or employee of the charter school which causes mental or physical harm to the other student(s) or school personnel and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening or abusive educational environment:

- (1.) On campus or other charter school premises, on charter school transportation, or during a charter school sponsored activity or event on or off school property.

- (2) Through a department of education data system without department Of communications; or
- (3) Through an off campus computer network that is sufficiently severe persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student or school personnel or both

In evaluating whether conduct constitutes harassment, intimidation or bullying, special attention should be paid to words chosen or the actions, taken, whether the conduct occurred in front of others or was communicated to others, how the perpetrator interacted with the victim, and the motivation, either admitted or appropriately inferred. Electronic transmissions include but are not limited to the use of data, computer software that is accessed through a computer, a computer network system, or other computerized systems, cellular phones, or similar electronic devices that display e-mail, text messaging , blogs, photos, drawings, video clips, on-line community websites, or faxes, or a combination of the foregoing.

“Dangerous instrument or ‘substance’” means any explosive device, instrument, material, or chemical, whether animate or inanimate which in the manner it is used or is intended to be used is known to be capable of producing death or bodily injury. Examples of such items included but are not limited to knives, pipe bomb devices, fireworks, pepper spray, mace, martial arts devices such as sticks and throwing stars; and inanimate objects such as pipes, sticks, or baseball bats swung at a person in a menacing manner so as to cause or threaten bodily injury.

“Dangerous weapon” means an instrument whose sole design and purpose is to inflict bodily injury or death. Examples of such instruments included but are not limited to a dirk, dagger, butterfly knife, switchblade, knife, blackjack, slug shot, billy, metal knuckles, or other weapons that inflict bodily injury or death.

“Department” means the department of education or Public Charter School.

“Detention” means detaining a student on school campus during non-instructional hours to require the student to carry out in-school educational or other activities as may be prescribed by school officials as a form of disciplinary action for student misconduct.

“Disciplinary transfer” means the removal of a student from the school the student is attending as a result of a violation of section 8-19-6.

Disciplinary transfer does not include cases involving the revocation of geographical exceptions under chapter 13 of title 8 under circumstances in which the purpose for granting the geographical exception is no longer valid.

“Dismissal” means the removal of a student from Hawaii public schools for the remainder of the school year or for a period of not less than one calendar year for firearm violations.

“Disorderly conduct” means the following actions or activities on campus or other Hawaii public school premises, on Hawaii public school transportation, or during any school sponsored activity or event on or off school property:

- (1) Engaging in fighting or threatening, or in violent or tumultuous behavior such as yelling or screaming, or both;
- (2) Making unreasonable noise as to cause disruption of normal school operations;
- (3) Making any offensively coarse utterance, gesture, or display or addressing abusive language to any person present which is likely to provoke a violent response;
- (4) Creating a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit;
- (5) Impeding or obstructing any person in a public school for the purpose of begging or soliciting alms or other forms of aid; or
- (6) Inappropriate physical contact including but is not limited to consensual sex or consensual touching of body parts, or both.

“Drug paraphernalia” means any equipment, products or materials of any kind, or combination thereof which is used , intended for use, or designed for use, in planting, harvesting, producing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:

- (1.)Kits, devices, equipment, separation gins, balance scales, blenders, bowls, containers, spoons, capsules, balloons, envelopes, other objects used , intended for use, designed for use in preparing, processing, mixing, storing, or concealing controlled substances;
- (2.)Hypodermic syringes, needles, and other objects used, or designed for use by injecting the controlled substance into the human body;
- (3.)Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil, or forms of methamphetamine, or anabolic steroids into the human body, such as:

- (A) Metal, wooden, glass, acrylic, stone, plastic, or ceramic pipes, water pipes, smoking and carburetion masks, roach clips; meaning objects used to hold burning materials such as marijuana cigarettes, that have become too small or too short to be held in the hand;
- (B) Miniature cocaine spoons, and cocaine vials, bongs, ice pipes, or chillers; and
- (C) Any and all other drug paraphernalia as described and defined pursuant to section 329-1, Hawaii Revised Statutes.

“Educational worker” means any administrator, specialist, counselor, teacher, or employee of the Charter School, or a person who is a volunteer in a school program, activity, or function that is sponsored or approved by the Charter School, or a person hired by the Charter School on a contractual basis and engaged in carrying out an educational function.

“Extortion” means an act committed by a person who:

- (1) Obtains, or exerts control over, the property or services of another with intent to deprive that person of the property or services by threatening by work or conduct to:
 - (A) Cause bodily injury in the future to the person threatened or to any other person;
 - (B) Cause damage to property
 - (C) Subject the person threatened or any other person to physical confinement or restraint;
 - (D) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule, or to impair the person’s credit or business repute;
 - (E) Reveal any information sought to be concealed by the person threatened or any other person;
 - (F) Testify provide information, or withhold testimony or information with respect to another’s legal claim or defense;
 - (G) Take or with hold action as a public servant, or cause a public servant to take or withhold such action;
 - (H) Bring about or continue a strike, boycott, or other similar collective action, to obtain property which is not demanded or received for the benefit of the group which the student purports to represent; or

- (I) Do any other act which would not in itself substantially benefit the person committing the act but which is calculated to substantially harm some person with respect to that person's health, safety, education, business, calling, career, financial condition, reputation, or personal relationship;
- (2) Compels or induces another person to engage in conduct from which that person has a legal right to abstain or to abstain from conduct in which that person has a legal right to engage by threatening by word or conduct to do any of the actions set forth in paragraph (A) through (I) of this definition; or
- (3) Makes or finances any extension of credit, or collects any extension of credit by extortionate means.

"Fighting" means instigating or provoking physical contact involving anger or hostility. Fighting included but is not limited to:

- (1) Engaging in mutual physical contact involving anger or hostility;
- (2) Teasing, harassing, threatening, or intimidation other resulting in physical contact involving anger or hostility;
- (3) Retaliating physically for teasing, harassing, threatening, or intimidating behavior; verbally inciting; or
- (4) Physically supporting a fight by one's presence and encouragement.

"Firearm" means:

- (1) Any weapon including but is not limited to a starter gun, shotgun, air guns which includes BB guns, pellet guns, paintball guns, or cress bow or any other instrument which will or designed to or may readily be converted to expel a projectile;
- (2) The frame or receiver of any such weapon;
- (3) Any firearm muffler or firearm silencer; or
- (4) Any destructive device. The term "destructive device" means:
 - (A) Any explosive, incendiary, or poison gas:
 - (i) Bomb;
 - (ii) Grenade;
 - (iii) Rocket having a propellant charge;
 - (iv) Missile having an explosive or incendiary charge;
 - (v) Mine; or

- (vi) Device similar to any of the devices described in the preceding clause;
- (B) Any type of weapon which will, or which may be readily converted to expel a projectile, including but is not limited to a weapon that expels a projectile by action of an explosive or other propellant; or
- (C) Any combination or parts either designed or intended for use in converting any device described above, and from which a destructive device may be readily assembled.

