

Students

Student Handbook - Gang Activity Prohibited ¹

Students are prohibited from engaging in gang activity.² *Gang* means any combination, confederation, alliance, network, conspiracy, understanding, or other similar conjoining of three or more persons with an established hierarchy that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity. Drug distribution, burglary, theft, assaults, and weapon-related offenses are typically associated with established gangs.

No student shall engage in any gang activity, including but not limited to:

1. Wearing, using, distributing, displaying, or selling any clothing, jewelry, emblem, badge, symbol, sign, or other thing that are evidence of membership or affiliation in any gang;
2. Committing any act or omission, or using any speech, either verbal or non-verbal (such as gestures or handshakes) showing membership or affiliation in a gang; and
3. Using any speech or committing any act or omission in furtherance of any gang or gang activity, including but not limited to: (a) soliciting others for membership in any gangs, (b) requesting any person to pay protection or otherwise intimidating or threatening any person, (c) committing any other illegal act or other violation of school district policies, (d) inciting other students to act with physical violence upon any other person.

Students engaging in any gang-related activity may be subject to one or more of the following disciplinary actions: ³

Removal from extracurricular and athletic activities

Conference with parent(s)/guardian(s)

Referral to appropriate law enforcement agency

Suspension for up to 10 days

Expulsion not to exceed two calendar years

¹ State or federal law may impact this student handbook provision; it concerns an area in which the law is unsettled.

A school board can create and enforce a comprehensive policy to prevent and prohibit gang activity in its schools. *Olesen v. School Dist. 228*, 676 F.Supp. 820 (N.D.Ill. 1987). Administrators supervising buildings with frequent gang activity should be familiar with the laws prohibiting such activity, e.g., 740 ILCS 147/ (Ill. Streetgang Terrorism Omnibus Prevention Act); 720 ILCS 5/12-6.2 (gang intimidation); and 720 ILCS 5/12-6.4 (gang recruitment on school grounds). The definition of *gang* in this procedure is based on 740 ILCS 147/10 and the Ill. State Board of Education's *Criminal Gang Activity Safety Hazard Guidelines* at: www.isbe.net/Documents/Criminal-Gang-Act-Safety-Hazard-Guidelines.pdf.

² Many types of gang activity are illegal; a district's discipline authority, however, may not extend to every criminal act, or to every act of wrongdoing, committed by a student. Districts must generally find a connection between a student's off-campus misconduct and the school before it may deprive the student of the student's right to attend school. *Gendelman v. Glenbrook North High School and Northfield Township School Dist. 225*, 2003 WL 21209880 (N.D.Ill. 2003)(student suspensions for hazing at non-school event upheld). School officials may remove students from extra-curricular activities and athletics for non-school-related activities because students do not enjoy a protected property right to such participation. *Clements v. Decatur Public School Dist. 61*, 133 Ill.App.3d 531 (4th Dist. 1985).

A district's authority to regulate gang activity, even if it occurs off school grounds, may be justified because it severely intimidates students, creates an atmosphere of fear thus impeding student attendance, may lead to violence in school by competing gangs, and may be used to recruit new members from the student body. School boards should seek legal advice on this issue.

³ Schools may state the possible disciplinary consequences in the manner in which they are stated for other acts of misconduct in the student handbook. 105 ILCS 5/10-22.6(b-10) explicitly forbids zero tolerance policies; therefore, disciplinary consequences should not be stated in a manner that requires suspension or expulsion for particular behaviors.

Approved: