

## **PROHIBITION OF FIREARMS UNDER GUN-FREE SCHOOLS ACT OF 1994**

In order to ensure the safety of students, staff, and the general public, to minimize disruptions in educational activities and programs, to remain eligible for federal funds under the Goals 2000 Act of 1994, and to comply with Section 3214(d)(3) of the Education Law, the Board of Education of the Berlin Central School District establishes the following rules and requirements.

### **I. Mandatory Student Suspension of Not Less Than One Year**

Any student who is determined to have brought a weapon to school shall be suspended from school for a period of not less than one (1) calendar year.

### **II. "Weapon" Defined**

The term "weapon" under this policy shall mean a firearm, as that term is defined in federal law (18 U.S.C. Sec. 921), viz.: any weapon, including a starter gun, that will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; any firearm muffler or silencer; or any destructive device; but not including an antique firearm.

The term "weapon" shall also include a knife with a blade and in excess of 2 and 1/2 inches in length and any other object or device carried onto school property for the purpose of causing harm to another.

### **III. Superintendent's Authority to Modify One-Year Minimum Suspension Requirement**

The Superintendent of Schools shall have the authority to modify the one-year suspension requirement for a student, as described in number 1, above, on a case-by-case basis. The determination of the Superintendent in a student disciplinary matter arising under this policy shall be subject to review by the Board of Education.

### **IV. Student Referral to Law Enforcement or Presentment Agency**

Any student under the age of sixteen who is determined to have brought a weapon to school in violation of this policy shall, as required by law, be referred by the Superintendent to a presentment agency for a juvenile delinquency proceeding consistent with Article 3 of the Family Court Act. The Superintendent shall refer any pupil sixteen years of age or older who has been determined to have brought a weapon to school in violation of this policy to the appropriate law enforcement officials.

## V. E.S.E.A. Reporting

In receiving assistance from the State that is derived from funds made available under the Elementary and Secondary Education Act of 1965 (E.S.E.A.), the District shall provide in its application for said assistance such assurances and other information pursuant to provisions of the Gun Free Schools Act of 1994 as may be required by the State Education Department or other state or federal government agency.

## VI. Certain Rights of Students Unaffected

This policy does not and shall not be deemed to authorize disregard by the District of any:

- A. procedural right due to any student under the laws of the United States or New York State, the Commissioner's Regulations, or adopted policies of this Board, prior to the imposition of disciplinary measures against that student;
- B. requirement associated with a change in placement, or any other right, of a student classified as disabled under the Individuals with Disabilities Education Act (IDEA), Article 89 of the Education Law, or Part 200 of the Commissioner's Regulations; or
- C. educational obligation that the District may have to a student who is disciplined through suspension or expulsion.

## VII. This Policy Does Not Supersede Other Weapons Policies

The definition of "weapon" in this policy, which is adopted in accordance with the provisions of the Gun-Free Schools Act of 1994, shall not be deemed to supersede, restrict, or otherwise modify any broader or more encompassing definition of "weapon" that may appear in any other policy restricting weapons in school that has been adopted by the Board.

## VIII. Courses in Safe Use of Firearms Unaffected by This Policy

The Board recognizes that the Gun-Free Schools Act of 1994 does not diminish the authority of the Board to offer courses of instruction in the safe use of firearms, pursuant to Education Law Sec. 809-a.

### References

20 USC Sec. 8001 et seq. (Gun-Free Schools Act of 1994)  
20 USC Sec. 1400 et seq. (IDEA)  
Educ. L. Secs. 809-a; 3214(b)-(d); 4001 et seq.  
Honig v. Doe, 484 US 305 (1988)

18 USC Sec. 921  
8 NYCRR 200.5  
Family Court Act, Art. 3