“Forgery” means:

- (1) A student signing a name other than the student’s own name on a document or;
- (2) The illegal production or reproduction of materials such as fundraising or sports event tickets.

“Gambling” means staking or risking something of value upon the outcome of a contest of chance

or a future contingent event not under the person’s control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but is not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreement to compensate for loss caused by the happening of chance, including but is not limited to contracts of indemnity or guaranty and life, health, or accident insurance.

“Harassment” means a student who is harassing, bullying, including cyber bullying, annoying, or alarming another person by engaging in the following conduct that includes but is not limited to:

- (1) Striking, shoving, kicking, or otherwise touching a person in an offensive manner or subjecting such person to offensive physical contact;
- (2) Insulting, taunting, or challenging another person in a manner likely to provoke a violent response;
- (3) Making verbal or non-verbal expressions that causes other to feel uncomfortable, pressured, threatened, or in danger because of reasons that include but are not limited to the person’s race, color, national origin, ancestry, sex, including gender identity and expression, religion, disability, or sexual orientation that creates an intimidating, hostile, or offensive educational environment, or interferes with the education of

a student, or otherwise adversely affects the educational opportunity of a student or students;

- (4) Name calling, making rude gestures, insulting, or teasing another person who feels humiliated, intimidated, threatened, or embarrassed;
- (5) Making a telephone call without purpose of legitimate communication;
- (6) Making repeated communications anonymously, or at extremely inconvenient hours, or in offensively coarse language on campus or, other Charter School premises, on Charter School transportation, or during a Charter School sponsored activity or event on or off school property;
- (7) Causing fear as to prevent others from gaining legitimate access to or use of school buildings, facilities, services, or grounds such as, but is not limited to, restroom facilities; or
- (8) Physically harming, physically restraining, threatening, or stalking, or a combination of the foregoing.

“Hazing” means any conduct or method of initiation into any student organization or activity, whether on campus or other Charter School Premises, on Charter School transportation, or during a Charter School sponsored activity or event on or off school property, which willfully or recklessly endangers the physical or mental health of any student. Such conduct shall include, but is not limited to whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, indecent exposure, or any other treatment or forced physical activity which is likely to adversely affect the physical or mental health, or both, or safety of any student, or which subjects any student to extreme mental stress, including deprivation of sleep or rest, extended isolation, or personal humiliation.

“Hijacking” means to extort from another by a threat or a perceived threat.

“Homicide” means causing the death of another person.

“Inappropriate or questionable uses, or both, of internet materials and equipment” means when a student is in violation of the Internet Access Policy,¹ the department’s Internet Access Regulations,² and the

¹ Board of Education Policy 2170, amended 10/1997,
<http://lilinode.k12.hi.us/STATE/BOE/POL1.NSF>

² Hawaii Department of Education 2170.1 Internet Access Regulations, amended 08/2000.
<http://www.k12.hi.us/~atr/policy2000/intaccreg.htm>

Network Support Services Branch's Acceptable User Guidelines³ for using computers and network resources. Examples of inappropriate or questionable use of the departments computer and network resources included but are not limited to disabling or bypassing the filters, gambling software, music sharing software, or sexually explicit photographs and pictures that do not support the Charter School's mission and purpose.

Copies of these policies are available via the website listed in the footnotes or may be obtained from the Charter School Office.

"Illicit drugs" means substances, possession, distribution, ingestion, manufacture, use sale or delivery, of which are prohibited under chapter 329, Hawaii Revised Statutes and chapter 712, part IV, Hawaii Revised Statutes.

"Individualized instruction related to student's problem behaviors"

Means as a result of the disciplinary action the student receives individual instruction specifically related to the student's problem behaviors. Examples of individualized instruction included but are not limited to the development and implementation of behavioral support plans, developing behavioral contracts, or social skills training, or a combination of the foregoing.

"Insubordination" means disregard or refusal to obey an order which a teacher, officer, or other employee of the charter school is entitled to give.

"In-school suspension" means a student is temporarily removed from his/her school program for disciplinary purposes but remains under the direct supervision of school personnel to complete instruction work.

"Interim alternative educational setting" or "IAES" means a temporary placement for a student who has been suspended or otherwise removed from his/her current educational placement for disciplinary reasons in which the student continues to receive educational services to enable the student to continue to participate in the general education curriculum and to progress towards meeting the goals set out in the student's IEP.

"Laser pen/pointer" means a devise that emits a bright laser light that appears as a dot on any surface at which it is aimed and is without authorized charter school purpose and use. Unless authorized, the possession or use is prohibited on campus, or other charter school

³Departemnet of Education Network and Internet Services, updated 11/29/2004
<http://nssb.k12.hi.us>

Premises, on public charter school transportation, or during a public charter school sponsored activity or event on or off school property.

“Leaving campus without consent” means leaving the premises of the charter school, facility, or program without first obtaining permission from school officials.

“Low intensity problem behaviors” means those behaviors which are demonstrated with low frequency, brief engagement, and do not lead to serious harm.

“Mail” or “mailed” means documents sent via:

- (1) Regular mail;
- (2) Certified mail; or
- (3) Return receipt requested.

“Minor problem behaviors” means demonstrating of low-intensity problem behaviors that may include, but are not limited to the following.

- (1.)“Defiance/disrespect/non-compliance” means student engages in brief or low-intensity failure to respond to adult requests;
- (2.)“Disruption” means student engages in low-intensity inappropriate disruption;
- (3.)“Dress code violation” means wears clothing that is not within the dress code guidelines as defined by the charter school;
- (4.)“Inappropriate language” means the student engages in low-intensity instances of inappropriate language;
- (5.)“Physical contact” means the student engages in non-serious inappropriate physical contact
- (6.)“Property misuse” means the student engages in low-intensity misuse of property;
- (7.)“Tardy” Means a student arrives at school after school has started. Or a student arrives at class after class has started, or both.

“Negligence” means the failure to use care that a prudent and careful person would use under similar circumstances which result in harm to a person or loss, destruction, breakage, or damage of school books, equipment or of supplies.

“Parent” means the natural or legal parent, legal guardian, or other legal custodian of the student.

“Property damage” or “vandalism” means:

- (1) Damaging the property of the school or another person;
- (2) Destroying or defacing school property or facility; or

- (3) Destroying or defacing school materials, such as but is not limited to planners, identification name tags, or meal cards.

“Rendering false alarm” means a student causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, any governmental agency, or public utility that deals with emergencies involving danger to life and property.

“Restitution” means monetary or non-monetary repayment to the charter school or the State of Hawaii for the reasonable value of public school property lost, damaged, broken or destroyed as the result of student negligence or vandalism.

