

RULES OF CONDUCT AND PROCEDURAL CODE FOR STUDENT SUSPENSIONS

Administrative Regulation: **4300-R**

I. RULES OF CONDUCT AND CONSEQUENCES

The following are the Rules of Conduct and consequences for all students in the Watauga County Schools. All defined terms are incorporated herein under the *Procedural Code for Student Suspension*.

A. Rules of Conduct

1. **DISRUPTION OF SCHOOL** (See Board Policy 4315, Disruptive Behavior) A student shall not, by use of violence, force, noise, coercion, threat, intimidation, passive resistance or by any other conduct, intentionally cause or attempt to cause the substantial and material disruption or obstruction of any lawful mission, process of function of the school. Neither shall a student urge other students to engage in such conduct.

Examples of such acts include but are not limited to:

- a. Occupying any part of a school building or grounds with intent to deprive others of its use.
- b. Blocking the entrance or exit of any school building, corridor or room with the intent to deprive others of lawful access to or from, or use of, the building or corridor or room.
- c. Prevention or attempting to prevent the convening or continued functioning of any school, class or activity.
- d. Except under the direct instruction of a staff member, blocking normal pedestrian or vehicular traffic on a school campus.
- e. Continuously and intentionally interfering with the teacher's ability to conduct his/her class.
- f. Appearance or clothing which is disruptive, provocative or obscene or which endangers the health or safety of the student or other is prohibited.
- g. The possession of literature or illustrations which significantly disrupt the educational process or which are obscene is prohibited.
- h. Serious or persistent verbal action or obscene gestures, written or verbal, that prevents an orderly and peaceful learning environment is prohibited. Students must respect not only each other but

respond to written or verbal directions given by all school personnel. Cursing or using vulgar or abusive language including remarks intended to demean a person's race, religion, sex, national origin, handicapping condition or intellectual ability are specifically prohibited. See also Board Policy # 5.05.90, *Anti-Bullying, Harassment and Discrimination*.

2. DAMAGE OR THEFT OF PROPERTY (See Board Policy 4330, Theft, Trespass and Damage to Property) - A student shall not intentionally cause or attempt to cause damage to school or private property. No student shall steal or attempt to steal school or private property.
3. ASSAULT OR THREAT OF ASSAULT (See Board Policy 4331, Assaults, Threats and Harassment)- A student shall not intentionally assault or threaten physical injury to any person. See also Board Policy # 5.05.90- *Anti-Bullying, Harassment and Discrimination*.
4. WEAPONS AND DANGEROUS MATERIALS (See Board Policy 4331, Assaults, Threats and Harassment and Board Policy 4333, Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety) - A student shall not possess, sell, use, handle, or transmit any object that can reasonably be considered a weapon or explosive of any kind. For the purposes of this Policy, "weapon" shall include, but not be limited to, any gun, rifle, pistol, or other firearm of any kind, any dynamite cartridge, bomb, grenade, mine, powerful explosive as defined in N.C.G.S. § 14.284.1, BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors, razor blades, pocket knife, or any sharp-pointed or edged instrument. Any student who brings a firearm or weapon, as those terms are defined in 18 U.S.C. § 921, onto any campus of the Watauga County School System, shall be referred to the criminal justice and/or juvenile delinquency system. The above disciplinary actions do not apply to the possession of weapons that have been approved in advance by the principal or his/her designee for instructional or school sanctioned purposes, such as JROTC or a drama production. Any weapon found on campus shall be confiscated and turned over to law enforcement officials.
5. NARCOTICS, ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS, VAPOR PRODUCTS, AND STIMULANT DRUGS (See Board Policies 4325, Drugs and Alcohol and 4320, Tobacco Products-Students) -A student shall not possess, sell, use, give away, purchase, transmit or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, synthetic stimulants such as MDPV, mephedrone (e.g. "bath salts") and synthetic cannabinoids (e.g. "Spice" and "K2"), tobacco product, alcoholic beverage, stimulant or intoxicant of any kind. The prescribed and intended use of a drug authorized by a medical prescription from a licensed physician shall not be considered a violation of this rule for the intended user. Additionally, a student shall not create, sell, deliver, or possess with intent to sell or deliver, a counterfeit controlled substance. A controlled substance is any substance which is by any means intentionally represented as a controlled substance. It is evidence that the substance has been intentionally misrepresented as a

controlled substance if the following factors are established:

- a. The substance was packaged or delivered in a manner normally used for the illegal delivery of controlled substances.
 - b. Money or other valuable property has been exchanged or requested for the substance, and the amount of that consideration was substantially in excess of the reasonable value of the substance.
 - c. The physical appearance of the tablets, capsules or other finished product containing the substance is substantially identical to a specified controlled substance.
 - d. Falsely representing a substance as a controlled/illegal substance verbally, in writing, or by any other form of communication.
6. EXTORTION AND BLACKMAIL (See Board Policy 4022/7231 Prohibition Against Discrimination, Harassment, and Bullying and Board Policy 4022/7231, Nondiscrimination on the Basis of Disabilities.) - A student shall not obtain money, property, and/or a statement from a person by the use of threats or force.
 7. ELECTRONIC COMMUNICATION DEVICE (See Board Policy 4318 Use of Wireless Communication Devices) - A student shall not send transmissions of a threatening, harassing, bullying, discriminatory, embarrassing or otherwise hurtful nature. (See also Board Policy 4021/7230, Prohibition Against Discrimination, Harassment, and Bullying and Board Policy 4022/7231, Nondiscrimination on the Basis of Disabilities.)
 8. TRESPASSING - A student shall not be on school grounds or property or be at a school sponsored activity, function or event when his/her presence has been prohibited by authorized school personnel. (See Board Policy 4330 Theft, Trespass and Damage to Property)
 9. BREAKING AND ENTERING - A student shall not break and/or enter into school buildings, classrooms, storerooms or lockers. (See Board Policy 4330 Theft, Trespass and Damage to Property)
 10. SEXUAL HARASSMENT - A student shall not harass another student or school employee by conduct or communication of a sexual nature as defined in Board Policy 4021/7230, Prohibition Against Discrimination, Harassment, and Bullying and Board Policy 4022/7231, Nondiscrimination on the Basis of Disabilities.
 11. HAZING - A student shall not by verbal, physical or psychological harassment taunt, stalk or intimidate other students or aid in such actions. See also Board Policy 4021/7230, Prohibition Against Discrimination, Harassment, and Bullying and Board Policy 4022/7231, Nondiscrimination on the Basis of Disabilities.

12. BULLYING, HARASSMENT, DISCRIMINATION – Students shall not engage in bullying, harassment and related acts of discrimination as defined in the School Violence Prevention Act and as presented in the Board Policy 4021/7230, Prohibition Against Discrimination, Harassment, and Bullying and Board Policy 4022/7231, Nondiscrimination on the Basis of Disabilities.

Bullying, harassment and related acts of discrimination is defined as set forth in the School Violence Prevention Act: any pattern of gestures or written electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property at any school-sponsored function, or on a school bus, and that places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits; to define hostile environment as used in the Act as meaning the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior; to provide that bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

13. EDUCATIONAL INTEGRITY- (See Board Policy 4310, Integrity and Civility) A student shall not engage in or attempt to engage in cheating, plagiarism or falsification. For purposes of these Regulations, the following definitions shall apply:
- a. Cheating - Cheating includes the actual giving or receiving of any unauthorized aid or assistance or the actual giving or receiving of unfair advantage of any form of academic work.
 - b. Plagiarism - Plagiarism includes the copying of the language structure, idea and/or thought of another and representing it as one's own original work.
 - c. Falsification – Falsification includes the verbal or written statement of any untruth.
14. VIOLATIONS OF SCHOOL REGULATIONS -A student fails to comply with directions of teachers, student teachers, substitute teachers, teacher assistants, principals or other authorized school personnel during any

period of time when he/she is properly under the authority of such person. (See Board Policy 4301, Authority of School Personnel, Board Policy 4302, School Plan for Management of Student Behavior and Board Policy 4340, School-Level Investigations.)

15. MISDEMEANOR OR FELONY- A student commits any act which is at the time it is committed a misdemeanor or felony under the laws of the State North Carolina or the laws of the United States of America. (See Board Policy 4335, Criminal Behavior.)
16. GANG RELATED ACTIVITIES –For purposes of these Regulations the term “gang” means any ongoing organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more felony offenses, or delinquent acts that would be felonies if committed by an adult, which may have a common name, common identifying sign or symbol, and has three or more members individually or collectively engaged in, or who have engaged in, gang activity. (See Board Policy 4328, Gang-Related Activity.)

For purposes of this Regulation the term “gang activity” means to commit, to attempt to commit, or to solicit, coerce or intimidate another person to commit an act or acts, with the specific intent that such act or acts were intended or committed for the purpose, or in furtherance, of the person's involvement in a gang. No student, on or about school property or at any school activity shall do any of the following:

- a. Wear, possess, use, distribute, display or sell any clothing, jewelry, emblem, badge, symbol, sign, visible tattoos or body markings, literature or any other indication of membership in or affiliation with a gang.
- b. Commit an act or omission of an act, or use speech, either verbal or non-verbal (i.e. gestures, handshakes, slogans, drawings, etc.) showing membership in or affiliation with a gang.
- c. Participate in tagging, or otherwise defacing school or personal property with gang or gang related symbols or slogans.
- d. Use any speech or commit any act or omission of an act in furtherance of the interests of any gang or gang activity, including but not limited to the following:
 - i. Solicit others for membership in any gang.
 - ii. Request any person to pay protection or otherwise intimidating or threatening any person.

