

POLICY 8410 POLICIES, RULES AND PROCEDURES RELATIVE TO STUDENT  
DISCIPLINE IN THE NEW HANOVER COUNTY SCHOOLS

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## **POLICIES, RULES AND PROCEDURES RELATIVE TO STUDENT DISCIPLINE IN THE NEW HANOVER COUNTY SCHOOLS**

The New Hanover County Board of Education (hereinafter “the Board”) believes that to be successful, public school education must be a partnership involving School Personnel, students, Parents and the community. The Board further believes that the maintenance of high citizenship standards provides a school climate conducive to effective teaching and learning.

In order to create and maintain a safe and orderly school environment conducive to learning, school officials and teachers need adequate tools to maintain good discipline in schools. However, the Board also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

The Board further recognizes that students have certain rights under the United States and North Carolina Constitutions, and state and federal statutes and that these rights must be respected.

Therefore, in order to delineate and clarify the fundamental guidelines of student behavior in New Hanover County Schools and to establish procedures to be followed should serious disciplinary action by school authorities become necessary, the following rules and procedures have been adopted by the Board. They are to be distributed to every school in the system, with a copy available to any student or Parent upon request, and are to apply to all students enrolled in the system.

### **I. GENERAL PROVISIONS**

The following rules are not intended to be an exhaustive list of student conduct. Rather, they are illustrative of the types of behaviors that are inconsistent with the proper functions of the school system. Consistent with this Policy, state and federal law and State Board of Education policy, each school shall develop supplemental school discipline rules and procedures covering matters not addressed in this Policy and that provide incentives for citizenship and escalating consequences for repeat offenders. Schools are encouraged to consider student and parental input in devising school rules.

- A. Definitions (the following terms shall have the definitions indicated, for purposes of this Policy, when capitalized)

**Alternative Education Services** - Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative Education Services include programs established by the Board in conformity with N.C.G.S. 115C-105.47A and policies of the Board.

**Arson** - The willful or malicious burning of, or attempt to burn, any building or part of any building, structure, or property of the school district, staff or of a student or the student's family.

**Assault** - Any act of such nature to excite a reasonable apprehension of harmful or offensive physical contact with another person.

**Assault Resulting in Serious Injury** - An attack upon another person whereby the Victim suffers Serious Injury involving broken bones, loss of teeth, internal injuries, severe laceration or loss of consciousness, and medical attention or hospitalization is sought for the Victim.

**Battery** - Intentional unpermitted physical contact with another person which is harmful or offensive.

**Body Conditions** - The condition under which any student is suspected of having a communicable disease or who has persistent and neglected body odors.

**Bomb or Terror Threat or Hoax** - When a student who, by any means of communication to any person or group of persons:

- Makes a report, knowing or having reason to know the report is false, that there is located on Educational Property or at a school-sponsored curricular or extracurricular activity off Educational Property any device substance or material designed to destroy or damage property by explosion, blasting, or burning, or designed to cause harmful or life threatening illness or injury to another person;
- With intent to perpetrate a hoax, conceals, places, disseminates or displays, any device, machine, instrument, artifact, letter, package, material or substance on Educational Property or at a school-sponsored curricular or extracurricular activity off Educational Property, so as to cause any person reasonably to believe the same to be a substance, bomb or other device capable of causing injury to persons or property;
- Makes a report knowing or having reason to know the report is false that there is about to occur on Educational Property or at a school-sponsored curricular or extracurricular activity off Educational Property an act of terror that is likely to cause serious injury or death when that threat is intended to cause a significant disruption to the instructional day or a school sponsored activity or causes that disruption;
- Threatens to commit on Educational Property or at a school-sponsored curricular or extracurricular activity off Educational Property an act of terror that is likely to cause serious injury or death, when that threat is intended to cause a significant disruption to the instructional day or a school-sponsored activity or causes that

disruption; or

- Conspires to do any of the acts described in this definition.

**Bullying** - The intimidation or harassment of others by the real or threatened infliction of physical, verbal, written, electronically transmitted or emotional abuse or through attacks on the property of another. Bullying also includes Harassment as defined in this Policy.

**Bus Violation** - The failure to respond to or carry out a reasonable request by a bus driver to remain seated when the bus is moving, to cross at least ten (10) feet in front of the bus when the bus is stopped, to keep all parts of the body inside the bus, to not block the aisles of the bus, or any other misconduct not otherwise addressed herein while being transported to or from school or school-sponsored activities.

**Controlled Substance** - A drug or other substance regulated by the provisions of Article 5, Chapter 90 of the N.C.G.S., including but not limited to marijuana, cocaine, heroin, narcotics, amphetamines, anabolic steroids or any other drug for which a prescription is required.

**Destructive Device** - An explosive, incendiary, or poison gas:

- Bomb;
- Grenade;
- Rocket having a propellant charge of more than four (4) ounces;
- Missile having an explosive or incendiary charge of more than one-quarter ounce;
- Mine; and
- Device similar to any of the devices listed in this definition.

**Discrimination** - Any act that unreasonably and unfavorably differentiates treatment of others based solely on their membership in a socially distinct group or category, such as race, ethnicity, sex, religion, age, or disability. Discrimination may be intentional or unintentional.

**Disability Harassment** - A type of Harassment as defined in this Policy.

**Disciplinary Reassignment** - The reassignment of a student for disciplinary reasons to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in N.C.G.S. §115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion. A Disciplinary Re-assignment may be for up to the time allowed for a Long-term Suspension.

**Disruption of the Learning Environment** - Acting in any manner so as to interfere with any teacher's ability to conduct a class or other school activity.

**Educational Property** - Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of the Board.

Electro-shock Device – A device designed to stun or incapacitate a person temporarily by administering an electric shock, including but not limited to conductive energy devices (such as Tasers), stun guns, stun batons and electro-shock projectiles.

**Expulsion** - The indefinite exclusion of a student from school enrollment for disciplinary purposes.

**Extortion** - The act of taking or attempting to take any money or things of value from a student or staff member in the New Hanover County Schools unless both parties enter into the agreement freely and without the presence of either an implied or expressed threat.

