

**STUDENT DUE PROCESS**

2017 – 2018

**Policies &  
Procedures**

Si necesita servicios  
de traducción  
gratuitos para  
comprender los  
procesos escolares,  
llame al  
(919) 852-3303

إذا كنت بحاجة إلى  
خدمات الترجمة  
المجانية للتعرف  
على سير العمليات  
بالمدرسة، اتصل  
بالرقم  
(919) 852-3303

Si vous avez  
besoin de services  
de traduction  
gratuits pour  
comprendre les  
procédures  
scolaires, appelez  
le (919) 852-3303

यदि आपको  
विद्यालय की  
प्रक्रियाओं को  
समझने के लिए  
नि:शुल्क अनुवाद  
सेवाए चाहिए, तो  
(919) 852-3303  
पर कॉल करें

학교/교육  
과정에 관한  
무료 번역  
서비스가  
필요하시면 다음  
번호로 연락하여  
주십시오  
(919) 852-3303

Nếu quý vị cần  
sự thông dịch  
miễn phí để hiểu  
phương pháp  
trường học, xin  
vui lòng gọi số  
điện thoại  
(919) 852-3303

如果您需要  
免费翻译服  
务来了解学  
校流程，请  
致电  
(919) 852-3303

*Note: This manual is intended to assist parents/guardians, students and school administrators in understanding the student due process policies and procedures. Policies have been abbreviated in this manual.*

### **Authorization for Release of Disciplinary Record**

Many colleges/universities and businesses may request information from applicants regarding their prior suspension history. If the application requires the student's suspension history, the "Authorization for Release of Disciplinary Record" form must be completed and submitted to the Student Due Process office. The student must also: (1) inform the colleges/universities or businesses that requests for verification must be submitted to the Student Due Process office, not the high school, and (2) provide them with the Student Due Process fax number (919-431-7319) and address (5625 Dillard Drive, Cary NC 27518). The "Authorization for Release of Disciplinary Record" form is available through the school Guidance Department or online at [www.wcpss.net](http://www.wcpss.net).

**Please direct questions first to your school principal, then contact:**

Office of Student Due Process  
Wake County Public School System  
5625 Dillard Drive  
Cary, North Carolina 27518  
Phone: 919-533-7761  
Fax: 919-431-7319  
Email: *studentdueprocess@wcpss.net*

## **SCHOOL CLOSINGS OR DELAYED OPENING**

If school is closed due to weather or other occurrences, the end date of an active suspension will be extended by the number of days the school is closed.

An Appeal Hearing that is scheduled on a day when schools are unexpectedly closed or delayed due to weather or other occurrences will be rescheduled. The office of Student Due Process will notify the student, parent/guardian and school of the new date and time.

***Disclaimer:*** While every effort was made to ensure the accuracy of the policies, regulations and procedures within this booklet, the Wake County Public School System and Board of Education are not responsible for any errors or omissions in this document. Please notify *studentdueprocess@wcpss.net* if you find any errors in this document.

**Wake County Public School System policy prohibits discrimination against students or employees in programs, employment or assignments because of race, color, religion, disability or national origin.**

***Regulations and Procedures (R&P)*** are supplemental information to accompany and support Board Policies. The pertinent sections of R&P are integrated into this document in proximity to the Policies to which they refer. R&P is in italics and outlined as seen here.

## TABLE OF CONTENTS

<u>SECTIONS</u>	<u>PAGES</u>
Policy 4309 Student Behavior-Code of Student Conduct.....	1 - 3
Policy 4309 Levels of Violation .....	3 - 4
Level I Rules of Conduct .....	4 - 6
Level II Rules of Conduct.....	7 - 8
Level III Rules of Conduct.....	9 - 13
Level IV & V Rules of Conduct .....	14
Mitigating & Aggravating Factors .....	15
<u>A</u> lternative <u>C</u> ounseling and <u>E</u> ducation ( <u>ACE</u> ).....	16 - 20
Policy 4300 Due Process, Summary Suspensions & Removal from School.....	21
Short-Term Suspensions .....	22
Suspensions Exceeding Ten Days (Long-Term Suspensions).....	23
Alternative Placement .....	24
Long-Term Suspension Appeal .....	25 - 27
Board Level Appeal .....	28
Expulsions.....	29
Discrimination, Harassment, & Bullying.....	30 - 33
Technology Responsible Use.....	34 - 38
Student Searches .....	39 - 42
Suspension Appeal Hearing Process.....	43
Board Hearing Process.....	44

# **POLICY 4309 STUDENT BEHAVIOR—CODE OF STUDENT CONDUCT**

## **A. Philosophy and Goals**

A safe, orderly, and welcoming school environment is essential for student learning. To that end, this Code of Student Conduct is intended to (1) create clear standards and expectations for student behavior; (2) promote integrity and self-discipline among students; (3) encourage the use of behavioral supports and non-disciplinary interventions as alternatives to exclusionary discipline; and (4) provide clear guidance to teachers and administrators as to how, when, and to what extent students may be disciplined for violating conduct rules.