“Robbery” means, in the course of committing a theft, or hijacking a student:

- (1) Attempts to ill another person, or inflicts or attempts to inflict serious bodily injury upon another person; or
- (2) With or without a dangerous instrument:
 - (A) Uses force against the person with the intent to overcome the owner’s physical resistance or physical power of resistance;
 - (B) Threatens the imminent use of force against the person of anyone who is present with the intent to compel acquiescence to the taking of or escaping with the property; or
 - (C) Inflicts serious bodily injury upon another person.

“School” or “public school” means all academic and non-college type schools established and maintained by the department in accordance with state law.

“School books” means library or text books.

“School official” means any administrator, specialist, counselor, teacher, school security attendant, or other department employee, responsible for the supervision of students. It does not include individuals whose services are procured.

“School related offenses” means any offense involving school property, or offenses committed on campus, or other charter school premises, on charter school transportation, or during charter school sponsored activity or event on or off school property.

“School rules” means school wide conduct rules that have been established by the school.

“School staff” means any teacher, officer, or other employee of the department.

“Search” means after requesting the student voluntarily relinquish the contraband

item(s) and the student refuses and there are reasonable grounds to believe that the student has violated the law or provisions prohibited under this chapter, or if there is a health or safety issue with illicit drugs, dangerous weapons, dangerous instruments, or firearms, or a combination of the forgoing, the school official may examine the contents and belongings which may include but are not limited to purses, fanny packs, backpacks, jackets, shoes, socks, or any other outer clothing.

“Seizure” means to take possession of the contraband item(s) that is or are uncovered during a search.

“Serious discipline” means disciplinary actions including dismissals, disciplinary transfers, crisis removals, and suspensions which either exceed ten school days or will result in the student affected being crisis removed or suspended more than a total of ten school days in any single semester.

“Sexual offense” or “sexual assault” means unwanted touching or grabbing of sexual parts, indecent exposure, using force to engage in intercourse, oral sex, or other sexual contact despite the other person’s clearly expressed refusal or mental or physical ability to consent.

“Smoking” or “use of tobacco” means possession, use, sale, or distribution of tobacco products on campus, or other charter school premises, on charter school transportation, or during charter school sponsored activity or event on or off school property.

“Strip search” means searches, which require the removal of clothing that result in the exposure of genitals, the female breasts, or underwear or a combination thereof.

“Suspension” means exclusion from school for a specific period during the school year.

“Switchblade knife” means any knife having a blade that opens automatically:

- (1) By hand pressure applied to a button or other device in the handle of the knife, or
- (2) By operation of inertia, gravity, or both

“Terroristic threatening” means:

- (1) A threat, by word or conduct, to cause bodily injury to another person or serious damage to property of another person;

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(2) With the intent to cause, or in reckless disregard of the risk of causing evacuation of a building, place of assembly, or facility of public transportation; or

(3) Displaying a “look-alike” gun or weapon.

“Theft” means:

(1) Obtaining, or exerting control over, the property of another and depriving that person of the property;

(2) Obtaining, or exerting control over, the property of another by deceiving and depriving the person of the property;

(3) Obtaining, or exerting control over, the property of another which the person knows to have been lost or mislaid, or to have been delivered under a mistake as to the nature or amount of the property, the identity of the recipient, or other facts, and with the intent to deprive the owner of the property, the person fails to take reasonable measures to discover and notify the owner;

(4) Obtaining services, known by the person to be available only for compensation, by deception, false token, or other means to avoid payment of services;

(5) Having control over the disposition of services of another to which the person is not entitled and diverts those services to the person’s own benefit or to the benefit of a person not entitled thereto;

(6) Failing to make required disposition of funds by:

(A) Obtaining property from anyone upon an agreement, or subject to a known legal obligation, to make specified payment or other disposition, whether from the property or its proceeds or from the person’s own property reserved in equivalent amount, and dealing with the property as the person’s own and failing to make the required payment or disposition; or

(B) Obtaining personal services from an employee upon agreement or subject to a known legal obligation to make a payment or other disposition of funds to a third person on account of the employment, and intentionally failing to make the payment or disposition at the proper time;

(7) Receiving, retaining, or disposing of the property of another, knowing that it has been stolen, with intent to deprive the owner of the property; or

(8) Shoplifting:

- (A) Concealing or taking possession of the goods or merchandise of any Charter School store or Charter School retail establishment, with intent to defraud;
- (B) Altering the price tag or other price marking on goods or merchandise of any Charter School store or Charter School retail establishment, with intent to defraud.

“Trespass” means entering or remaining in or upon the premises of any school, or Charter School facility after reasonable warning or request to leave by school authorities or police officer.

“Truancy” means a student is absent from class(es) or the school campus with authorization from the Director or designee. [Eff 9/1/82; am 5/23/86; am and comp 7/19/93; am and comp 5/19/97; am and comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-101, 302A-1101, 302A-1134, 302A-1134.5)

§8-19-3 Applicability. (a) The provision of this chapter shall apply to all students enrolled in LCPCS during the regular school year, summer session, or intersession regardless of age with the addition that, outside of the hours when school is in session, boarding students are subject to the dormitory rules developed by the school and agreed upon through written consent by the parent(s) or legal guardian(s) of boarding students.

(b) The Hawaii administrative rules for students with disabilities shall apply in the discipline of students who are eligible to receive special education or other services under those chapters.

(c) References to Director or designee in subchapter 2 shall be construed to include summer school director for purposes of discipline in summer school. References to school year in this chapter shall be construed to mean summer session whenever summer school applies.

(d) Discipline during intersession and in summer school shall be governed by subchapter 3. Discipline of students who receive special education services during an extension of the student’s school year shall

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be governed by subchapter 2 and the guidelines and requirements of the Hawaii administrative rules for students with disabilities.

(e) In all cases of student-related administrative actions and reporting, chapter 8-34 shall apply. In addition, for students who receive special education services, the Hawaii administrative rules for students with disabilities shall prevail.

(f) No action relating to suspension, serious discipline, or restitution for vandalism or negligence shall be take except in accordance with this chapter.

(g) All matters relating to police interview or arrests, or both of students shall be administered in accordance with this chapter. [Eff 9/1/82; am 5/23/86; am and comp 7/19/93; am and comp 5/19/97; am and comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302-1112) (Imp: Hawaii Const. Art. X, §3; HRS 302A-1101)

§8-19-4 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter that can be given affect without the invalid provision or application, and to this end, the provisions of this chapter are severable. [Eff 5/23/86; comp 7/19/93; comp 5/19/97; comp 2/22/01; comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

SUBCHAPTER 2

STUDENT MISCONDUCT AND DISCIPLINE DURING THE REGULAR SCHOOL YEAR

§8-19-5 Disciplinary actions; authority. (a) Suspensions exceeding ten school days or suspensions that will result in the student being suspended more than a total of ten school days in any single semester, disciplinary transfers, dismissals, and extension of crisis removals shall be approved by the LCPCS Director.