**Firearm** - Any of the following:

- A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- The frame or receiver of any such weapon; or
- Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

**Forgery** - The act of fraudulently using in writing the name of another person or falsifying times, dates, grades, addresses, or other data on school forms.

**Gambling** - Direct or indirect taking, receiving or accepting from any person or giving to any person any money or valuable thing contingent upon the result of an uncertain event.

**Harassment** - Unwanted, unwelcome and uninvited behavior that demeans, threatens or offends the targeted individual and results in a hostile environment for the targeted individual. The hostile environment can be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe. Harassment also includes acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, ethnicity, ancestry, color, national origin, gender, socio-economic status, academic status, gender identity, physical appearance, sexual orientation, pregnancy, religion, age, mental, physical, developmental or sensory disability, or based on an association with a person who has or is perceived to have one (1) or more of these characteristics, and which constitute a pattern of gestures or written, electronic or verbal communications or any physical act or any threatening communication, and that:

- a. Places a student or School Personnel in actual and reasonable fear of harm to his or her person or damage to his or her property; or

- b. Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. As used in this Policy, the term "hostile environment" means that the Victim subjectively views the conduct as Bullying or Harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is Bullying or Harassment. Harassing or Bullying behavior may include in appropriate circumstances and consistent with the definition above, but is not necessarily limited to: threats, epithets, derogatory comments or slurs, lewd propositions, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons, or meets the definition herein of "Sexual Harassment".

Legitimate age-appropriate pedagogical techniques are not considered harassing behavior. It is possible for students to harass other students, employees, volunteers or visitors and/or their families.

**Hazing** - The abuse, annoyance, or Harassment of another by means of banter, ridicule, or criticism.

**Hearing Panel** - A panel of three (3) persons consisting of a hearing officer appointed by the Superintendent and two (2) other persons appointed by the hearing officer, one (1) of which will be an administrator at a school other than the one (1) the student attends and the other will be a community member who has been trained by the hearing officer to service on the Hearing Panel.

**Indecent Exposure** - The act of knowingly making any open or indecent exposure of the private parts of his or her person to another person.

**Insubordination** - The refusal to respond to or carry out a reasonable request by a staff member.

**Littering** - The dumping, depositing, placing, throwing, or leaving of litter in and upon Educational Property other than in receptacles set aside for such purposes.

**Laser Lights** - The use of a laser light on Educational Property except when used for an educational purpose approved by the appropriate staff member.

**Long-term Suspension** - The exclusion for more than ten (10) school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the Long-term Suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the Long-term Suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year. However, a Disciplinary Re-assignment of a student to a full-time educational program that meets the academic requirements of the standard course of

study established by the State Board of Education as provided in N.C G.S. §115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a Long-term Suspension.

**Mentally Disabled** - A Victim who suffers from mental retardation, or a Victim who suffers from a mental disorder, either of which temporarily or permanently renders the Victim substantially incapable of appraising the nature of his or her conduct, or of resisting sexual contact or of communicating unwillingness to submit to such contact.

**Mentally Incapacitated** - When the Victim is substantially incapable of either appraising the nature of his or her conduct, or resisting sexual contact.

**Neglecting Responsibility** - The failure to abide and/or refusal to abide by reasonable school and/or classroom rules.

**Obscenity** - Use of obscene or vulgar language by students in verbal, written or electronic form, in gestures, or in pictures or caricatures in or on any Educational Property or directed towards any student of the school system.

**Parent** - Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of Chapter 115C of the North Carolina General Statutes.

**Persistent Disobedience** - Repetition of the same misconduct or accumulation of instances of varied misconduct.

**Physically Helpless** - When the Victim is unconscious or is physically unable to resist sexual contact or communicate unwillingness to submit to sexual contact.

**Principal** - Includes the Principal or designee.

**Rape** - Vaginal intercourse with another person by force and against the will of the other person or vaginal intercourse with a person who is Mentally Disabled, Mentally Incapacitated or Physically Helpless and the student knows or should reasonably know that the Victim is Mentally Disabled, Mentally Incapacitated or Physically Helpless. The conduct described in this definition also constitutes "rape" when the conduct is consensual if the student is at least 18 years old and the Victim is under 13 years old, or where the student is at least six (6) years older than the Victim and the Victim is 13, 14 or 15 years old.

**School Official** - The Superintendent or any other Central Office administrator to whom the Superintendent has delegated duties under this Policy and any Principal or assistant principal.

**School Personnel** - Any of the following:

- a. An employee of the Board;
- b. Any person working on Educational Property or at a school function under a contract or written agreement with the school system to provide educational or

- related services to students;
- c. Any person working on Educational Property or at a school function for another agency providing educational or related services to students.

**Serious Injury** - Bodily injury involving broken bones, loss of teeth, internal injury, severe laceration, or loss of consciousness, or requiring the attention of a medical doctor or hospitalization.

**Sexual Assault** - Any unauthorized and unwanted intentional touching or attempted touching of sex organ(s) of another. Sex organs are the breasts of females and the genital areas of the male and female. Sexual Assault includes attempted rape and attempted sexual offense. Such contact is considered unauthorized and unwanted if the Victim is Mentally Disabled, Mentally Incapacitated or Physically Helpless and the student knows or should reasonably know that the Victim is Mentally Disabled, Mentally Incapacitated or Physically Helpless.

**Sexual Harassment** - Conduct of a sexual nature when such conduct is sufficiently severe, persistent or pervasive so that it has the purpose or effect of substantially interfering with an employee's or volunteer's work performance, or a student's educational performance, substantially limiting a student's ability to participate in or benefit from an educational program or environment or creating an abusive, intimidating, hostile, or offensive work or educational environment. The terms "abusive environment", "intimidating environment" and "offensive environment", as used in this Policy, mean that the Victim subjectively views the conduct as Sexual Harassment and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is Sexual Harassment.

Sexual Harassment may be between members of the same sex or members of the opposite sex. Examples of sexually harassing conduct may include, but are not limited to the following:

- Deliberate, unwelcome touching of a sexual nature or that takes on sexual connotations;
- Suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats;
- Continued or repeated offensive and unwanted sexual flirtations, advances, propositions or pressure for sexual activity;
- Continued, repeated and unwanted remarks about an individual's body;
- Sexually suggestive gestures or words used toward an individual or to describe an individual, or the display of sexually suggestive objects or pictures; or
- The use of personal or school electronic communications to convey sexually inappropriate words, pictures or images.