Consistent with these goals, the Board fully endorses and adopts the following “Guiding Principles” from the 2014 U.S Department of Education publication, “Guiding Principles: A Resource Guide for Improving School Climate and Discipline.”

### **Principle 1: Climate and Prevention**

Schools that foster positive school climates can help to engage all students in learning by preventing problem behaviors and intervening effectively to support struggling and at-risk students.

### **Principle 2: Expectations and Consequences**

Schools that have discipline policies or codes of conduct with clear, appropriate, and consistently applied expectations and consequences will help students improve behavior, increase engagement, and boost achievement.

### **Principle 3: Equity and Continuous Improvement**

Schools that build staff capacity and continuously evaluate the school’s discipline policies and practices are more likely to ensure fairness and equity and promote achievement for all students.

## **B. Role of Staff, Students, Parents, and Community Partners in Promoting Positive School Climates**

Positive school climates require ongoing support and collaboration among staff, students, parents, and the community at large.

In particular:

- Students have the right to attend school in a safe and orderly environment and to have conduct rules applied fairly to them without regard to race, gender, religion, or other defining characteristics. They also bear the responsibility to understand conduct rules, behave appropriately, and be individually accountable for their own actions and decisions.
- Parents have the right to be informed of disciplinary actions taken with their children. They are encouraged to support their children in engaging in positive behaviors at school and to partner with teachers and administrators on effective strategies to correct misbehaviors within the parameters of this Code and other applicable policies.
- Teachers and administrators have statutory duties to maintain safety and order at school and are expected to reinforce and implement clear and consistent behavioral expectations consistent with this Code and other applicable policies. They are also expected to communicate with parents regarding any serious or persistent disciplinary issues.
- The entire community has a vested interest in safe and orderly schools. Community organizations and individual members of the community are encouraged to offer support and assistance to teachers and administrators in the promotion of positive student behaviors at school and to provide feedback to school and central office administrators on ways to improve school climates and help ensure fair and equitable discipline practices.

### **C. Applicability of Code**

All students shall comply with the Code of Student Conduct of the Wake County Public School System, state and federal laws, school board policies, and local school rules governing student behavior and conduct. This Code applies to any student who is on school property, (which also includes any school transportation), who is in attendance at school or at any school-sponsored activity, or whose conduct at any time, place, or cyberspace, on or off campus, 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.

## **E. Range of Interventions, Supports, and Disciplinary Actions**

Violation of Board policies, the Code of Student Conduct, regulations issued by the individual school, or North Carolina General Statutes may result in some level of disciplinary action. Teachers and principals are encouraged to utilize a Multi-Tiered System of Support (MTSS) for behavioral interventions and disciplinary consequences to accomplish a positive change in student behavior.

Most behavioral interventions and disciplinary consequences can occur with the student remaining in school. Examples of in-school interventions include but are not limited to: behavior contract, peer mediation, in-school suspension, conflict resolution, detention, restitution, loss of privileges, and school or community service. If the principal deems it appropriate to require a student to stay after school for detention for a disciplinary reason, the principal may authorize such detention provided the parent or guardian has received at least one (1) days' notice and has agreed to assume responsibility for transportation home.

Except to the extent that North Carolina law requires school administrators to recommend a 365-day suspension for any student who violates Rule IV-1 Firearm/ Destructive Device K-12, this Code authorizes, but does not require, the use of out-of-school suspensions.

When, after considering potential aggravating and mitigating factors, the school principal determines a student's behavior warrants an out-of-school suspension, the principal may impose a short-term suspension.

Suspensions of more than ten (10) days may be imposed only if they have been approved by the Superintendent or designee. The Board of Education must approve any expulsion from school based on a recommendation of both the principal and the superintendent.

Nothing in this policy shall be interpreted to conflict with state and federal laws governing students with disabilities.

Students in grades K-5 shall not be subject to long-term suspension except as required by law or in cases involving serious injury to students or staff or serious threat to safety or welfare of members of the school community.

## **F. Levels of Violation**

The Student Code of Conduct rules are leveled, indicating the severity of violation and type of consequence.

**Level I:** Level I rule violations should result in in-school interventions rather than out of school suspensions. If, in any given year, there have been at least two interventions, a student may receive an out-of-school suspension of up to two (2) days based on a persistent pattern of Level 1 rule violations occurring during the same school year, or in cases where a student refuses to participate in the assigned in-school interventions. Level I rule violations shall not result in a long-term suspension.