(b) Crisis removals and suspensions of ten school days or less may be approved by the Director or designee.

(c) In determining disciplinary actions, the Director or designee shall consider the intention of the offender, the nature and severity of the offense, the impact of the offense on other including whether the action

Was committed by an individual or a group of individuals such as a gang, the age of the offender, and if the offender was a repeat offender. [Eff 9/1/82; ren §8-19-4, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-1112, 302A-1002)
(Imp: HRS §§302A-1112, 302A-1002)

§8-19-6 Prohibited student conduct; class offenses. (a) The following prohibited conduct applies to all students in LCPCS, on campus, or other LCPCS premises, on LCPCS bus transportation, or during an LCPCS sponsored activity or event on or off school property.

(1) Class A offenses:

- (A) Assault;
- (B) Burglary;
- (C) Dangerous instrument, or substance; possession or use of;
- (D) Dangerous weapons; possession or use of;
- (E) Drug paraphernalia; possession, use, or sale of;
- (F) Extortion;
- (G) Fighting;
- (H) Firearms; possession or use of;
- (I) Homicide;
- (J) Illicit drugs; possession, use or sale of;
- (K) Intoxicating substances; possession, use or sale of;
- (L) Property damage or vandalism;
- (M) Robbery;
- (N) Sexual offense; or
- (O) Terroristic threatening;

(2) Class B offenses:

- (A) Bullying;
- (B) Cyber-bullying;
- (C) Disorderly conduct;
- (D) False alarm;
- (E) Forgery;
- (F) Gambling;
- (G) Harassment;
- (H) Hazing;
- (I) Inappropriate or questionable uses , or bot of internet materials or equipment or both;
- (J) Theft; or

(K) Trespassing.

(3) Class C offenses:

- (A) Abusive language;
- (B) Class cutting;
- (C) Insubordination;
- (D) Laser pen/pointer; possession or use of;
- (E) Leaving campus without consent;
- (F) Smoking or use of tobacco substances; or
- (G) Truancy.

(4) Class D offenses:

- (A) Contraband; possession or use of;
- (B) Minor problem behaviors; or
- (C) Other school rules.

I. Any other conduct as may be prescribed and prohibited by school rules. School rules shall be published or made available for inspection at the school office and shall inform students, school staff and parents of the prohibited conduct under class A through D of this section.

II. No disciplinary action amounting to serious discipline shall be imposed for violation of any school rule as a class D offense.

(b) Any student who possesses a firearm shall be dismissed from school for not less than one calendar year period. The possession or use of a fire arm is prohibited on campus, or other LCPCS premises, on LCPCS transportation or during an LCPCS sponsored activity or event on or off school property except for participation in athletic teams, clubs and/or Junior Reserve Officer Training Corp (JROTC) shooting sports programs and marksmanship training, education, and competitions. The director or designee, on a case by case basis, may modify the dismissal of a student found to be in possession of a firearm. If a student is dismissed from school, that student shall be provided alternate educational activities or other appropriate assistance as provided in section 8-19-11

(c) Any student who possesses, sells, or uses a dangerous weapon, switchblade, knife or any improperly used knife, intoxicating substance(s), or illicit drug(s) while attending school may be excluded from attending school for up to ninety-two school days. Any student who reasonably appears to be under the influence of, have consumed or used intoxicating substance(s) or illicit drug(s) prior to attending school or

Attending LCPCS-supervised activities held on campus, or other LCPCS premises, on LCPCS transportation, or during an LCPCS sponsored activity or event on or off school property may be excluded from attending school for up to ninety-two days. The director or designee can approve suspensions of one to ten days. The director shall approve suspensions exceeding 10 school days.

In exercising this discretion and determining disciplinary actions, the director or designee shall consider the nature and the severity of the offense, the impact of the offense on others, the age of the offender, and if the offender is a repeat offender. If the student is excluded from attending school, the director or designee shall ensure that alternate educational activities or other appropriate student support assistance shall be provided, in accordance with Hawaii administrative rules for students with disabilities, if applicable.

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(d) Disciplinary action shall be taken for all class offenses in grades kindergarten through twelve in accordance with procedures established under this chapter and within the following options as determined by the authorities designated in section 8-19-5. Interventions to teach students appropriate behaviors must be instituted when disciplinary actions are imposed. Disciplinary action options may include the following:

- (1) Correction and conference with student;
- (2) Detention;
- (3) Crisis removal;
- (4) Individualized instruction related to student's problem behaviors;
- (5) In-school suspension;
- (6) Interim alternate education setting;
- (7) Loss of privileges;
- (8) Parent conferences;
- (9) Time in office;
- (10) Suspension of one to ten school days;
- (11) Suspension of eleven or more school days;
- (12) Saturday School;
- (13) Disciplinary transfer;
- (14) Referral to alternative education programs;
- (15) Dismissal; or
- (16) Restitution.

(e) Students shall be counseled in addition to any disciplinary action taken under subsections (c) and (d).

(f) No action amounting to serious discipline shall be imposed on students for committing class D offenses.

(g) No suspension or serious discipline shall be imposed on any student because of class cutting or truancy beyond those outlined in the discipline plan for class C offenses.

(h) The disciplinary action options of subsections (c) and (d) shall be construed as disciplinary actions within a school year.

(i) Disciplinary actions may be carried over to the following school year if the offense is committed within twenty school days from the last instructional day for students in that school year. [Eff 9/1/82; am and ren §8-19-5, 5/23/86; am and comp 7/19/93; am and comp 5/19/97, am and comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-1134, 302A-1134.5)

§8-19-7 Crisis removal. (a) A Director or designee, in an emergency, may crisis remove a student immediately based upon preliminary inquiry and findings that the student's conduct presents a clear immediate threat to the physical safety of self or others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue an education free from undue disruption.

(b) Upon imposition of a crisis removal the school shall make a good faith effort to inform the parent immediately by telephone.

(c) A follow-up written notice of the crisis removal shall be personally delivered or mailed to the parent. The notice of the crisis removal shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the crisis removal;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of the disciplinary action(s); and
- (4) A statement of a conference date, time, and place offered by the school administration to meet with parent.

In addition to the crisis removal notice required by this subsection, the Director or designee shall attempt to confirm the notice by telephoning the parent.

(d) A student who is the subject of a crisis removal shall be permitted to resume attendance at school as soon as the crisis no longer exists.

(e) A crisis removal shall not continue for more than ten school days except during an appeal. [Eff 9/1/82; am and ren §8-19-6, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-19-7.1 Investigation. (a) Immediately after making a crisis removal or whenever the Director or designee shall make a good faith effort at the earliest point possible to inform the parent about the school's investigation. If after making reasonable attempts, the Director or designee is unable to contact the parent, the

§8-19-7.1

school may engage in and complete the investigation. The investigation shall be completed as quickly as possible. If the Director or designee elects to initiate proceedings for the imposition of serious discipline other than crisis removal, the Director or designee upon completion of the investigation, shall make a written report containing a brief summary of the testimony of witnesses interviewed, any other evidence, and the Director or designee's reason(s) for the initiation of disciplinary proceedings.