**Sexual Misconduct** - Any conduct of a sexual nature, which includes consensual sex, or the intentional touching of the sex organs of another which occurs on Educational Property or at school-sponsored events.

**Sexual Offense** - Actual oral-genital or oral-anal contact, penile-anal penetration, or penetration by an object into the genital or anal opening of another person's body, by force and against the will of the Victim. Such acts will be considered against the will of the Victim if the Victim is Mentally Disabled, Mentally Incapacitated or Physically Helpless and the student knows or should reasonably know that the Victim is Mentally Disabled, Mentally Incapacitated or Physically Helpless. The conduct described in this definition also constitutes "sexual offense" when the conduct is consensual if the student is at least 18 years old and the Victim is under 13 years old, or where the student is at least six (6) years older than the Victim and the Victim is 13, 14 or 15 years old.

**Short-term Suspension** - The exclusion of a student from school attendance for disciplinary purposes for up to ten (10) school days from the school to which the student was assigned at the time of the disciplinary action.

**Smoking, Possessing or Using Tobacco or Nicotine Containing Products** - Smoking, chewing, inhaling, using and/or possessing tobacco or nicotine in any form including, but not limited to, electronic cigarettes (e-cigarettes) in or upon any Educational Property and/or at any school-sponsored activity, ; provided, however, that this definition shall not apply to prescription medication possessed or used in a lawful manner

**Substantial Evidence** - Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

**Superintendent** - Includes the Superintendent of the New Hanover County Schools or designee.

**Theft** - The act of acquiring and/or knowingly and willfully having in one's possession the property of another without his/her consent.

**Throwing Stones or Other Missiles** - The act of possessing, throwing or threatening to throw any stone or other missile in or upon Educational Property or while going to or from school including any activity under school sponsorship at the person or property of another.

**Trespass** - The willful entering upon the Educational Property of the school district without authority or willfully being in areas of the facilities or grounds at times when such presence is unauthorized.

**Truancy** - The act of unauthorized absence from school for any period of time. Chronic tardiness may be considered truancy.

**Vandalism** - The act of willful or malicious destruction of property belonging to another.

**Victim** - Someone injured or otherwise harmed by, or suffering from, some act, condition, or circumstance caused by another person.

**Weapon** - Any gun, rifle, pistol, or other Firearm of any kind; any dynamite cartridge.

bomb, grenade, mine or powerful explosive, as defined by N.C.G.S. §14-284.1; or any knife, Electro-shock Device, club, dagger, blackjack, metallic knuckles, razor, razor blade, sharp pointed or sharp edged instrument, or other instrument or substance used to or designed primarily to injure or incapacitate another person. However, this definition does not apply to a BB gun, air rifle or air pistol or to a Weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority, or to common pens or pencils used for their intended purposes.

#### B. Location of Misconduct

All rules governing student misconduct shall apply to any incident that is:

- On Educational Property during, before and after regular school hours;
- On Educational Property at any other time when the school is being used for a function or by any school group;
- Off Educational Property at a school activity, function or event;
- During the transporting of students to include the period of time at the bus stop before boarding the bus, on the bus and getting off the bus, or in the proximity of the bus stop when under the supervision of the bus driver; and
- Anywhere off Educational Property which includes bus stops, the vicinity of bus stops, at functions or events of the school or its teams, clubs or school-sponsored groups, or anywhere else at any time, if the student's conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

#### C. Disciplinary Actions Which May Be Taken

Disciplinary action for any form of unacceptable student behavior available to the Principal may include, but is not limited to, the following:

- Student conferences;
- Parental conferences;
- Detention;
- Parent attendance in the classroom;
- Peer mediation;
- Behavior contracts;
- Instruction in conflict resolution and anger management;
- Academic interventions;
- Community service;
- Referral to school based committee as set forth in N.C.G. S. §115C-397.1;
- In-school suspension;
- Restitution (may not be imposed on students whose Parents do not have the ability to pay);
- School work service (may only be offered as an alternative to other punishments)

- at the option of the Parent);
- Counseling within the community;
- Disciplinary Re-assignment;
- Short-term Suspension;
- Long-term Suspension;
- Removal to an alternative educational setting, if available;
- Expulsion; and
- Other measures consistent with sound educational practice and applicable law.

## II. PROCEDURES FOR STUDENT DISCIPLINE

### A. Disciplinary Action by the Teacher and Use of Reasonable Force

These rules and procedures do not deal with ordinary classroom discipline. Pursuant to North Carolina law, School Personnel are authorized and have the responsibility to maintain good order and discipline in the classroom and school, and may use reasonable force to correct students, to quell a disturbance threatening injury to others, to obtain possession of Firearms, Weapons or other dangerous objects on the person or within control of the student, for self-defense, for the protection of persons or property, and to maintain order on Educational Property, in the classroom, or at a school-related activity on or off Educational Property (N.C.G.S. §115C-390.3). However, when conduct appears to violate one (1) of the rules set forth in this Policy proscribing more serious misconduct, teachers shall refer the matter to the Principal for further action pursuant hereto.

### B. Referral for Disciplinary Action by the Principal

Alleged misconduct by a student shall be dealt with by the Principal in the following situations:

1. Whenever a teacher considers a problem of classroom discipline to be so serious as to warrant the Principal's attention;
2. Whenever the alleged misconduct appears to call for discipline beyond ordinary classroom discipline; or
3. Whenever the Principal deems it advisable that he/she deal personally with the misconduct.

### C. Investigation by the Principal

In dealing with alleged misconduct, the Principal shall investigate and hear all available accounts of it (or a representative sample of accounts), including written accounts whenever possible. The student shall be given an informal hearing with the Principal as set forth in Section II.D.3. below. The student shall be encouraged to raise any defense he or she thinks relevant. If the student requests that other witnesses be questioned, the Principal should talk to them if reasonably possible. If the student makes a reasonable claim of other defensive matter, which, if true, would free him or her from blame but which is not immediately available, the Principal may postpone disciplinary

action for a reasonable time until such evidence may be presented.

**The Principal is not required to notify a student's Parent before questioning a student in connection with an investigation.**

D. Short-term Suspensions (Ten (10) School Days or Less)

Most disciplinary matters and student misconduct can be handled without resorting to suspensions or Expulsions. However, in those discipline matters where Short-term Suspensions are warranted, the Principal shall follow the procedures outlined below:

1. The Principal shall have the authority to suspend for a period of ten (10) school days or less any student who willfully (see Section III.H. of this Policy) violates this Policy as set forth in Section III of this Policy, provided that a student who receives a Short-term Suspension shall be provided the opportunity to take textbooks home for the duration of the suspension; upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment; and the opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.
2. In the case of a Short-term Suspension, any request for a make-up test must be made within five (5) days of the student's return and all make-up class work is the responsibility of the student.
3. When suspending a student for any period of time, the Principal shall:
  - a. Provide the student with an opportunity for an informal hearing with the Principal except as provided in Section II.D.4 below on emergency suspensions. The informal hearing consists of a face to face meeting. The student has the right to be present at such informal hearing, but does not have the right to have a Parent or other representative present.
  - b. Give to the student involved written or oral notice of what the student is accused of doing and the basis of the accusation; and if the student denies the accusation, an opportunity to explain his/her version of the facts and to hear from persons whom the student claims can speak on his/her behalf. If the student reasonably claims the need for additional time to present such persons, the Principal may postpone action for a reasonable time.
  - c. Provide notice to the student's Parent of any Short-term Suspension, including the reason for the suspension and a description of the alleged conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than **two (2) days** after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice. In those instances where reasonable efforts do not result in contact with the Parents, a record of all efforts to make contact shall be kept. A student shall not be suspended prior to the end of the regular school day when reasonable efforts to contact the Parents fail, except when an emergency suspension under the provisions of Subsection II.D.4

is warranted. If English is the second language of the Parent, the notice shall be provided in the Parent's primary language, when the appropriate foreign language services are readily available, and in English. Both versions shall be in plain language and easily understandable.

- d. Inform the Parents, in the written notice of suspension, of their right to have a conference regarding such suspension with the Principal, at which time they shall have the right, if desired, to bring someone to assist them. Such informal conference, if requested, should be held as soon as practical. However, the suspension need not be delayed by the request for such a conference.
- e. Forward promptly to the Superintendent a copy of the notice of suspension and the reasons for such suspension.

#### 4. Emergency Suspensions

The Principal may impose a Short-term Suspension without providing the student an opportunity for an informal hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in Subsection II.D.3.a. of this Policy shall occur as soon as practicable.

#### 5. Appeal of Short-Term Suspensions

**A student is not entitled to appeal the Principal's decision to impose a Short-term Suspension to the Superintendent or Board. Further, such a decision is not subject to judicial review.**

#### E. Suspensions in Excess of Ten (10) School Days (Long-term Suspensions and Suspensions up to 365 days) and Disciplinary Reassignments

Students may be Long-term Suspended or in some cases suspended for up to 365 calendar days for willfully (see definition in Section III.H. of this Policy) violating certain rules stated in this Policy. Alternatively, in certain situations, such student may be given a Disciplinary Re-assignment, as defined in Section I.A. of this Policy.

In any case in which the Principal, after completion of the procedures required in Section II.D. above, concludes that a suspension of more than ten (10) school days or Disciplinary Re-assignment is warranted, he/she shall promptly forward the recommendation to the Superintendent along with other information as requested by the Superintendent. The Superintendent shall review the circumstances of the recommended suspension or Disciplinary Re-assignment and approve, disapprove or direct the Principal to modify the recommendation. If the Superintendent approves a suspension or Disciplinary Re-assignment, the Principal shall then send a notice to the Parents that he/she has recommended to the Superintendent the suspension of the student for a period in excess of ten (10) school days or the Disciplinary Re-assignment. The notice shall also state the dates of the suspension or Disciplinary Re-assignment, reasonable details of the act or acts of misconduct for which such suspension or Disciplinary Re-assignment is proposed, and shall include copies

of all prior discipline notices of the current school year and the following information:

- A description of the incident and the student's conduct that led to the Long-term Suspension or Disciplinary Re-assignment recommendation;
- A reference to the provisions of this Policy that the student is alleged to have violated;
- The specific process by which the Parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested;
- The process by which a hearing will be held, as stated in Subsection II. F. of this Policy;
- Notice that the Parent is permitted to retain an attorney to represent the student in the hearing process;
- Notice that the Parent is permitted to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal;
- Notice that the Parent has the right to review and obtain copies of the student's educational records before the hearing; or
- A reference to the Board's Policy on the expungement of discipline records as required by N.C.G.S. §115C-402.

The Principal shall send such written notice to the student's Parent by the end of the workday during which the suspension or Disciplinary Re-assignment was recommended when reasonably possible or as soon thereafter as practicable. Such notice may be provided by certified mail, facsimile, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation. When School Personnel are aware that English is not the primary language of the Parent, the notice shall be written in both English and in the primary language of the Parent when the appropriate foreign language resources are readily available. All notices described in this Section II.E. shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

- The nature of the document, i.e., that it is a Long-term Suspension, 365 day suspension or Disciplinary Re-assignment notice;
- The process by which the Parent may request a hearing to contest the Long-term Suspension, 365 day suspension or Disciplinary Re-assignment; or
- The identity and phone number of a school employee that the Parent may call to obtain assistance in understanding the English language information included in the document.

Parents shall have three (3) business days from the sending of such notice to request an appeal to the Hearing Panel. Such notice from the Parent must be in writing and received by the Superintendent by the deadline. The failure of a Parent to meet his/her deadline shall result in a waiver of the right to have a hearing before the Hearing Panel prior to the imposition of the suspension or Disciplinary Re-assignment. In cases where the Parent's notice of appeal is received after the deadline, a hearing before the Hearing Panel shall be scheduled as soon as practicable.

If the Parent does not request a hearing before the Hearing Panel, the Superintendent may impose the recommended suspension or Disciplinary Re-assignment and shall send written notice of such action to the Parent promptly. Such notice shall be sent by certified mail, facsimile, e-mail or any other written method reasonably designed to achieve actual notice.