- iii. Commit any other illegal act or other violation of school district policies in furtherance of gang activity.
- iv. Incite other students to act with physical violence upon any other person.

B. Consequences

The following consequences for assault, disruption of school, hazing, bullying, discrimination, gang related activities and weapons shall be followed by the principal or designee.

1. Assault (See Board Policy 4331, Assaults Threats Harassment.)

a. Students K-5

The principal or designee shall determine the appropriate punishment. The principal will conduct a conference with the student and parent prior to the student being readmitted to class.

b. Students 6-8

The first offense shall result in one to three school days in-school or Short-Term Suspension. The second offense shall result in three to five school days Short-Term Suspension. The third offense shall result in ten school days Short-Term Suspension with recommendation to the superintendent for Long-Term Suspension. After any suspension the principal or designee shall conduct a conference with the student and parent or guardian prior to the student being readmitted to class.

c. Students 9-12

The first offense shall result in five to ten school days in-school or Short-Term Suspension. The second offense shall result in ten school days Short-Term Suspension with recommendation for Long-Term Suspension. The principal or designee shall report to the local law officials all fights occurring on school property or at school sponsored activities. After any suspension the principal or designee may conduct a conference with the student and parent or guardian prior to the student being readmitted to class.

2. Disruption of School/Gang Related Activities (See Board Policy 4315, Disruptive Behavior and Board Policy 4328, Gang-Related Activity)

a. Students K-5

The principal or designee shall determine the appropriate punishment. The principal will conduct a conference with the student and parent prior to the student being readmitted to class.

b. Students 6-8

The first offense shall result in one to three school days in-school or Short-Term Suspension with referral to the school counselor as well as a re-entry conference with the referring-staff person. The second offense shall result in one to five school days Short-Term Suspension. The third offense shall result in three to ten School Days Short-Term Suspension with the option to recommend to the superintendent Long-Term Suspension. After any suspension the principal or designee shall conduct a re-entry conference with the student and parent/guardian prior to the student being readmitted to class.

c. Students 9-12

The first offense shall result in up to five school days in-school or Short-Term Suspension with referral to a school counselor. The second offense will result in up to ten school days Short-Term Suspension with a required re-entry conference. The third offense shall result in ten school days Short-Term Suspension with recommendation to the superintendent for Long-Term Suspension. After any suspension the principal or designee shall conduct a re-entry conference with the student and parent or guardian and referring staff person prior to the student being readmitted to class.

3. Weapons (See Board Policy 4333, Weapons, Bomb Threats, Terrorist Threats and Clear Threats to Safety.)

a. Students K-5

Except as provided below, the student shall be disciplined at the discretion of the principal using the standards described for students in grades 6-12 as a guide. The principal may consider the age and maturity of the student.

b. Students 6-12

i. Except as provided below, a student shall be suspended at least ten school days Short-Term Suspension with recommendation to the Superintendent for Long-Term Suspension for any of the following offenses:

- Possession, whether openly or concealed, or use of any air rifle, air pistol, BB gun, pellet gun, stun gun, starter pistol or zip gun or any similar weapon that is capable

of causing a serious bodily injury; or

- Use (or intent to use) of any knife to threaten or harm another person. The term “knife” includes a bowie knife, dirk, switchblade knife, butterfly knife, dagger, hunting knife, carving knife, razor blade, box cutter, or any similar type weapon that is capable of causing a serious bodily injury.
- ii. Except as provided below, a student shall be suspended for ten school days Short-Term Suspension for any of the following offenses:
- Use (or intent to use) of mace, pepper spray, or any similar weapon, as a weapon to injure or harm another person.
 - Use (or intent to use) any other type of weapon to injure or threaten to injure any other person.
 - Use or explosion of fireworks or pyrotechnics as defined in G.S. 14-414, including but not necessarily limited to: firecrackers, cherry bombs, smoke bombs, poppers, or any similar fireworks except as authorized by law for public exhibitions under the supervision of experts.
 - Possession of any type of knife, including but not necessarily limited to: a dagger, bowie knife, switchblade knife, butterfly knife, ice pick or sharp pointed or edged instrument; except instructional supplies, unaltered nail files and tools used solely for the preparation of food, instruction, and maintenance.
 - Possession of a razor or an object that contains a razor blade or sharp edge for cutting or slashing that is capable of causing a serious bodily injury (except a standard commercial razor that is used for shaving).
 - Possession and use of a ‘look-alike’ weapon to scare, threaten, harass, or injure another person, such as a plastic gun, water pistol, cap pistol, or hard rubber knife.
- iii. Except as provided below, a student shall be suspended for up to ten school days Short-Term Suspension for any of the following offenses:

- Possession of a black jack, leaded cane, or metallic knuckles or any similar weapon.
 - Possession of a slungshot or slingshot.
 - Possession of any fireworks or pyrotechnics as defined in G.S. 14-414, including but not necessarily limited to firecrackers, cherry bombs, smoke bombs, poppers, etc., except for public exhibitions.
 - Possession of a pocket knife, pen knife, Swiss army knife, or similar Weapon.
 - Possession of a “look-alike” weapon such as a plastic gun, water pistol, rubber knife or other similar weapon.
- iv. Second Offense. Any student who possesses a weapon a second time after having been previously suspended shall be suspended for ten school days Short-Term Suspension by the principal and recommended for a Long-Term Suspension.
- v. Any student who brings a weapon, as defined in N.C.G.S. 14-269.2 (b) and (b1), onto school property shall be suspended by the Board for 365 Day Suspension. The student will be referred to the criminal justice or juvenile system for this offense. The Board, upon recommendation by the superintendent, may modify this suspension requirement on a case-by-case basis.

Any one or more of the acts listed below committed by a student may constitute a clear threat to the safety of others warranting the student's Expulsion. (See Board Policy 4353 Long-Term Suspension, 365 Day Suspension, Expulsion.)

- a. Theft or attempted theft by a student from another person by using, or threatening to use, a dangerous weapon, as defined in Board Policy 4333, Weapons, Bomb Threats, Terrorist Threats and Clear Threats to Safety.
- 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, as defined in Board Policy 4333, Weapons, Bomb Threats, Terrorist Threats and Clear Threats to Safety, 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; adult volunteers; or another student 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 obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injuries, severe laceration, loss of consciousness, or the victim requires hospitalization as a result of the attack.
- f. Any intentional 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 a felony, 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, as defined in Board Policy 4333, Weapons, Bomb Threats, Terrorist Threats and Clear Threats to Safety, on any school property, and possession by a student under the age of 18 of a handgun, whether on school 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, or violence, or by putting the victim in fear.
- j. Any 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, of any attempted sale or delivery, of a controlled substance in violation of Chapter 90 of the North Carolina General Statutes.

II. MANDATORY REPORTABLE OFFENSES TO LAW ENFORCEMENT

1. When a principal has personal or actual knowledge from school personnel that certain criminal acts listed in N.C.G.S. § 115C-288(g) have occurred on school property, the principal must immediately report the act to appropriate law enforcement.
2. The principal or designee shall notify the superintendent or designee in writing or by electronic mail regarding any report made to law enforcement. This notification is required by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the Board.
3. The principal shall notify the parents or legal guardians of any students alleged to

be victims of any act that is required to be reported to law enforcement and the Superintendent under N.C.G.S. § 115C-288(g).

PROCEDURAL CODE FOR STUDENT SUSPENSIONS

The Watauga County Board of Education ("Board") shall publish all the policies mandated by this section and make them available on the Watauga County Schools' website and shall make paper copies available upon request.

The Board encourages school officials to use research-based management programs and to use a full range of responses to violations of disciplinary rules such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service and other similar tools that do not remove a student from the classroom or school building.

The following Procedural Code will be followed to adjudicate alleged violations of the Rules of Conduct.

I. DEFINITIONS

1. **Alternative Education Services** – a full-time educational program that meets the academic requirements of the standard course of study and provides the student with the opportunity to make timely progress towards graduation and grade promotion. (See Board Policy 3470/4305, Alternative Learning Programs/Schools.)
2. **Expulsion**—the denial to a student, fourteen (14) years of age or older, of the right to attend school and to take part in any school activity for an indefinite period of time. A student may only be expelled if his/her continued presence in school constitutes a clear threat to the safety of other students or school personnel. Expulsion is the most severe penalty available and should be utilized only in extraordinary situations. (See Board Policy 4353, Long-Term Suspension, 365 Day Suspension, Expulsion)
3. **Long-Term Suspension**— the denial to a student of the right to attend school and to take part in any school function for a period of time in excess of ten (10) school days. 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. Any student receiving Long-Term Suspension shall not return to campus and shall not be on any other property of Watauga County Public Schools, unless for Alternative Education Services, nor attend any athletic contests or any extracurricular student activities during the suspension period. (See Board Policy 4353, Long-Term Suspension, 365 Day Suspension, Expulsion)
4. **School Days** – days that school is in session for students. School days do not include teacher workdays, weekends, holidays and school days missed due to inclement weather.
5. **School Property** – any public school building, bus, public school campus, grounds, recreational area or athletic field. Students may also be suspended for

conduct not occurring on school property if the student's conduct would otherwise violate the Code of Student Conduct and the conduct has a direct nexus to the orderly and efficient operation of the school or the safety of individuals in the school.

6. **Short-Term Suspension**— the denial to a student the right to attend school or to take part in any school function for any period of time up to ten (10) school days. Short-term suspension does not include: (1) the removal of a student from class by the classroom teacher, the principal or other authorized school personnel for the remainder of the subject period or for less than one-half of the school day; or (2) the changing of a student's location to another room or place on the school premises. (See Board Policy 4351, Short-Term Suspension and Board Policy 4352, Removal of Student During the Day)
7. **Substantial Evidence** – such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla of permissible inference.
8. **365 Day Suspension**– suspension of 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on school property or to a school-sponsored event off of school property. Any student receiving 365 Day Suspension shall not return to campus and shall not be on any other property of Watauga County Public Schools, unless for Alternative Education Services, nor attend any athletic contests or any extracurricular student activities during the suspension period. (See Board Policy 4353, Long-Term Suspension, 365 Day Suspension, Expulsion)

II. DISCIPLINARY ACTION (See Board Policy 4301, Authority of School Personnel and Board Policy 4302, School Plan for Management of Student Behavior and Board Policy 4370, Student Discipline Hearing Procedures)

A. Short-Term Suspension (See Board Policy 4351, Short-Term Suspension)

1. Student Informal Hearing Rights

Following the principal's investigation, the accused student must be provided with an opportunity for an informal hearing with the principal before a Short-Term Suspension is imposed. The principal may hold the hearing immediately after giving the student oral or written notice of the charges against him/her. At the informal hearing, the student has the right to be present, to be informed of the charges and the basis for the accusations against him/her and to make statements in defense or mitigation of the charges.

The principal may impose a Short-Term Suspension without first providing the student with an opportunity for a hearing if the presence of the student: (1) creates a direct and immediate threat to the safety of other students or staff; or (2) substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the principal shall give the student notice of the charges and an opportunity for an informal hearing as soon as practicable.

After this action is taken, the principal will carry out an additional investigation and decide on further disciplinary action. If he/she thinks additional suspension is necessary, the total suspension time shall not exceed ten (10) school days.

2. Sending a Suspended Student Home during the School Day

When the principal implements a Short-Term Suspension, he/she shall attempt to contact the student's parents/guardians to inform them of the action and to request that they come to the school to pick-up their child. If the principal cannot reach the parents, the student must remain at the school until the close of the day.

Notwithstanding the above requirement that a suspended student be released only to a parent, the principal may order a student to leave the school property immediately when he/she is faced with mass violations of school rules and it is not possible to keep the student on school property and restore order or protect people on the school property. Even in this case, distance to home and the age and sex of the individual child may require keeping him until the parents can be contacted.

3. Informing the Parents in Cases of Short-Term Suspension

When a student is Short-Term Suspended, the principal shall:

- a. Send a notice to the student's parents fully describing the student's misconduct, stating the rule violated, stating the principal's reasons for action taken and notifying parents of the right of their student to:
 - a) take their textbooks home for the duration of the suspension;
 - b) the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment; and
 - c) take any quarterly semester or grading period exams missed during the suspension period.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 may be sent by mail, telephone, fax, e-mail or any other method reasonably designed to achieve actual notice. If English is the second language of the parent, the notice shall be provided in English and in the parent's primary language, when the appropriate foreign language resources are readily available;
- b. Make every effort to hold a conference with the parents before or at the time the student returns to school; and
- c. Secure written statements and keep on file all documents and relevant information received about the misconduct.

4. Short-Term Suspension Appeal

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.

5. Discipline Action for Students with Disabilities (See Board Policy 4307, Disciplinary Action for Exceptional Children/Students with Disabilities)

All disciplinary actions for students identified as exceptional children according to North Carolina guidelines will conform to Policies Governing Services for Children with Disabilities as adopted by the State Board of Education. If those Policies do not fully address a particular issue, the director of exceptional children will develop any necessary protocols consistent with state and federal law.

B. Long-Term Suspension, 365 Day Suspension and Expulsion (See Board Policy 4353, Long-Term Suspension, 365 Day Suspension, Expulsion and Board Policy 4370, Student Discipline Hearing Procedures)

1. Initiating Long-Term or 365 Suspension

- a. If, after his/her investigation regarding the Short-Term Suspension, the principal decides that a Long-Term or 365 Day Suspension is warranted, he/she shall notify the student services director and ask that a hearing date be set.
- b. Prior to notifying the student services director, the principal, in consultation with the superintendent, should give consideration to whether, in lieu of Long-Term or 365 Day Suspension, the student may voluntarily transfer to or be involuntarily reassigned to Alternative Education Services if available. A voluntary or involuntary reassignment is not a disciplinary suspension requiring the due process rights granted herein.
- c. No Long-Term or 365 Day Suspension shall be imposed on a student until an opportunity for a hearing, as set-out herein, is provided to the student. If the student or his/her parents request a postponement of the hearing or request a hearing date beyond the time set for such request, the hearing shall be scheduled but the student shall not have the right to return to school pending the hearing.

2. Notice

Whenever the principal seeks a Long-Term or 365 Day Suspension, he/she must give written notice to the student, his/her parents and the superintendent no later than the end of the school day following the day of the conclusion of the principal's investigation of the alleged misconduct. The notice shall contain:

- a. The rule allegedly violated and the acts of the student thought to have violated the rule and a summary of the evidence against him/her;
- b. A tentative time and place for the due process hearing;
- c. A description of the hearing procedures, the right to retain an attorney and/or representative, the available appeals process and a copy of these procedures;
- d. Notification that audio/video recordings and/or written statements about the misconduct and the student's disciplinary records are available for those concerned in the hearing.
- e. Reference to the student's ability to expunge his/her discipline records; and
- f. If the student is entitled to protection under the Individuals with Disabilities Education Act, notice that all school actions are subject to decisions of the student's IEP team as follows: "Any final decision on disciplinary suspension is subject to decisions by the IEP team as mandated by applicable law."

Written notice may be provided by certified mail, fax, e-mail or any other written method reasonably designed to achieve actual notice. 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.

The student must notify the principal at least two (2) days prior to the hearing that he/she will have an attorney present at the hearing so that the principal may, if necessary, have the school attorney attend the hearing. Failure to provide notice may result in the hearing being rescheduled.

3. Scheduling the Hearing

The hearing shall be scheduled at the discretion of the student services director but shall be initially set within three (3) days from the principal's notice. The student services director may schedule a different date if good and sufficient cause is shown by either the student or the principal.

4. Audio/Video Recordings and Witness Statements

The principal shall make available in his/her office at least two (2) school days before the hearing any audio or video recordings of the incident, the signed statements of all persons on whose information the charge against

the student is based, consistent with federal and state student records laws and regulations, and other information supporting the suspension that may be presented as evidence at the hearing. This information may be examined and copies of statements and documents may be obtained by the student, parents and representative and/or attorney. If the principal later receives any further relevant information that will be employed at the hearing, he/she must notify the student of it and make copies of any relevant statements or documents available before the hearing.

Besides having access to the material listed above that forms the basis of evidence against the student, the student and his/her parents shall have access to the student's disciplinary and academic record.

5. Hearing Committee ("Committee")

The student services director shall serve as the chief hearing officer and he/she shall determine the date, time and location for the hearing and other Committee members. No one who is under the direct supervision of the principal recommending the suspension may serve on the Committee.

The chief hearing officer has full charge of the hearing and has authority to direct its proceedings and to control the conduct of all persons present. He/she may limit questioning that is unproductively lengthy or irrelevant.

The chief hearing officer may contact the superintendent to request the presence of the board attorney to act as the procedural official in the event that the student is represented by an attorney.

6. Conducting the Hearing

- a. Closed Hearing. The hearing may only be attended by the Committee members, the superintendent, the principal or designee, the student, the student's parents, the student's representative and/or attorney and the board attorney. Witnesses shall be present only when they are giving information to the Committee. The student may be excluded at the discretion of the Committee with the concurrence of the student's parents (or the student's representative and/or attorney when he/she acts in the place of the parents) at times when his/her psychological or emotional problems are being discussed. No one may be present with the Committee during its deliberations.
- b. Student May Remain Silent. The student may speak in his/her own defense and may be questioned on his/her testimony, but he/she may choose not to testify and in such case he/she shall not be threatened with punishment or later punished solely for his/her refusal to testify.
- c. Record of the Hearing. The Committee shall make a record of any information orally presented to it at the hearing. Statements

and other written matter presented to the Committee should be kept on file by the principal. The student has a right to make his/her own audio recording of the hearing.

- d. **Principal's Submission of Statements and Records.** The principal shall submit to the Committee any audio/video recordings and signed statements of all persons having information about the student's misconduct that previously had been filed in the principal's office and made available to the student and his/her parents. The principal also shall submit a copy of the notice given to the student, parents, and superintendent. Further, upon the request of the Committee, the principal shall submit to the Committee the student's disciplinary and academic records. If the principal or the Committee deems it necessary, the information contained in these records shall be explained and interpreted to the Committee by a person trained in their use and interpretation. All records and statements submitted to the Committee shall remain confidential.
- e. **Use of Witnesses.** The hearing shall consist of a review of the information submitted by the principal. Any of the parties may present and question witnesses; however, each party must take the appropriate measures to ensure that their witness is present and ready. The hearing will not be delayed because a witness is not present.
- f. **Examination of Witnesses.** Members of the Committee, the principal, the student, his/her representative and/or attorney and his/her parents may question witnesses, (witnesses include the principal and the student) about any matters relevant to the charge against the student and the proper disposition of the matter.
- g. **Role of the Parents.** The parents shall be present at the hearing and shall have an opportunity to make a statement to the Committee concerning the proper disposition of the case and to answer questions. Any statements they make need not be filed with the principal before the hearing. They should be able to advise the student during the hearing. They may also question the witnesses. Should the parents refuse to appear, the case will be referred to the superintendent.
- h. **Adult Representation in Addition to or in Lieu of Parents.** If the parents cannot be present or if the student or his/her parents think his/her interests can be protected better by the presence of another adult in addition to or in lieu of the parents, the student may bring another adult to the hearing. The non-parent representative may advise the student, call and examine witnesses, make any

statement and actively represent the student before the Committee. If the parents cannot be present, the non-parent representative has all the rights of a parent before the Committee. The non-parent adult may be an attorney.

- i. Right to an Attorney. The student has a right to retain an attorney to represent him/her before the Committee.

7. Committee Action

The Committee shall, within twenty four (24) hours, reach its decision by a majority vote and the chief hearing officer shall provide a written, non-binding recommendation to the superintendent. The decision should be based solely on the evidence presented at the hearing and the recommendation must state the basis for the decision, including a reference to any policy or rule that the student is determined to have violated and the recommended discipline sanction.

8. Superintendent Action

The superintendent shall review the Committee's recommendation and, based on the substantial evidence presented at the hearing, the superintendent shall decide whether to uphold, modify or reject the principal's recommendation.

The superintendent shall send notice of his/her decision, via certified or regular mail, to the student and parent with two (2) days of receiving the chief hearing officer's recommendation. The notice or attachments thereto must include:

- a. The basis of the decision and, if a rule was violated, reference to any policies or rules that the student violated;
- b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402;
- c. Notice of the student's right to appeal the decision and the procedures for such appeal;
- d. If the superintendent decides to implement a 365 Day Suspension, notice of the student's right to petition the Board for readmission;
- e. If applicable, notice that the superintendent is also recommending to the Board that the student be subject to expulsion and any required notifications related to the expulsion if the student did not already receive such notice from the principal; and
- f. If the student is to be suspended, notice of the superintendent's decision on whether to offer Alternative Education Services to the student during the period of suspension, and, as applicable, a

description of the services to be offered or the reason justifying the superintendent's decision to deny such services.¹

The superintendent shall implement the decision by authorizing the student's return to school upon the completion of any Short-Term Suspension or by imposing the suspension reflected in the decision.

9. Board Appeal and Hearing (See Board Policy 2500, Hearings Before the Board.)

a. Long-Term or 365 Day Suspension

A student or his/her parent may appeal to the Board an imposed Long-Term Suspension or 365 Day Suspension and/or the superintendent's decision not to provide Alternative Education Services. The student or parent must appeal to the Board in writing within three (3) calendar days of receiving the superintendent's decision. The superintendent shall inform the Board chairperson of the request for an appeal and shall arrange in a timely manner a hearing before the Board. The suspension need not be postponed pending the outcome of the appeal. In the case of an appeal regarding Alternative Education Services, prior to the hearing, the superintendent shall provide to the student and parent and to the Board a written explanation of the denial of services along with any documents or other information supporting the decision. The hearing will be conducted as follows: the student and his/her parents or attorney may present a written statement and may be allowed ten (10) minutes to make oral comments to the Board. The Board will send, via certified and regular mail, to the student and parent and to the superintendent written notice of its decision not more than thirty (30) calendar days after receiving the appeal.

b. Expulsion

The student or parent may request a hearing with the Board within five (5) calendar days of receiving notice of the superintendent's recommendation that the student be expelled. The hearing will be scheduled with the Board within five (5) calendar days of the superintendent's receipt of the hearing request. The superintendent shall notify the student and parent of the date, time and place of the

¹ Students who are Long-Term Suspended or 365 Day Suspended 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 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 provisions of Alternative Education Services not feasible; (5) the student failed to comply with reasonable conditions for admittance into an alternative education program.

hearing. Any appeal of a Long-Term or 365 Day Suspension will be addressed in the same hearing. The hearing will be conducted as follows: the student and his/her parents or attorney may present a written statement and may be allowed ten (10) minutes to make oral comments to the Board.

If a hearing is not requested by the student or parent, the superintendent shall submit written evidence to support his/her recommendation to the Board. The Board may elect to request a hearing or to request additional records and documents.

When the Board decides to expel a student, the Board will document the basis for its determination that there is clear and convincing evidence that the student's behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The Board also will consider and make a written determination of whether Alternative Education Services are to be provided to the expelled student. The Board will send, via certified or regular mail, to the student's parent a copy of the decision, notification of what information will be included in the student's official record, the procedure for expungement of this information and notice of the right to petition for readmission.

III. 365 DAY SUSPENSION/EXPULSION READMISSION AND EXPUNGEMENT OF RECORDS

A. 365 Day Suspension/Expulsion Readmission (See Board Policy 4362, Request for Readmission of Students Suspended for 365 Days or Expelled)

All requests for readmission of students who have been suspended for 365 Days or Expelled will be considered in accordance with the procedures set out below.

1. Requests by Students Suspended for 365 Days

A student who is serving a 365 Day Suspension may submit a request to the superintendent for readmission any time after the 180th calendar day of his or her suspension. Upon receipt of the request, the superintendent or designee shall offer the student an opportunity for an in-person meeting to be held within five days. The student may provide documents in support of the request, such as signed statements from individuals knowledgeable about the student or documents verifying that the student is participating in or has completed counseling or rehabilitation programs. If the student demonstrates to the satisfaction of the superintendent or designee that the student's presence in school no longer constitutes a threat to the safety of other students or employees, the superintendent must

readmit the student.

Within 30 days of the student's request, the superintendent or designee shall provide written notice of his or her decision to the student, the student's parents and the board. If the superintendent or designee decides to readmit the student, the notice will include the date of readmission, the school or program to which the student will be assigned and any reasonable restrictions placed on the readmission. If the superintendent or designee rejects the request for readmission, the notice will advise the parents of the right to appeal the decision to the board. Any appeal to the Board must be made in writing within five (5) days of receipt of the superintendent's or designee's decision. The superintendent or designee shall inform the Board chairperson of the request for an appeal and arrange in a timely manner a hearing before the Board. The Board will provide to the student, the student's parent and the superintendent or designee written notice of its decision within 30 days of receiving the appeal of the superintendent's or designee's decision. If the request for readmission is denied, no subsequent requests from that student will be considered during that 365 Day Suspension.

2. Requests by Expelled Students

A student who has been expelled may submit a request to the Board for readmission any time after 180 calendar days from the start date of the student's expulsion. The Board chairperson immediately will forward the request to the superintendent, who shall arrange in a timely manner a hearing before the board. After considering the student's request and the superintendent's or designee's recommendation regarding readmission, if the Board determines that the student has satisfactorily demonstrated that his or her presence in school no longer constitutes a clear threat to the safety of other students or employees, the board will readmit the student. The Board will notify the student, the student's parents and the superintendent in writing of its decision within 30 days of the submission of the request for readmission.

If the Board decides to readmit the student, the notice will include the date of readmission, the school or program to which the student will be assigned and any reasonable restrictions placed on the readmission. If the student was expelled as a result of assaulting or injuring a teacher, the student will not be returned to that teacher's classroom following readmission without the teacher's consent.

If the expelled student's request for readmission is denied, the Board will not consider a subsequent request for readmission of that student until six months after the submission of the previous request.

B. Expungement of Records (See policy 4345, Student Discipline Records)

The superintendent or designee shall expunge any record of suspension for a period of more than ten (10) days or expulsion if the following criteria are met:

1. A request that the record be expunged is made to the superintendent or designee by the student's parent or guardian or by the student if the student is at least 16 years old or is emancipated;
2. The student either graduates from high school or is not suspended or expelled again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension; and
3. The superintendent or designee determines that the maintenance of the record is no longer needed to adequately serve the student or to maintain safe and orderly schools.

In addition, the superintendent may expunge any notice of suspension or expulsion from a student's official records provided that criteria (2) and (3) are above met.

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 GS 14-134, 14-36, 14-69.1-69.2, 14-132.2
 GS 14-269.2, 14-284.1, GS 115C-238.29B
 G.S. 115C-288(g)
 GS 115C-47 (56)
 GS 14-50.17, North Carolina Street Gang Prevention Act,
 Gang Awareness Guide for North Carolina Communities
 GS 115C-390, GS 115C-366

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