(c) The Director or designee shall give to the parent notice of the findings against the student. If the student or parent denies the charge(s), the Director or designee shall indicate to the parent and the student the evidence to support the findings of the school official. The student or parent shall be given an opportunity to present the student's version of the incident. [Eff and compt 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A1112)

§8-19-8 Suspension. (a) Whenever a Director or designee has reason to believe that a student has engaged in activity warranting the imposition of suspension, the Director or designee shall immediately conduct an investigation of the incident. Upon completion of the investigation and findings, the student may be suspended if the Director or designee finds that the findings are sustained. The Director or designee shall inform the parent in writing of the findings and the disciplinary actions.

(b) If the student or parent denies the charge(s), the Director or designee shall indicate to the student and parent what evidence school authorities have to support the findings of the school official. The student or parent, or both shall be given an opportunity to present the student's version of the incident. However, where the student is unable to understand the seriousness of the charges, the nature of the proceedings, and consequences thereof, or is of such age, intelligence or experience as to make meaningful discussion difficult, the Director or designee shall request that the parent be present to participate in the discussion.

(c) If the total number of days in any single semester for suspensions exceeds ten school days, the due process procedures of this chapter shall apply unless otherwise indicated by law.

(d) The parents shall be given verbal notice of any suspension regardless of its length. Prior notice for suspension shall be by telephone, of feasible, and the written notice personally delivered or mailed to the parent upon completion of the investigation. The suspension notice shall contain the following written statements:

- (1) Allegations of the specific acts committed by the student that form the basis of the suspension;
- (2) The allegations of the specific acts that were substantiated;
- (3) A statement of a conference date, time, and place offered by the school administration to meet with the parent.

In addition to the notice required by this subsection, the principal shall attempt to confirm the notice by telephoning the parent. [Eff 9/1/82; am and ren §8-19-7, 5/23/86; am and comp 7/19/93; comp 5/19/97; am and comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

‘ §8-19-9 Due process for suspensions exceeding ten days, disciplinary transfers, and dismissal.

- (a) If, based upon the investigation, the Director or designee believes that a student engaged in an activity which constitutes a violation of this chapter, and if the Director or designee recommends that serious discipline other than crisis removal be imposed, the Director or designee shall notify the Governing Board Chair
- (b) Director or designee will make a good faith effort to inform the parent of:
 - (1) The serious discipline incident,
 - (2) The opportunity to appeal, and
 - (3) That the disciplinary action will be implemented immediately.
- (b) Within three school days of the verbal authorization from the
- (c) The Director or designee shall mail a written notice of the serious discipline incident with the appeal form to the parent. The written notice of serious discipline shall contain the following statements:
 - (1) Allegations of the specific acts committed by the student that form the basis of the serious discipline;
 - (2) The allegations of the specific acts that were substantiated;
 - (3) A statement of the disciplinary action(s); and
 - (4) A statement that the parent has a right to an appeal to the Governing Board Chair at which time the parent may

present evidence, call and cross-examine witnesses, and be represented by legal counsel and to the extent the parent provides a written notice of legal representation at least ten calendar days prior to the appeal.

- (5) If the student or parent would like to file an appeal, the appeal must be submitted in writing and received by the Governing Board Chair by the close of business of the seventh school day from the date of the issued serious discipline notice. The student shall be permitted to attend school pending the appeal unless the Director finds the continued presence of the student creates a substantial risk to self or others or to the rights of other students to pursue their education free from disruption. However, the student shall not participate in any extracurricular activities, including but are not limited to athletics, trips, or clubs.
- (d) Upon receipt of a written request for an appeal, the Governing Board Chair shall, within ten school days, schedule an appeal and shall inform the parent of the date, time and place. Written notice of the appeal shall be mailed to the parent and the Director or designee at least fifteen calendar days before the appeal. The appeal shall be conducted by the Governing Board Chair, an impartial appointee, or an impartial designee at least fifteen calendar days before the appeal. The appeal shall be conducted as follows:
 - (1) The appeal shall be closed unless the student or parent requests that it be public;
 - (2) Parent and Director or Director's designee have the right to present evidence, cross-examine witnesses, and submit rebuttal testimony;
 - (3) Parent and Director or Director's designee may be represented by legal counsel;
 - (4) The Governing Board Chair, the impartial appointee or the impartial designee need not follow the formal rules of evidence;
 - (5) The Governing Board Chair, the impartial appointee or the impartial designee shall impartially weigh the evidence presented;
 - (6) The parent, at the parent's own expense, may record or obtain a copy of the tape recording, or transcript of the school's tape recording of the proceedings only if

requested for purposes of court review. The Governing Board Chair, the impartial appointee or the impartial designee shall record a transcript or tape recording of the proceedings;

- (7) The Governing Board Chair shall no later than seven school days from the close of the appeal render a decision in writing stating clearly the action(s) to be taken and the basis for such actions. The written decision shall be mailed or personally delivered to the parent, the student's attorney of record, and a copy to the school. If the disciplinary action is upheld, the Governing Board Chair shall indicate the total number of suspension days and within the suspension beginning and ending dates take into consideration the number of suspension days the student may have already served.

Duration of disciplinary actions. (a) If the disciplinary action could not be imposed as result of the appeal process, the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(b) If the acts, which resulted in disciplinary action, was committed within twenty days from the last instructional day for students in the school year the disciplinary action may be carried over to the next school year at any public school and does not include summer school.

(c) This section shall not apply to firearms violations. Disciplinary action for firearm violations is a mandatory not less than one calendar year.

(d) Other than as described in subsections (a) and (b), no disciplinary action shall continue beyond the school year in which the

action was committed. [Eff 9/1/82] ren §8-19-9m 5/23/86; comp 7/19/93; am and comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1134)

§8-19-11 Alternate educational activities and other assistance when students are found in violation of this chapter. (a) The school shall ensure that alternate educational activities or active participation of the public or private agencies are provided as appropriate for all students who are crisis removed for a period exceeding ten school days or suspended for a period exceeding ten school days.

(b) For all students who are suspended for one to ten school days, the Director or designee may consider providing alternate educational activities based on student's need.

(c) The Hawaii Administrative Rules for students with disabilities shall apply for students eligible under this chapter. [Eff 9/12/82; am and ren §8-19-10, 5/23/86; comp 7/19/93; comp 5/19/967; comp 2/2201; am and comp 9/10/09] (Auth: §302A-1112) (Imp: HRS §§302A-1112, 302A-1128)

SUBCHAPTER 3

STUDENT MISCONDUCT AND DISCIPLINE DURING SUMMER SCHOOL

§8-19-12 Disciplinary actions; authority. The summer school director or designee shall impose disciplinary action against any student attending summer school. [Eff 5-23-86; comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-19-13 Prohibited student conduct; class offenses. (a) The following prohibited conduct applies to all students in summer school during summer school hours, on campus, or other Charter School premises, on Charter School transportation, or during a Charter School sponsored activity or event on or off school property.