Students who are Long-term Suspended or suspended for 365 days shall be offered alternative education services unless the Superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

1. The student exhibits violent behavior;
2. The student poses a threat to staff or other students;
3. The student substantially disrupts the learning process;
4. The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible;
5. Educationally appropriate alternative education services are not available in the school system due to limited resources; or
6. The student failed to comply with reasonable conditions for admittance into an alternative education program.

The Superintendent's letter to the Parent notifying the Parent of a Long-Term Suspension a 365 day suspension shall state whether the student will be provided Alternative Education Services and if not, the reasons for the Superintendent's decision. If the Superintendent decides to offer Alternative Education Services to the student during suspension, those services shall be described generally in the Superintendent's letter. If the Superintendent declines to provide Alternative Education Services to the suspended student, the student may seek review of such decision by the Board as permitted by N.C.G.S. §115C-45(c)(2). If the student seeks such review, the Superintendent shall provide to the student and the Board, in advance of the Board's review, a written explanation for the denial of services together with any documents or other information supporting the decision.

#### F. Hearing Before a Hearing Panel

If the Parent requests a hearing, a hearing on a recommended Long-term Suspension, a 365 day suspension or Disciplinary Re-assignment, shall be held by a Hearing Panel consisting of a hearing officer and two (2) other appropriately trained persons. Such hearing shall take place in the Central Office or other designated site, at a stated time which shall be prior to the expiration of any ten (10) day suspension imposed by the Principal. The Superintendent shall appoint a hearing officer. The hearing officer shall appoint two (2) other appropriately trained persons to be a part of the Hearing Panel. Neither the Board nor the Superintendent shall appoint any individual to serve as a hearing officer or on a Hearing Panel who is under the direct supervision of the Principal recommending suspension or Disciplinary Re-assignment. If a student makes a timely request for a hearing before a Hearing Panel, an opportunity for such hearing shall be provided prior to the imposition of a suspension in excess of ten (10) school days.

If the student or Parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be rescheduled, but the student shall not have the right to return to school pending the hearing. If neither the student nor Parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the Parent and student are deemed to have waived the right to a hearing and the Superintendent may impose the recommended suspension or Disciplinary Re-assignment.

The Hearing Panel must determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing.

The following procedures shall apply to Hearing Panel hearings:

1. The right to be represented at the hearing by counsel or a non-attorney advocate;
2. The right to be present at the hearing, accompanied by his or her Parents;
3. The right of the student, Parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges except when the release of names or other information could create a safety risk for a witness;
4. The right of the student, Parent, or the student's representative to question witnesses appearing at the hearing;
5. The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as the student's discipline and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating factors;
6. The right to have a record made of the hearing;
7. The right to make his or her own audio recording of the hearing; and
8. The right to a written decision, based on Substantial Evidence presented at the hearing, either upholding, modifying, or rejecting the Principal's recommendation of suspension or Disciplinary Re-assignment and containing at least the following information:
  - a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.
  - b. Notice of what information will be included in the student's official record pursuant to N.C.G.S. §115C-402.

- c. The student's right to appeal the decision to suspend the student to the Board and notice of the procedures for such appeal.

Following the hearing, the Superintendent shall make a final decision regarding the suspension or Disciplinary Re-assignment. The Superintendent shall adopt the Hearing Panel's factual determinations unless they are not supported by Substantial Evidence in the record. The Superintendent shall notify the Parent promptly of his/her final decision following the Hearing Panel hearing. Such notice shall be sent by certified mail, facsimile, e-mail or any other written method reasonably designed to achieve actual notice.

#### G. Appeal to the New Hanover County Board of Education

The student may appeal to the Board the decision of the Hearing Panel for a Long-term Suspension, a 365 day suspension or a Disciplinary Re-assignment. Appeals to the Board must be in writing and filed with the Superintendent within five (5) business days of the sending of notice to the Parent of the Superintendent's decision following the hearing before the Hearing Panel. Only one (1) continuance will be granted absent extraordinary circumstances. The penalty imposed need not be postponed pending the outcome of the appeal to the Board. Such an appeal shall be on the record made before the Hearing Panel, and new evidence will be admitted only to avoid a substantial threat of unfairness. The Board shall affirm, modify, or reverse the Superintendent's decision. A decision by the Board is final, subject to judicial review pursuant to N.C.G.S. §115C-390.8(i). The Board shall hear and decide the student's appeal within 30 days of the student's request for an appeal, unless an extension of time is consented to by the student's Parent or representative. Untimely appeals will be heard by the Board as soon as convenient for the Board and the 30 day time limit for a hearing decision will not apply to late filed appeals to the Board.

#### H. Automatic Review

If a student is suspended from school or given a Disciplinary Re-assignment during the first semester for the remainder of the school year, his/her suspension or re-assignment shall be automatically reviewed by the Superintendent before the beginning of the second semester unless the suspension originally took effect within three (3) weeks of the beginning of the second semester. This review may lead to the student be reinstated for the second semester according to the determination of the Superintendent. This Subsection shall not apply to suspensions of 365 days as set forth in Section III. A. of this Policy.

#### I. Suspension of Students with Disabilities

As with all students, students with disabilities are accountable to the behavioral expectations and discipline standards specified in this Policy. Students with disabilities, however, have additional procedural safeguards afforded to them by the Federal Individuals with Disabilities Education Improvement Act (IDEA) and Section 504 of the Rehabilitation Act. These procedural safeguards may include functional behavioral

assessment, behavioral intervention plan, manifestation determination prior to imposition of a Long-term Suspension or cumulative Short-term Suspension that constitutes a pattern of removal, alternative educational setting and the provision of services during periods of suspension. The Board authorizes the Central Office administration to develop and implement written procedures addressing these procedural safeguards which comply with IDEA, Section 504 and any applicable North Carolina General Statutes.

### III. SPECIFIC STUDENT MISCONDUCT AND DISCIPLINARY ACTION

The following are not intended to be exclusive proscriptions of student conduct; rather, they are illustrative of the types of behavior that are seriously inconsistent with the proper functioning of the school system. The authority and responsibility for setting standards and controlling discipline is vested by North Carolina law in the teachers and administrators of each school. Therefore, these regulations are to be applied in addition to those in effect at any individual school in the system.