(1) Class A offenses:

- (A) Assault;
- (B) Burglary;
- (C) Dangerous instrument, or substance; possession or use of;
- (D) Dangerous weapons; possession or use of;
- (E) Drug paraphernalia; possession, use, or sale of;
- (F) Extortion;
- (G) Fighting;
- (H) Firearms; possession or use of;
- (I) Homicide;
- (J) Illicit drugs; possession, use, or sale of;
- (K) Intoxication substances; possession, use, or sale of;
- (L) Property damage or vandalism;
- (M) Robbery;
- (N) Sexual offenses; or
- (O) Terroristic threatening.
- (2) Class B offenses:
 - (A) Bullying;
 - (B) Cyber bullying;
 - (C) Disorderly conduct;
 - (D) False alarm;
 - (E) Forgery;
 - (F) Gambling
 - (G) Harassment;
 - (H) Hazing;
 - (I) Inappropriate or questionable uses, or both of internet materials or equipment, or both;
 - (J) Theft; or
 - (K) Trespassing.
- (3) Class C offenses:
 - (A) Abusive language;
 - (B) Class cutting;
 - (C) Insubordination;
 - (D) Laser pen/laser pointer; possession or use of;
 - (E) Leaving campus without consent;
 - (F) Smoking or use of tobacco substances; or
 - (G) Truancy.
- (4)
 - (A) contraband; possession or use of;
 - (B) Minor problem behaviors; or
 - (C) Other school rules.

(b) Class C and D offenses: A summer school student who commits two of any class C or D offenses as defined in section 8-19-6 in the course of summer school shall receive a warning for the first offense and may be released from summer school for the second offense.

(c) Any student who commits a class A or B offense shall be dismissed from summer school. The summer school director or designee shall notify and meet with the student and parent prior to dismissal from summer school. The summer school director shall file a report with the Board Chair and shall provide a copy to the parent.

(d) A summer school director or designee, in an emergency, may impose a crisis removal of a student immediately after finding that the student's conduct presents an immediate clear threat to the physical safety of others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue an education free from undue disruption. The summer school director or designee shall inform and meet with the student and parent prior to the student's reinstatement in summer school. No student shall be reinstated without the meeting. The school director or designee shall file a report with the board chair and shall provide a copy to the parent. [Eff 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

SUBCAPTER 4

SCHOOL SEARCHES AND SEIZURES

§8-19-14 Policy on opening and inspection of school lockers.

School lockers provided to the student on campus are subject to opening and inspection (and external dog sniffs) by school officials at any time with or without cause, provided that the searches are not because of the student's race, color, national origin, ancestry, sex, gender identity and expression, religion, disability, or sexual orientation. Section 8-19-15 shall have no applicability to the opening and inspection (and external dog sniffs) of students lockers. None of the restrictions in section 8-19-5 through 8-19-18 or related to general school searches and seizures shall in any way be construed to create an expectation of privacy in student

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lockers. Students should assume that their lockers are subject to opening and inspection (and external dog sniffs) any time with or without cause.

[Eff 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)]

§8-19-15 Policy on general school searches and seizures. Except as provided in section 8-19-14 regarding student lockers, students have a reasonable expectation of privacy in their persons on campus, or other charter school premises, on charter school transportation, or during charter school sponsored activity or event on or off school property. Schools have an equally legitimate need to maintain order and an environment where learning can take place. In fulfilling this legitimate need, school officials may on occasion need to carry out searches and seizures on campus, or other charter school premises, on charter school transportation, or during a charter school sponsored activity or event on or off school property. As a general policy, except as provided in section 8-19-14 regarding student lockers, the searches and seizures are permissible if there are reasonable grounds to suspect, based on the attendant circumstances that the search will turn up evidence that the students have violated or are violating either the law or the student conduct prohibited under this chapter. Searches and seizures conducted by school officials shall abide by the provisions of this subchapter. [Eff 5/23/86; comp 7/19/93; comp 5/19/97; comp 2/21/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)]

§ 8-19-16 Authority. Except as provided in section 8-19-14 regarding student lockers, property may be searched if there are reasonable grounds to suspect, based on the attendant circumstances that the search will turn up evidence that student or students, or others on campus, or other charter school premises, on charter school transportation, or during charter school sponsored activity or event on or off school property have violated the law or the provisions in this chapter. A school official conducting a search shall be accompanied by another school official serving as a witness, unless it is an emergency where prompt action is necessary to protect the health or safety, or both of any person or persons.

[Eff 5/23/86; comp 7/19/93; comp 5/19/97; comp 2/21/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)]

§8-19-17 Conditions under which general school searches and seizures may be carried out. (a) Except as provided in section 8-19-14 regarding student locker searches and seizures may be carried out by school officials when all of the following conditions are met:

- (1) If at the time of the search, there are reasonable grounds to suspect based on the attendant circumstances that the search will turn up evidence that the student or students have violated the law or provisions prohibited under this chapter.
- (2) The manner in which the search is to be conducted is reasonably related to the purpose of the search.
- (3) The student who will be subjected to a search shall be informed of the purpose of the search and shall be given an opportunity to voluntarily relinquish the evidence sought by the school official.

(b) The director or designee of the school shall be informed by the school official who will conduct the search that a search is to be conducted and of the purpose of the search unless it is an emergency where immediate action is necessary to protect the health and safety, or both of a person or persons.

(c) If more than one student is suspected of committing a violation, then, if practical and not a risk to health or safety, the school official conducting the search shall start with the student most suspected of having the item in the search. [Eff 5/23/86; am and comp 7/19/93; am and comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-112, 703-302(2)) (Imp: Hawaii Const. Art. X §3, HRS §§302A-1101, 302A-1112, 703-309(2))

§8-19-18 Prohibited searches and seizures. Except as provided in section 8-19-14 regarding student lockers:

- (1) Random searches are prohibited.
- (2) Strip searches are prohibited.
- (3) A school official shall not conduct a search requiring bodily contact of a student except when such a search is necessary to prevent harm to the health or safety, or both of a person or persons.

- (4) In the course of a search, the use of force against a student is prohibited unless the school official believes that the force to be used is necessary to prevent harm to the health or safety, or both of a person or persons or where the student physically resists the search.
- (5) A search conducted under the provisions of this subchapter shall be limited to the object or objects for which the search was conducted. However, any other object observed during a search may be seized by a school official when possession of the object is a violation of the law or the provisions of this chapter, or when non-seizure may pose a threat to the health or safety, or both of a person or persons, including the school official conducting the search. [Eff 5/23/86; am and comp 7/19/93; am and comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-112, 703-302(2)) (Imp: Hawaii Const. Art. X §3, HRS §§302A-1101, 302A-1112, 703-309(2))

SUBCHAPTER 5

REPORTING OFFENSES

§8-19-19 Reporting class A and class B offenses occurring in school.

- (a) Any teacher, official, or other employee of the charter school who is a witness to a class A or class B offense as defined in this chapter, or who has reasonable cause to believe that a class A or class B offense has been committed or will be committed, against a student, teacher, official, or other employee of the charter school, or involving school property, shall promptly report the incident to the director or designee. Nothing in this subsection shall be construed to prohibit or prevent a teacher, official, or other employee of the charter school from reporting class C or class D offenses to the director or designee.
- (b) Upon receiving a class A or class B offense report, the director or designee shall conduct an investigation to determine whether the behavior requires a direct call to the police or whether the behavior can be handled through school disciplinary procedures. The director or designee shall call the police whenever there is perceived danger and the behavior cannot be handled by the school staff.
- (c) The director or designee shall record the incident information into the charter school's electronic database system within five school days of the offense.
- (d) The director or designee shall notify the reporting teacher, official, or other employee, of the disciplinary action, if any, taken on the

class offence(s) within five school days after the incident is reported in accordance with subsection (c).

- (e) If the teacher, official, or other employee is dissatisfied with the disciplinary action taken on the offense reported, or if no disciplinary action has been taken within ten school days after the incident was reported by the teacher, official, or other employee, the person who made the report may appeal to the school board chair, in writing.
- (f) Within five school days of receiving an appeal as provided in subsection (e), the board chair or designee shall notify the appellant, in writing, of the disciplinary action taken on the offense reported. [Eff 9/1/82; am and ren §8-19-11, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-1112, 302A-1003) (Imp: HRS §§302A-1002)

§8-19-20 Indemnity upon reporting class A and class B offenses.

- (a) Any teacher, official, or other employee of the charter school who in good faith reports as required under §8-19-19 shall be indemnified and held harmless in accordance with section 302A-1003, Hawaii Revised Statutes. [Eff 9/1/82; am and ren §8-19-11, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-1112, 302A-1003) (Imp: HRS §§302A-1112, 302A-1003)

§8-19-21 Failure to report a class A or class B offense occurring in school;

consequences. (a) the board chair shall furnish an annual written notice to the charter school that failure to report class A or class B offenses occurring on campus, or other charter school premises, on charter school transportation, or during charter school sponsored activity or event on or off school property may result in disciplinary actions against the responsible teachers, officials, or other employees of the charter school. Disciplinary actions may include:

- (1) Oral warning;
- (2) Written warning;
- (3) Suspension without pay;
- (4) Demotion; or
- (5) Dismissal.

- (b) Teachers, officials, or other employees of the charter school who fail to report class A or class B offenses as required by section 8-19-19

19 may be disciplined. Disciplinary actions may include:

- (1) Oral warning;
- (2) Written warning;
- (3) Suspension without pay;
- (4) Demotion; or
- (5) Dismissal.

(b) Any teacher, official, or other employee of the Charter School who is disciplined for failure to report class A or class B offenses occurring on campus, on Charter School premises, on Charter School transportation, or during a Charter School sponsored event on or off property shall have the right to appeal the disciplinary action as provided by state law or regulations and procedures of the Charter School or applicative collective bargaining agreements. [Eff 9/1/82; am and ren §8-19/13, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §§302A-1112, 302A-1002) (Imp: HRS §§302A-1112, 302A-1002)

SUBCHAPTER 6

POLICE INTERVIEWS AND ARRESTS

§8-19-22 Police interview in school for school-related offenses. (a) Police officers may appear at a school to question a student. Upon arrival at the school, the police officer shall be directed to the Director or designee to request permission to interview a student. If permission to interview a student is to be granted, the Director or designee shall make an effort to inform the parent of the police interview and the right to be present when the interview is conducted. The interview may be conducted if the Director or designee is unable to inform the parent or if the parent is informed and declines to be present, or if after a reasonable period of time after the notice is given the parent fails to appear at school for the police interview.

(b) The Director or designee shall be present during a police interview unless excluded by the police officer.

(c) If a student is arrested, the Director or designee shall follow the procedures prescribed in section 8-19-24. [Eff 9/1/82; am and ren §8-19-14, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)

§8-19-23 Police interviews in school for non-school related offenses. (a) Police officers shall contact the school and advise the

Director or designee of the nature and circumstances of the visit. Upon arrival at the school, the police officer shall be directed to the Director or designee to request permission to interview a student.

(b) Prior to any interview, the Director or designee shall inform the parent of the right to be present while the police interview is conducted. The interview can take place upon obtaining verbal consent from the parent. The notification and consent requirements of this subsection shall not be followed if the nature of the interview involves child abuse or other offenses where a parent or household member is suspected of committing an offense against the student.

(c) The Director or designee shall keep a log and record the student's name, the date of the police interview, and the police officer's name and badge number and police report number if available.

(d) If the student is arrested by police, the Director or designee shall follow the procedure prescribed in section 8-19-24 [Eff 9/1/82; am and ren §8-19-15, 5/23/86; am and comp 7/19/93; am and comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)

§8-19-24 Police arrests in school. Police shall be directed to the Director or designee. Whenever possible the student shall be sent to the Director's office for the police officer to effect the pending arrest. Upon police arrival to arrest a student, the Director or designee shall make a good faith effort to inform the parent. [Eff 9/1/82; am and ren §8-19-16, 5/23/86; am and comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X, §3; HRS §§302A-1101, 302A-1112)

SUBCHAPTER 7

RESTITUTION FOR VANDALISM

§8-19-25 Liability for vandalism. (a) When any student is found to be responsible for an act of vandalism against any public school building, facility, or ground, restitution shall be made by the student or parent. There shall be no restitution when vandalism cannot be proved to have been committed by the student.

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(b) Notwithstanding the provisions of this chapter, the school and/or State may elect to bring any appropriate action for the recovery of damages to school properties.

(c) If a student is to be disciplined for an act of vandalism under this chapter, restitution procedures shall be initiated only after the disciplinary procedures of this chapter have been completed and the Director or designee conducting the investigation has reason to believe that the student has violated the provisions of this chapter. [Eff 5/23/86; comp 7/19/93; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-1153)

§8-19-26 Procedures applicable to vandalism. (a) Whenever a Director or designee has reason to believe that a student may be responsible for an act of vandalism against any public school building, facility or ground, the Director or designee shall immediately initiate an investigation.

(b) If the vandalism is an act which subjects the student to disciplinary action under this chapter, the Director or designee shall include as part of the investigation required under sections 8-19-7, 8-19-8, 8-19-9, and 8-19-10, a determination of the facts and circumstances that support restitution under this subchapter. Further action related to restitution shall be held in abeyance until disciplinary action has been determined and appeal procedures have been exhausted.

(c) If after the investigation, the Director or designee has reason to believe that a student is responsible for the vandalism, the Director or designee shall schedule a conference with the student and parent. Attendance at the conference shall be limited to the Director or designee, student, and parent.

(d) Advance written notice of the conference shall be made and shall be delivered by mail to the parent. No student or parents shall be required to make restitution in any manner unless the parents has been notified and has been given an opportunity to be heard. The notice shall inform the parent of the findings and the date, time, and location of the conference. The notice shall be mailed at least fifteen calendar days before the date of the conference. When necessary to achieve effective communication the notice shall be provided in the native language of the parent. The school may use other means of communication, such as the telephone, to augment the written communication between the school and the parent.

- (1) The parent shall respond to the notice within seven calendar days from the date of the notice.
- (2) The conference date provided for in the notice may be rescheduled if the parent of the student contacts the school to arrange for a new conference date. The request to reschedule the conference shall be made within seven calendar days of the date of the notice.
- (3) The conference and an informal settlement may be agreed upon in cases where damages do not exceed \$3,500. If a settlement is reached, a written agreement for restitution shall be executed between the parent and the school. A written agreement shall be executed only if the damages do not exceed \$3,500.
- (e) If a parent fails to respond to the notice within the time limit, the Director or designee may:
 - (1) Reschedule the conference date if the Director or designee determines that the failure to respond was for good cause or if it is in the best interest of the school or student; or
 - (2) Inform the parent in writing that a notice was given for an opportunity to be heard at a conference with the Director or designee, and because of the failure to respond to the notice, the matter shall be referred to the Governing Board Chair by the Director or designee for further action.
- (f) The conference shall be conducted in the following manner:
 - (1) The parties present at the conference shall be the Director or designee, student, and parent. Except for the Director or designee of the school in which the vandalism occurred, the student, and the parent, no other person shall be permitted to be present at the conference for any reason.
 - (2) At the conference, the Director or designee of the school in which the vandalism occurred shall present the findings of the investigation and the restitution requirements.
 - (3) If the student and the parent agree with the amount and manner in which restitution is to be made, the Director or designee, the student and parent shall execute a written agreement which shall specify the manner in which restitution is to be made and the time period within which the restitution shall be completed, provided that the damages do not exceed \$3,500. Restitution may be made in any manner, including monetary restitution by the student and parent. If damages exceed

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\$3,500, the matter shall be referred to the board chair who shall refer the matter to the attorney general for further action.

- (1) When the restitution is completed, all records and documents regarding the investigation and conference shall be maintained at the school for three years. No information about the investigation, conference and actions taken shall be communicated to any person not directly involved in the proceedings.
- (2) If a written agreement is executed and the parent or student fails to comply with the terms of the agreement, the director or designee may forward the matter to the board chair. The board chair shall review the matter and take appropriate action, which may include referral to the attorney general for further action.
- (3) If the student and parent do not agree with the findings made by the director or designee, the director or designee shall transmit all the records and documents regarding the investigation and conference, and shall report the findings and circumstances of the matter to the board chair who shall review the matter and take appropriate action which may include a referral of the matter to the attorney general for further action. If damages exceed \$3,500, the matter shall be referred to the attorney general for further action. [Eff 5/23/86; am and comp 7/19/83; comp 5/19/97; comp 2/22/01; am and comp 9/10/09] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-1153)

§8-19-27 REPEALED [R 2/22/01]

§8-19-28 REPEALED [R 2/22/01]

§8-19-29 REPEALED [R 2/22/01]

Laupahoehoe Community Public Charter School
Consequence Grid
Effective 2/15/13

Class	Type of Offense	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense	Excessive
Class A	Assault, Burglary, Dangerous Substances, Drugs, Alcohol, Extortion, Property damage, Robbery, Sexual offenses, Terroristic threatening	Police are called to campus. Crisis suspension if necessary and Suspension 10 or more days and parent conference before student can return to campus.	Police are called to campus. Crisis suspension if necessary and Suspension of more than 10 days and parent conference before student can return to campus	Crisis Suspension if necessary and Dismissal or Disciplinary Transfer		
Class B	Disorderly Conduct, Gambling, Harassment, Theft, Displaying a look a-like weapon, trespassing, Using vulgar language toward other students. Cursing at teachers or staff (or harassment, including sexual harassment, of teachers or staff).*	Crisis suspension if necessary. Detention and parent notification OR suspension and parent conference before student can return to campus. *1 day suspension.	Crisis suspension if necessary. Detention after school for 3 days and parent notification OR suspension and parent conference before student can return to campus. *3 days suspension.	Crisis suspension if necessary. Suspension 1-10 days	Dismissal or Disciplinary Transfer	
Class B	Rendering a False Alarm (including but not limited to pulling fire alarm)	Police called to campus. Crisis suspension if necessary. Suspension 2 days and parent conference before student can return to campus.	Police called to campus. Crisis suspension if necessary. Suspension for 10 days. Parent conference before student can return to campus.	Police called to campus. Crisis suspension if necessary. Suspension for more than 10 days and dismissal or disciplinary transfer.	Police called to campus and dismissal or disciplinary transfer.	
Class C	Insubordination	Removal from classroom. Parent notification. Detention or loss of activity for 1 day.	Removal from classroom. Parent notification. Detention for 3 days or loss of more than one activity.	Crisis suspension if necessary. Suspension 1-3 days. Parent conference before student can return to campus	Crisis suspension if necessary. Suspension 3-10 days. Parent conference before student can return to campus	Dismissal or Disciplinary Transfer
Class C	Class cutting, Leaving Campus w/o consent. Truancy	Police called. Parent Notification. Detention or Suspension for 1-3 days and parent conference before student can return to campus.	Police called. Detention for 3-5 days or Suspension for 1-3 days. Loss of an activity. Parent notification. Parent conference before student can return to campus.	Police called. Detention for 5-10 days or Suspension for 1-3 days. Loss of an activity. Parent notification. Parent conference before student can return to campus.	Police called. Detention for 5-10 days or Suspension for 1-3 days. Loss of an activity. Parent notification. Parent conference before student can return to campus.	Police called. Dismissal or Disciplinary Transfer
Class C	Vulgar language. If directed at another student or a teacher see class B.	Detention and parent notification.	Detention 3 days and parent notification. 3 days detention.	Detention 5-10 days and loss of an activity and parent notification.	Suspension for 1 day.	
Class D	Dress code violations	Reminder and shirt loaned to student	Detention for 1 day. Reminder and parent notification. Shirt loaned to student.	Detention for 3 days. Reminder and parent notification. Shirt loaned to student.	Insubordination Suspension for 1 day.	
Class D	School rule violations excluding those covered under class a, b, and c.	Detention	Detention	Detention for 3 days and loss of activity	Insubordination Suspension for 1 day.	Suspension for 2 days.