#### A. Possession of or Bringing a Firearm or Destructive Device on Educational Property or to a School-sponsored Event Off Educational Property, Resulting in **Mandatory Suspension of up to 365 Calendar Days**

The Principal shall recommend to the Superintendent the 365 day suspension of any student who is determined to have brought or been in possession of a Firearm or Destructive Device on Educational Property or to a school-sponsored event off of Educational Property. The Superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the Principal. Notwithstanding the foregoing, the Superintendent may modify, in writing, the required 365 day suspension for an individual student on a case-by-case basis. The Superintendent shall not impose a 365 day suspension if the Superintendent determines that the student took or received the Firearm or Destructive Device from another person at school or found the Firearm or Destructive Device at school, provided that the student delivered or reported the Firearm or Destructive Device as soon as practicable to a law enforcement officer or to School Personnel and had no intent to use such Firearm or Destructive Device in a harmful or threatening way.

Nothing in this Section III. A. shall apply to a Firearm that was brought onto Educational Property for activities approved and authorized by the Board, provided that the Board has adopted appropriate safeguards to protect student safety.

The procedures for a suspension of up to 365 days under this Section III A. shall be the same as for Long-Term Suspensions under Section II E. of this Policy, except that the Superintendent's notice to the Parent of the suspension shall also include notice to the student and the student's Parent of their right to petition the Board for re-admission and the procedure for such petition.

All students who are suspended for 365 days may, after 180 calendar days from the date of the beginning of the student's suspension, petition in writing for re-admission to the School System. The Petition must be sent to the Superintendent. The procedures for a petition for re-admission are as follows:

- a. The Board shall consider and decide on petitions for re-admission. The Board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the Superintendent.
- b. The student shall be re-admitted if the student demonstrates to the satisfaction of the Board that the student's presence in school no longer constitutes a threat to the safety of other students or staff.
- c. There is no right to judicial review of the Board's decision not to re-admit a 365-day suspended student.
- d. A decision on re-admission under this Section III. A. of this Policy shall be issued within 30 days of the petition.

Students who are suspended for up to 365 days this Section III. A. shall be considered for Alternative Educational Services to the same extent and shall have the same rights to appeal a denial of Alternative Educational Services to the Board as students who are Long-Term Suspended under Section II. E. of this Policy.

A student who is re-admitted after a 365-day suspension may be assigned by the Board or Superintendent into any program within the school system and the Board or Superintendent may place reasonable conditions on re-admission.

**B. Misconduct Resulting in a Mandatory Suspension of Ten (10) School Days and, Ordinarily, a Long-Term Suspension or Disciplinary Reassignment**

The following misconduct shall result in a mandatory suspension of 10 school days and, ordinarily, a Long-term Suspension, meaning removal of up to the remainder of the school year, or in some circumstances, up to the end of the first semester of the following school year (see definition of Long-Term Suspension in Section I. A. of this Policy), or a Disciplinary Re-assignment:

1. Possession of Weapons, Destructive Devices, or other dangerous instruments or substances, including but not necessarily limited to:
  - a. Look-alike Weapons or other dangerous instruments or substances that are used to threaten or intimidate others;
  - b. Guns of all types including pellet, BB, stun and air guns other than Firearms (which are covered under Section III. A. of this Policy);
  - c. Knives, pocket knives, switch blades or automatically opening blades, daggers, swords, razors;
  - d. Artificial knuckles or other objects designed to be worn over the fist or knuckles;
  - e. Blackjacks, clubs, nunchucks, throwing stars;
  - f. Explosives, fireworks or foul substances;
  - g. Poisons, chemicals or substances capable of causing bodily harm;
  - h. Bow and arrows or sling-shots;
  - i. Mace, pepper spray;
  - j. Throwing darts; and

- k. Laser Lights – 2<sup>nd</sup> offense.
2. A second offense involving usage and/or possession of controlled substances narcotics, alcoholic beverages, stimulant drugs, and related paraphernalia, or any violation of the NC Toxic Vapors Act.
3. Use or possession of an amount of drugs or any illegal substance outlined by Chapter 90 Article 5 of the NC Controlled Substance Act, which could result in a felony charge if the student were an adult. These charges include but may not be limited to the following:
  - a. To manufacture, sell or deliver, or possess with intent to manufacture, sell or deliver, a controlled substance;
  - b. To create, sell or deliver, or possess with intent to sell or deliver a counterfeit controlled substance; or
  - c. To possess a controlled substance, including a prescription medication not prescribed for that person.

Note: Possession of a drug authorized by a medical prescription from a physician licensed to practice medicine in North Carolina shall not be considered a violation of this rule when the drug is in the possession of the person for whom the drug was prescribed. Also, a substance which is chemically different than a controlled substance but mimics the effects of a controlled substance may be treated as controlled substance for purpose of this Policy.

4. Rape, Sexual Offense, or Sexual Assault as defined in Section I. A. of this Policy.
  5. Sexual Harassment as defined in Section I. A. of this Policy.
  6. Making a Bomb or Terror Threat or Hoax, as defined in Section I. A. of this Policy.
  7. Battery involving a Weapon or causing Serious Injury as defined in section I. A. of this Policy.
  8. Any other serious conduct, that indicates that the student is a danger to other students or staff or where there is a significant risk that the student will be a danger to other students or staff.
- C. Misconduct Resulting in a Suspension Up To Ten (10) School Days and Possible Long-Term Suspension or Disciplinary Reassignment**

The following misconduct shall result in a suspension up to ten (10) school days and, at the discretion of the Principal and subject to the Superintendent's approval, Long-term Suspension or Disciplinary Re-assignment of up to remainder of the school year and in some circumstances, up to the end of the first semester of the following year (see definition of Long-Term Suspension in Section I. A. of this Policy):

1. Extortion/Intimidation, including obtaining or attempting to obtain from any person, by force, threat, or false accusation, money or other property, services or consideration of any sort; or frightening or deterring by or as if by threats; or attempting to frighten or intimidate students with threats of violence either written or

- verbal;
2. Arson of Educational Property as defined in Section I. A. of this Policy.
  3. (left blank intentionally);
  4. Indecent Exposure as defined in Section I. A. of this Policy;
  5. Sexual Misconduct as defined in Section I. A. of this Policy;
  6. Threatening School Personnel or any other adult, including directing toward any School Personnel or toward any other adult language which threatens force or violence or which is abusive, profane, or insulting, or any sign, gesture, or act which constitutes a threat of force or violence or which is abusive or insulting;
  7. Serious Disruption of the Learning Environment including the use of, or encouragement of others to use violence, force, noise, coercion, threat, intimidation, fear, passive resistance or any other conduct to cause or attempt to cause substantial and material disruption or obstruction of any lawful right, mission, process or function of any school, school bus, School Personnel or student;
  8. Theft or Vandalism that could result in a felony charge if the student were an adult;
  9. Continued Bullying, Harassment, or Discrimination;
  10. Acts of retaliation for reporting violations of Harassment, Bullying, and Discrimination;
  11. Assaults and Batteries causing injury but not Serious Injury; or
  12. Assaults and Batteries not involving Weapons or injury if the Principal in his or her discretion determines that aggravating circumstances justify a Long-Term Suspension or Disciplinary Reassignment.

While the following list is not exclusive, the following acts when causing a substantial and material disruption or obstruction of any lawful mission, process or function of the school illustrate the kinds of conduct proscribed by this rule:

- Occupying any school building, school grounds, school bus or part thereof, maliciously or willfully depriving others of lawful access to or from or use of the building or corridor or room;
  - Blocking the entrance or exit of any school building, corridor or room therein and thus maliciously or willfully depriving others of lawful access to or from or use of the building or corridor or room;
  - Setting fire to or otherwise purposely damaging any school building or property;
  - Threatening use of Firearms, explosives or other Weapons on the school premises for any unlawful purpose proscribed by these rules;
  - Preventing or attempting to prevent by physical act or otherwise the convening or functioning of any school class or activity or of any lawful meeting or assembly on the school campus;
  - Preventing students from attending a class or school activity; and
  - Blocking normal pedestrian or vehicular traffic on a school campus.
13. The knowing use, possession, transmission, or being under the influence, of any controlled substance that could result in a misdemeanor charge if the student were an adult, including marijuana, alcoholic beverage or intoxicant of any kind. This prohibition applies to fake drug substances and all drug paraphernalia or facsimile

thereof.

14. Misuse of the Internet, including Websites.
  - Using on-campus computer equipment to create or access materials on the internet, including, but not limited to websites, which are likely to cause a substantial disruption of or material interference with school activities or the school environment; or
  - Using off-campus computer equipment to create materials on the internet, including but not limited to websites, to threaten harm or violence to school(s), employee(s), or student(s), or which have a direct and immediate impact upon or substantially threaten the safe and orderly operation of the school.
15. Possession of look-alike Weapons or other dangerous instruments or substances that could be used to threaten others.
16. Possession of literature, illustrations or materials which significantly disrupt the educational process or which are obscene.
17. Disability Harassment as defined in Section 1. A.

D. Misconduct Resulting in **Suspension of Ten (10) School Days or Less or Other Disciplinary Action.**

The following misconduct shall result in a suspension of ten (10) school days or less or other disciplinary action as deemed appropriate by the Principal:

1. Theft, vandalism, damage or destruction of Educational Property including the malicious or willful causing or attempting to cause damage to school system or private property or stealing or attempting to steal such property;
2. Disruption of the Learning Environment or the interference with any teacher's ability to conduct a class or other school activity;
3. Physical/verbal abuse of peers, including engaging in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence; or making or using any utterance, gesture, display or abusive language which is intended to provoke violent retaliation and thereby cause a breach of the peace;
4. Commission of illegal acts in the school setting as outlined by local, state, and federal law not otherwise specified in these policies;
5. Insubordination or disrespect of School Personnel or school resource officers, including direction toward any School Personnel or to any other adult of disrespectful or discourteous remarks or showing contempt in speech or action or failing to carry out a reasonable request;
6. Trespassing on Educational Property, including the presence of a student who is assigned to one (1) school on the campus of another school during the school day without the knowledge and consent of the officials of the school, and the presence of a student, while on suspension, on any school campus or attending any school function;
7. Throwing stones or other missiles as defined in Section I. A. of this Policy;
8. Smoking, Possessing or Using Tobacco or Nicotine Containing Products, including, but not limited to electronic cigarettes (e-cigarettes), as defined in Section I. A. of this Policy, or any delivery device for such products;
9. Violation of school rules in effect at any individual school in the system;

10. Body Conditions, Bus Violation, Forgery, Gambling, Hazing, Littering, Neglecting Responsibility, Obscenity, as defined under Section I.A. of this Policy;
11. Bullying, Discrimination, or Harassment as defined in Section I. A.;
12. Truancy (however the maximum suspension for truancy or tardiness is two (2) school days per offense);
13. Minor physical altercations that do not involve Weapons or injury; or
14. Any violation of other policies of the Board, when the student is not a danger to other students or staff and Long-term Suspension is not appropriate and where a more serious penalty is not otherwise proscribed. The entire policy manual may be found at <http://www.nhcs.net/policies/policymanual.htm> and copies of other policies will be made available upon request.
15. Laser Lights - 1<sup>st</sup> offense.

#### E. Persistent Disobedience Resulting in Long-Term Suspension or Disciplinary Reassignment

A student who has received multiple Short-term Suspensions during a school year may be Long-term Suspended by the Principal, subject to the Superintendent's approval.

#### F. Student Expulsion

Any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff may be Expelled. Examples of the types of conduct which may warrant Expulsion include, but are not limited to, the following:

- a. Theft or attempted theft by a student from another person by using, or threatening to use, a Weapon, BB gun, air rifle or air pistol;
- b. The intentional and malicious burning of any structure or personal property, including vehicles;
- c. An attack, or threatened attack, by a student against another person wherein the student uses a Weapon, BB gun, air rifle or air pistol, or displays it in a threatening manner;
- d. An attack by a student on school administrators; professional (e.g. teachers) or classified (e.g. custodial, clerical) personnel; or adult volunteers which does not result in Serious Injury but which is intended to cause or reasonably could cause Serious Injury;
- e. An attack by a student upon another person whereby the Victim suffers Serious Injury;
- f. Any intentional or negligent act that results in the death of another person;
- g. Confining, restraining, or removing another person from one place to another, without the Victim's consent, or the consent of the Victim's Parents, for the purpose of committing conduct that would be a felony if the student were an adult, or for the purpose of holding the Victim as a hostage or for ransom or for use as a shield;
- h. Possession by a student of a Weapon on any Educational Property, including vehicles; and possession by a student under age 18 of a handgun, whether on Educational Property or not;
- i. The taking or attempting to take anything of value from the care, custody or control

- of another person or persons, by force, threat of force, violence or by putting the Victim in fear;
- j. Any unauthorized and unwanted intentional touching, or attempt to touch, by one person of the sex organ of another. The sex organs are the breasts of the female and the genital areas of the male and female;
- k. The possession, manufacture, sale, or delivery, or any attempted sale or delivery of controlled substances in violation of Chapter 90 of the North Carolina General Statutes; or
- l. Sexual Harassment as defined in Section 1. A. of this Policy.

When the Principal suspects a student may be subject to Expulsion, the Principal shall conduct an investigation to determine whether an Expulsion recommendation may be warranted in the given situation. The Principal may recommend to Expel a student under these guidelines whether or not the acts result in the filing of criminal charges or a juvenile petition, and whether or not the student is convicted or adjudicated delinquent. The Principal should consider the facts and circumstances of each case to determine whether an Expulsion recommendation is warranted, including the age and maturity of the student. Students who have been identified to receive special educational services pursuant to the Individuals with Disabilities Education Improvement Act, 20 U.S.C. 1401 et seq., Section 504 of the Rehabilitation Act or Article 9 of Chapter 115C of the General Statutes, are entitled to all protections provided by those laws and Expulsion may not be appropriate.

Upon completion of the foregoing steps, if the Principal determines, based on clear and convincing evidence, that the student's continued presence in the school constitutes a clear threat to the safety and health of other students or school staff, and that the student should be recommended for Expulsion, then the Principal shall suspend the student for ten (10) school days with a recommendation for Expulsion. The Superintendent shall then consider the circumstances of the recommended expulsion and either approve, disapprove modify it. If the recommendation for Expulsion is approved by the Superintendent, the Superintendent shall inform the Parents of such suspension and recommendation of Expulsion and the reasons therefore in the same manner and within the same time as required for Long-Term Suspensions under Section II E. of this Policy. The Superintendent's notice to the Parents of a recommended Expulsion shall include an explanation of the student's procedural rights. Those rights are the same as for hearing on Long-term Suspension hearings, as set forth in Section II. F. of this Policy, except that the student has the right to have the Board's decision based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

If the Superintendent recommends Expulsion he/she shall promptly arrange for a hearing before the Board on whether the student shall be Expelled. The student shall be given the opportunity for a hearing before the Board before the imposition of an Expulsion.

The Board, at the scheduled time and place, shall conduct a hearing to determine whether the student's continued presence in the school constitutes a clear threat to the

safety of other students or school staff and whether he/she shall be Expelled from the system. The rules governing such hearing shall, so far as applicable, be those prescribed for Long-term Suspension, except that the hearing shall be before the Board rather than the Hearing Panel; the evidence against the student shall be presented by the Superintendent, rather than by the Principal. Following the hearing, the Board shall reach its decision, which shall be set forth in writing together with the findings upon which the decision rests and a copy thereof shall be promptly forwarded to the student and his/her Parents. The notice shall include notice of the students' right to petition for re-admission.

All students who are expelled may, after 180 calendar days from the date of the beginning of the student's suspension or Expulsion, request in writing for re-admission to the School System. The process for re-admission is as follows:

- a. The Board shall consider all petitions for re-admission of expelled students, together with the recommendation of the Superintendent on the matter, and shall rule on the request for re-admission. The Board shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by N.C.G.S. §115C-45(c).
- b. The student shall be re-admitted if the student demonstrates to the satisfaction of the Board that his/her presence in a school no longer constitutes a clear threat to the safety of other students or staff.
- c. A decision by the Board to deny re-admission of an expelled student is not subject to judicial review.
- d. An expelled student may subsequently request re-admission not more often than every six (6) months. The Board is not required to consider subsequent re-admission petitions filed sooner than six (6) months after the previous petition was filed.
- e. A decision on re-admission under this section shall be issued within 30 days of the petition.

A student who is re-admitted after an Expulsion may be assigned by the Board or Superintendent to any program within the school system and to place reasonable conditions on re-admission may be placed on the student. The decision of the Board to expel a student shall be based on clear and convincing evidence. Prior to ordering the Expulsion of a student, the Board shall consider whether there are Alternative Education Services that may be offered to the student.

A decision by the Board to expel a student is final subject to judicial review pursuant to N.C.G.S. §115C-390.11(a)(1) and -390.8(e) and (i).

#### G. Range of Punishments

Whenever more than one (1) punishment is allowed under this Policy for a certain offense, the most severe punishment may be used.

#### H. Willfulness

In situations involving offenses dealing with the possession of prohibited items including but not limited to Weapons, drugs and other contraband, it is the Policy of the New Hanover County School System that all students have a duty to thoroughly inspect their clothes, personal belongings and effects, and the vehicle which they drive onto Educational Property, before coming onto the Educational Property, to determine whether they are carrying any prohibited item. Should any such items be found on a student's clothes, personal belonging or effects (including purses and back packs), or vehicle, a student will be deemed to have either willfully brought the item onto the Educational Property, or willfully failing to inspect for the item before coming onto Educational Property, and the punishment for willful failure to properly inspect may be the same as for willfully bringing the item onto the Educational Property, except when a reasonable inspection would not have alerted the student to the item.

#### I. Self Defense

Students who are Victims of unprovoked Assaults or Batteries may use **reasonable** means to defend themselves until adult intervention can provide for their safety and should not be punished for exercising their right of self defense.

LEGAL REFS: N.C.G.S. §115C-390.1 to 390.12, 115C-105.47A, 115C-12, 115C-402,  
115-45(c)(2), Chapter 90, Article 5 of the NC Controlled Substance Act

CROSS REFS: Policy 8420, Student Substance Abuse

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