**Level II:** Level II rule violations involve more serious misconduct that may warrant a short-term suspension of up to five (5) school days. Principals may impose a short-term suspension of 6-10 days or recommend a long-term suspension of eleven (11) days or more based on aggravating factors regarding the severity of the violation and/or safety concerns.

**Level III:** Level III rule violations are more severe in nature and may support long-term suspension. The principal may impose a short-term suspension of ten (10) days or less or decline to impose any suspension based on mitigating factors.

**Level IV:** Level IV rule violations compromise the safety and welfare of students and staff and require a suspension under NC General Statutes.

**Level V:** Level V allows for expulsion of a student, as provided by state statute, for a violation of the Code of Conduct, if the student is fourteen (14) years of age or older and the student's behavior indicates that his/her continued presence in school constitutes a clear threat to the safety of other students or employees and the Board determines there is no appropriate alternative education program. Additionally, any student who is a registered sex offender under N.C. General Statutes 14-208 may be expelled.

## **G. Rules of Conduct**

### **LEVEL I**

- I-1 Noncompliance** - Students shall comply with all directions of school personnel or volunteers who are authorized to give such directions.
- I-2 Disrespect** - Students shall exhibit appropriate respect towards school personnel and volunteers.
- I-3 School/Class Attendance** - Being tardy to class, skipping class/school, leaving campus without permission, or being in an unauthorized area is prohibited. *Out of school suspension should be used as a last resort as a consequence for violation of this rule.*
- I-4 Inappropriate Language** - Cursing or use of vulgar, profane, or obscene language is prohibited.
- I-5 Inappropriate Dress** - Principals shall exercise appropriate discretion in implementing this policy, including making reasonable accommodations on the basis of students' religious beliefs or medical conditions.

Students are expected to adhere to standards of dress and appearance that are compatible with an effective learning environment. Presenting a bodily appearance or wearing clothing which is disruptive, provocative, revealing, profane, vulgar, offensive or obscene, or which endangers the health or safety of the student or others is prohibited.

Examples of prohibited dress or appearance include, but are not limited to exposed undergarments; sagging pants; excessively short or tight garments; bare midriff shirts; strapless shirts; attire with messages or

illustrations that are lewd, indecent or vulgar or that advertise any product or service not permitted by law to minors; head covering of any kind; see-through clothing; attire that exposes cleavage; any adornment such as chains or spikes that reasonably could be perceived as or used as a weapon; and any attire that is prohibited by Level III-2, Gang and Gang-Related Activities.

Individual schools are free to specify additional examples of dress or appearance that are prohibited at that school under the terms of this policy.

If a student's dress or appearance is such that it constitutes a threat to the health or safety of others, distracts the attention of other students or staff from their work, or otherwise violates this dress code, the principal or principal's designee may require the student to change his or her dress or appearance.

**I-6 Electronic Devices** – Personal technology devices (including, but not limited to smart phones, tablets, laptops, etc.) may be used by students for instructional purposes with the permission and under the supervision of the teachers in compliance with the Technology Responsible Use policy.

The school system assumes no responsibility for personal technology devices brought to school.

**I-7 Trespassing** - No student shall be on the campus of any school except the one to which the student is assigned without the knowledge and consent of the officials of that school. Students who remain at school after the close of the school day or come onto school grounds when school is not in session without permission will be considered trespassers. If the student does not leave when instructed to do so, he/she may be prosecuted. A student under suspension from school is trespassing if he/she appears on the property of any school or at any school-sponsored activity during the suspension period without the express permission of the principal.

**I-8 Tobacco** - No student shall possess, display, or use any tobacco product. This restriction applies even when the student is on school system property or at any school-sponsored activity as a visitor or spectator. For the purpose of this policy:

- a. **Tobacco Product:** cigarettes, e-cigarettes, cigars, pipes, chewing tobacco, snuff, and any other items containing or reasonably resembling tobacco or tobacco products.
- b. **Tobacco Use:** smoking, chewing, dipping, or any other use of tobacco products.
- c. **Display:** having any tobacco product in a location or position that is visible to students or school personnel.

The exceptions to this policy are:

- d. The display of tobacco products does not extend to display that has a legitimate instructional or teaching purpose and is approved by a teacher or school administrator, and
- e. A principal may permit tobacco products to be included in instructional or research activities in the school building if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not involve smoking, chewing, or otherwise ingesting the tobacco product.

**I-9 Gambling** - Students shall not participate in any unauthorized games of chance in which money or items of value may be won or lost.

## NOTES

## **LEVEL II**

**II-1 Integrity** - Any student who engages in or attempts to engage in cheating, plagiarism, falsification, violation of software copyright laws, or violation of computer access shall be subject to disciplinary action. The following actions are specifically prohibited:

- a. **Cheating** - giving or receiving of any unauthorized assistance on academic work.
- b. **Plagiarism** - copying the language, structure, or idea of another and representing it as one's own work.
- c. **Falsification** - verbal or written statement of any untruth.
- d. **Violation of software copyright laws** - unauthorized duplication of computer software (computer piracy), printed material related to computer software, and/or the use of pirated computer software.

**II-2 Inappropriate Literature, Illustrations and Images** - The possession of literature, illustrations, or other images which significantly disrupt the educational process or which are obscene is prohibited.

**II-3 Violation of Computer Access** - No student shall engage in conduct prohibited by the Technology Responsible Use policy. (*Refer to pages 34-38*)

**II-4 Disruptive Behavior** - Any physical or verbal disturbance that significantly interrupts or interferes with teaching or orderly conduct of class/school activities is prohibited.

**II-5 School Transportation Disturbance** - Any physical or verbal disturbance which occurs on a school transportation vehicle or at a bus stop and which interrupts or interferes with the safe and orderly operation of the vehicle is prohibited.

**II-6 False Fire Alarm** - No student shall set off, attempt to set off, or aid and abet anyone in giving a false fire alarm. No student shall interfere with or damage any part of a fire alarm, fire detection, smoke detection, fire extinguishing system, or emergency escape system.

**II-7 Fire Setting/Incendiary Material** - The possession of any incendiary material (including but not limited to matches, lighters, or lighter fluid) or the use of any material reasonably likely to result in a fire on school property is prohibited.

**II-8 Property Damage** - No student shall intentionally damage or attempt to damage or deface school property, or personal property.

**II-9 Theft** - No student shall steal, attempt to steal, or knowingly be in possession of stolen property.

**II-10 Extortion** - No student shall attempt to extort money, personal property, or personal services.

**II-11 Indecent Exposure/Sexual Behavior** - No student shall engage in behavior which is indecent, or in consensual behavior which is overly affectionate, or of a sexual nature.

**II-12 Harassment/Bullying** - No student shall engage in conduct prohibited by the Prohibition against Discrimination, Harassment, and Bullying Policy. *(Refer to pages 30-33)*

**II-13 Sexual Harassment** - No student shall engage in conduct prohibited by the Prohibition against Discrimination, Harassment, and Bullying Policy. *(Refer to pages 30-33)*

**II-14 Threat/False Threat** - No student shall make any threat through written or verbal language, sign, or act which conveys a serious expression of intent to cause harm or violence. Furthermore, no student shall make a false threat of harm or violence, even jokingly, which causes or is reasonably likely to cause fear or a disruption to school activities.

**II-15 Physical Aggression/Fighting** - Physical aggression or fighting toward students and other people is prohibited. A student who is attacked may use reasonable force in self-defense, but only to the extent necessary to get free from the attack and notify proper school authorities. A student who exceeds reasonable force may be disciplined even though someone else provoked the fight.

No student shall engage in fighting or physical aggression towards others, including but not limited to:

- a. Choking, hitting, slapping, shoving, scratching, spitting, biting, blocking the passage of, or throwing objects at another person in an aggressive, confrontational or dangerous manner.
- b. Taking any action or making comments or writing messages that might reasonably be expected to result in a fight or physical aggression.

**II-16 Failure to Report Firearm** - Any student who has knowledge that another student possesses or intends to bring a firearm on any school campus or to any school activity shall report this information to school or law enforcement authorities immediately.

**II-17 Hazing** - No group or individual shall require a student to wear abnormal dress, play abusive or ridiculous tricks on him/her, frighten, scold, beat, harass, or otherwise subject him/her to personal indignity as a condition of inclusion in group or as a ritual associated with group membership. Hazing is prohibited even if the person hazed consents to the conduct.

**II-18 Search and Seizure** - A student's failure to permit searches and seizures as provided in Policy for Student Searches is prohibited. *(Refer to pages 39-42)*

**II-19 Aiding and Abetting** - No student shall aid or abet another student in violating any rule in the Code of Student Conduct.

## **LEVEL III**

**III-1 Narcotics, Alcoholic Beverages, Controlled Substances, Chemicals, and Drug Paraphernalia** - No student shall possess, use, distribute, sell, possess with intent to distribute or sell, or conspire or attempt to distribute or sell, purchase, or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid, other controlled substance, any alcoholic beverage, malt beverage, fortified wine, other intoxicating liquor, drug paraphernalia, counterfeit substance, any unauthorized prescription drug, or any other chemicals or products with the intention of bringing about a state of exhilaration, euphoria, or of otherwise altering the student's mood or behavior.

The proper use of a drug authorized by valid medical prescription from a legally authorized health care provider shall not be considered a violation of this rule when the drug is taken by the person for whom the drug was prescribed.

For the purpose of this policy:

- a. **Possession** - Having the prohibited substance on the student's person or in another place where the student, either alone or jointly with others, has control over it. This may include, but is not limited to, possession of a prohibited substance in an automobile, locker, book bag, or desk.
- b. **Use** - The consumption, injection, inhalation or absorption of a prohibited substance into a student's body by any means.
- c. **Under the influence** - The use of any prohibited substance when the prohibited substance would influence a student's mood, behavior, or learning to any degree.
- d. **Counterfeit Substance** - Any substance that is described or presented with the intention of deceiving another into believing that it is a substance prohibited under this policy.
- e. **Unauthorized Prescription Drug** - Any drug or medication that has not been prescribed for the student.
- f. **Drug Paraphernalia** - Objects used for ingesting, inhaling, or otherwise introducing controlled substances into the body, e.g., pipes, rolling papers, roach clips. Relevant evidence may be considered in determining whether an object is drug paraphernalia.
- g. **Conspiracy** - An agreement by two (2) or more persons to commit an unlawful act in violation of this policy.
- h. **Sell**: The exchange of a prohibited substance for money, property, or any other benefit or item of value.
- i. **Possess with Intent to Distribute/Sell** - Intent to distribute or sell may be determined from the amount of the prohibited substance found, the manner in which it was packaged, the presence of packaging materials such as scales, baggies or other containers, or from statements or actions of the student that demonstrate an intent to distribute or sell.

- j. Distribution:** To transmit a prohibited substance to one or more other students. For purposes of this definition, a student has not “distributed” a prohibited substance (but may be guilty of “possession” or “use”) if the student’s only involvement is to share or pass a prohibited substance with other students in the course of using it, so long as the student was not the one who brought the prohibited substance onto school property or otherwise made it available to other students. A student may be guilty of “distributing” a prohibited substance even if the substance is given freely rather than exchanged for something of value.

When a first infraction of this policy involves only possession, conspiracy to possess, use, and/or being under the influence of a substance prohibited by this policy, and the long-term suspension recommendation is not supported by any other violations, an alternative to long-term suspension shall be offered.

The alternative shall consist of a short-term suspension and shall also require participation in a corrective education and/or counseling program. The program shall be designed by the superintendent and agreed to in writing by the parent, guardian, student, and school principal. Parents, guardians, and students shall be provided information by school authorities concerning approved alternative programs.

Declining this opportunity or failing to meet any requirements of the alternative learning program reactivates the underlying long-term suspension or alternative learning program assignment.

## **NOTES**

**III-2 Gang and Gang Related Activity** - The Board of Education believes that gangs and gang-related activities pose a serious safety threat to students and staff members of the Wake County Public School System and can significantly disrupt the educational environment.

- a.** No student shall participate in any gang-related activities. For purposes of this policy:
  - i.** A gang is any ongoing organization, association, or group of three (3) or more persons, whether formal or informal, having as one of its primary activities the commission of criminal acts, and having a common name or common identifying sign, colors or symbols.
  - ii.** Gang-related activities are any activities engaged in by a student on behalf of an identified gang; to perpetuate the existence of an identified gang; to effect the common purpose and design of an identified gang; or to represent gang affiliation, loyalty, or solidarity.
- b.** Conduct prohibited by this policy includes:
  - i.** Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, emblems, badges, symbols, signs, visible tattoos and body markings, or other items, with the intent to convey or promote membership or affiliation in any gang;
  - ii.** Communicating either verbally or non-verbally (gestures, handshakes, slogans, drawings, etc.), with the intent to convey or promote membership or affiliation in any gang;
  - iii.** Tagging, or otherwise defacing school or personal property with symbols or slogans intended to convey or promote membership or affiliation in any gang;
  - iv.** Requiring payment of protection, money or insurance, or otherwise intimidating or threatening any person in connection with gang-related activity;
  - v.** Inciting other students to intimidate or to act with physical violence upon any other person in connection with gang-related activity;
  - vi.** Soliciting others for gang membership;
  - vii.** Committing or conspiring to commit an illegal act in connection with gang-related activity.
- c.** When a first infraction involves only the wearing of gang-related attire, the student shall receive a warning and be allowed to immediately change or remove the attire as an alternative to disciplinary action.
- d.** The Superintendent or Superintendent's designee shall regularly consult with law enforcement officials to identify examples of gang-related items, symbols and behaviors and shall provide each principal with this information. Parents and students shall be notified that such information is maintained in the principal's office, that it is subject to change, and that the principal's office may be consulted for updates. In providing this information for parents and students, the school system acknowledges that not all potential gang indicators connote actual membership in a gang.



**III-3 Weapons/Dangerous Instruments/Substances** - No student shall possess, handle, or transmit any weapon, facsimile of a weapon, dangerous instrument/substance or other object that can reasonably be considered or used as a weapon or dangerous instrument/substance. This does not apply to any student who finds a weapon or dangerous instrument/substance on school property or receives it from another person on school property and who immediately reports the weapon or dangerous instrument/substance to school or law enforcement authorities.

- a. **Weapon** - Any firearm, BB gun, stun gun, air rifle, air pistol, ammunition, power loads, fireworks, knife, slingshot, leaded cane, blackjack, metallic knuckles, razors, razor blades except cartridge razors used solely for personal shaving, box cutter, mace, pepper spray, and other personal defense sprays, and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance.
- b. **Dangerous Instruments/Substances** - Any object or substance that is possessed, handled, transmitted, or used for the purpose of causing or attempting to cause physical injury.
- c. **Facsimile of a Weapon** - Any copy of a weapon that could reasonably be perceived to be a real weapon.

*Note: Refer to Level IV - 1 for violations involving Firearms/Destructive Devices.*

**III-4 Assault on a Student** - No student shall cause or attempt to cause serious physical injury to another student. For the purposes of this policy serious physical injury shall refer to any significant or aggravated bodily injury, including but not limited to broken bone(s), loss or chipping of teeth, loss or impairment of vision, loss of consciousness, internal injuries, scarring or other disfigurement, significant bleeding, lacerations resulting in sutures, significant bruising, severe or prolonged pain, any injury requiring hospitalization for any period of time, and/or any injury resulting in medical treatment beyond simple first aid procedures.

**III-5 Assault on School Personnel or Other Adult** - No student shall cause or attempt to cause physical injury to any school employee or other adult.

*Note: If a teacher is assaulted or injured by a student and as a result the student is reassigned to alternative education services, long-term suspended, or expelled, the student shall not be returned to that teacher's classroom unless the teacher consents.*

**III-6 Assault Involving Weapon/Dangerous Instrument/Substances** - No student in grades 6-12 shall assault another using a weapon, dangerous instrument, or dangerous substances.

**III-7 Bomb Threat** - No student shall make a bomb threat or hoax by making a false report that a device designed to cause damage or destruction by explosion, blasting, or burning is located on the school premises or at the site of school activities.

No student shall with the intent to perpetrate a hoax, conceal, place or display on school property or the site of school activities any device or artifact so as to cause any person reasonably to believe the same to be a bomb or other destructive device.

**III-8 Bomb Threat: Aiding/Abetting** - No student shall aid, and/or abet in making a bomb threat or hoax by making a false report that a device designed to cause damage or destruction by explosion, blasting, or burning is located on the school property or at the site of school activities.

**III-9 Acts of Terror** -

- a. No student shall make a report that he or she knows or should know is false, that any device, substance or material designed to cause harmful or life threatening illness or injury to another person, is located on school property or at the site of a school activity.
- b. No student shall, with intent to perpetrate a hoax, conceal, place, disseminate or display on school property or at the site of a school activity any device, machine, instrument, artifact, letter, package, material, or substance, so as to cause a reasonable person to believe the same to be a substance or material capable of causing harmful or life-threatening illness or injury to another person.
- c. No student shall threaten to commit an act of terror on school property or at the site of a school activity that is designed to cause, or is likely to cause, serious injury or death to another person, when the threat is intended to cause, or actually causes, a significant disruption to the instructional day or a school-sponsored activity.
- d. No student shall make a report that he or she knows is false, that an act of terror designed to cause, or likely to cause, serious injury or death to another person on school property or at the site of a school-sponsored activity is imminent, when that report is intended to cause, or actually causes, a significant disruption to the instructional day or a school-sponsored activity.
- e. No student shall aid, abet, and/or conspire to commit any of the acts described in sections a - d of this policy.

## **LEVEL IV**

**IV-1 Firearm/Destructive Device K-12** - Any student in grades K-12 shall be suspended for 365 calendar days for bringing a firearm or destructive device onto school property or to a school-sponsored event off school property, or for possessing a firearm or destructive device on school property or at a school-sponsored event off school property. School property includes any property owned, used or leased by the Board of Education, including school buses, other vehicles and school bus stops. Principals are required to refer to the law enforcement system any student who brings a firearm or weapon to school.

- a. **Firearm** - 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.
- b. **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 (1/4) ounce; mine; or device similar to any of the devices listed in this definition.

Violation of this section shall result in suspension from school for 365 days unless modified by the Superintendent or Board of Education on a case-by-case basis.

The 365-day suspension does not apply to any student who finds the firearm on school property or receives it from another person on school property and who delivers the weapon, immediately, to school or law enforcement authorities.

## **LEVEL V**

A student fourteen (14) years of age or older may be expelled for a violation of this Code of Conduct if the Board determines the student's behavior indicates that the student's continued presence in the school constitutes a clear threat to the safety of other students or employees, and that there is no appropriate alternative educational program. Additionally, any student who is a registered sex offender under N.C. General Statutes 14-208 may be expelled.

**B. MITIGATING AND AGGRAVATING FACTORS**

*When considering the appropriate consequence for specific student misconduct, administrators may consider any relevant mitigating or aggravating factors, including, but not limited to, the student's intent, disciplinary and academic history, and the potential benefits to the student of alternatives to suspension.*

**1. Mitigating Factors may include, but are not limited to:**

- a. The student's age, maturity level, developmental level,*
- b. No recent disciplinary history,*
- c. Being a passive participant or playing a minor role in the offense,*
- d. Making appropriate restitution,*
- e. Reasonably believing the conduct was allowed,*
- f. Acting under strong provocation,*
- g. Aiding in the investigation,*
- h. Making a full and truthful statement admitting guilt at an early stage in the investigation of the offense,*
- i. Displaying an appropriate attitude and giving respectful cooperation during the investigation and discipline process.*

**2. Aggravating Factors may include, but are not limited to:**

- a. Inducing others to take part in the prohibited behavior or occupying a position of leadership or dominance of other participants,*
- b. Attempting to flee or conceal guilt,*
- c. Falsely blaming another individual,*
- d. Receiving money or something of value from the misbehavior,*
- e. A pattern or history of disciplinary infractions,*
- f. School based interventions were implemented but student's behavior did not improve,*
- g. The misconduct was associated with gang activity,*
- h. The victim of the misconduct is a teacher or other staff member,*
- i. Victimizing a significantly younger or smaller student or a student with a known or obvious mental or physical disability,*
- j. Repetitive blatant disrespect for authority,*
- k. Taking advantage of a position of trust or confidence to commit the offense,*
- l. Committing an offense on other school system property.*

**C. REDUCTION OF DRUG OR ALCOHOL RELATED  
SUSPENSIONS BASED ON PARTICIPATION IN AN APPROVED  
COUNSELING PROGRAM**

- 1. **Student Eligibility.** Students are eligible for an offer to reduce the length of a suspension for violation of the drug and alcohol policy (Policy 4309, Level III-1) based on their participation in an approved Alternative Counseling and Education (ACE) program under the following circumstances:*
  - a. ACE 1 - When a first infraction of this policy involves only possession, use, conspiracy to possess or use, and/or being under the influence of a substance prohibited by this policy, a student shall be offered the opportunity to participate in a school system approved ACE 1 program.*
  - b. ACE 2 - For second or subsequent offenses, or for first infractions that involve sale, possession with intent to sell/distribute, distribution, and/or conspiracy to sell or distribute, a student may be offered the opportunity to participate in an approved ACE 2 program. The principal may offer the ACE 2 program based on mitigating factors documented within the suspension notice.*
- 2. **Program Approval.** ACE programs may be approved by the school system in one of the following manners:*
  - a. **Pre-Approved Providers.** At the time of the ACE offer, the student's parent/guardian will be given an ACE packet that includes the names and contact information for one or more pre-approved ACE providers. At least one pre-approved ACE provider will offer services without charge to the parent, but only in connection with the student's first ACE 1 offer. Other pre-approved ACE providers offer sliding scales for payment, and/or accept Medicaid. Additional information about pre-approved ACE providers is available from the office of Student Due Process. No additional approval is needed for any pre-approved ACE provider.*
  - b. **Process for Approval of Other Providers.** To request approval of a provider that has not been pre-approved the provider must submit an "ACE Outside Provider Application" to the office of Student Due Process. The "ACE Outside Provider Application" is available from the office of Student Due Process. The completed application must be received by the office of Student Due Process within the first three (3) school days of the suspension. The office of Student Due Process will review the completed application to determine if the provider meets all applicable components. The office of Student Due Process will make every reasonable effort to notify the parent/guardian within two (2) school days as to whether the provider is approved.*

### **3. Required Program Components.**

#### **a. Requirements for individuals providing services to students:**

*Individuals providing direct services to the students must meet the following requirements:*

- i. Be certified as a substance abuse counselor by the North Carolina Substance Abuse Professional Practice Board.*
- ii. Possess a four-year college degree in a human services field.*
- iii. Be or be under the direct supervision of (A) a substance abuse counselor licensed by the North Carolina Substance Abuse Professional Board, (B) a psychiatrist who is American Medical Association Board Certified and licensed to practice in the state of North Carolina, or (C) a psychologist who possesses an earned doctorate degree in psychology and is licensed to practice in the state of North Carolina.*

#### **b. Program requirements for ACE 1 opportunity:**

- i. A comprehensive screening instrument developed and implemented to assess the needs of students with regards to drug or alcohol involvement, self-control and communication skills, and decision-making strategies.*
- ii. A minimum of nine (9) contact hours for student.*
- iii. Program to be completed within ten (10) weeks of enrollment.*
- iv. An opportunity for parent/guardian to receive drug and alcohol education in conjunction with student counseling.*
- v. Education in the areas of:*
  - (a.) The path of chemical dependency, including experimentation, use, heavy use, and addiction.*
  - (b.) The signs, symptoms, and consequences of use of mind-altering substances.*
  - (c.) The meaning of addiction.*
  - (d.) Physical and psychological addiction.*
  - (e.) Alcohol and marijuana addictive drugs.*
  - (f.) Refusal skills training.*
  - (g.) The role of the family and the impact of chemical dependency on the family and on children in the family.*

**c. Program requirements for ACE 2 opportunity:**

- i. A minimum of twelve (12) contact hours for both the student and parent/guardian.*
- ii. The parent/guardian will incur the cost of the ACE 2 program.*
- iii. Expanded coverage of the educational areas covered during the ACE 1 offer.*
- iv. An initial drug screen as part of the assessment and at least one (1) additional drug screen during the course of the program. Verification of negative results of an additional random drug screen.*
- v. Program to be completed within fourteen (14) weeks of enrollment.*

**4. Monitoring and Reporting Requirements for ACE Providers.**

- a. The provider must agree to the monitoring and reporting requirements set out in these rules and procedures.*
- b. The ACE provider must give written notification to the office of Student Due Process and to the school within five (5) school days of any failure on the part of the student to comply with or complete the recommended course of treatment.*
- c. Failure of a provider to satisfy these monitoring and reporting requirements shall make that provider ineligible for approval as an ACE Program provider for a period of not less than two (2) years.*

**5. Process for Enrollment.**

*To receive a reduction in suspension length, students must be enrolled in an approved ACE program as follows:*

*A completed Student/Parent/Guardian Participation Agreement Form must be submitted to the school within the first ten (10) days of the suspension. The form will be included in the ACE packet given to the parent/guardian at the time of the ACE offer. It must be fully completed and signed by the student, parent/guardian, and authorized representative of the ACE provider and submitted to the school.*

**6. Additional Requirements for the Student and Parent/Guardian.**

*In order for the student to qualify for a reduction in suspension length, the parent/guardian must ensure that the referring school receives written notification from the ACE provider of enrollment in the ACE program, satisfactory completion of the ACE program, and/or any failure on the part of the student to comply with or complete the program.*

**7. Effect on Length of Suspension.**

- a. Once a student has successfully enrolled in an approved ACE program and the short term suspension imposed by the Principal has expired, the long-term suspension recommendation will automatically be inactivated, and the student will be allowed to return to school. When the student successfully completes the ACE program, the length of the suspension reflected in the student's records will be the number of days the student was out of school before being authorized to return to school. For first infractions not involving sale or distribution, the period of short-term suspension imposed by the principal shall be five (5) school days. For second or subsequent infractions or for first infractions involving sale or distribution, the period of short-term suspension imposed by the principal shall be ten (10) school days.*
- b. If a student fails to participate in or successfully complete the approved ACE program or if the student violates the drug and alcohol policy (Policy 4309, Level III-1) while enrolled in or participating in the program, the principal's original recommended length to the superintendent for long-term suspension will be reinstated immediately. If the long-term suspension recommendation is reinstated, the student will be placed in an alternative education program for the remaining length of the suspension unless the superintendent identifies a significant or important reason for denying such access.*
- c. If a student does not enroll in an approved ACE program within ten (10) school days of the ACE offer, or if the parent/guardian declines the ACE offer, the right to participate in the ACE program is waived.*
- d. Students enrolled in ACE over the summer are expected to continue participating in the approved ACE program and complete the program before the beginning of the next school year.*

**8. Appealing the Suspension.**

*The student has the right to appeal the long-term suspension recommendation while also accepting the ACE offer and participating in the ACE program. If the long-term suspension recommendation is overturned on appeal, the student will be excused from participating in or completing the ACE program.*



# **ACE NOTES**

## **POLICY 4300 DUE PROCESS**

Under state and federal law, students are entitled to due process before being removed from school for misconduct. The procedures that follow are required to provide a fair and thorough process for disciplinary suspensions from school.

### **A. Summary Suspension**

If the principal witnesses or is made aware of serious student misconduct and believes that immediate removal of the student is necessary to restore order or to protect school property or persons on the school grounds, the principal may suspend the student immediately. In such cases, the principal is not required to conduct a full investigation before suspending the student. In all cases, minimal due process must be given to the student as soon as is reasonably possible, usually the following school day.

#### ***R&P 4300***

##### ***A. Removal from School***

- 1. When a student is suspended, the principal shall attempt to reach a parent/guardian by telephone to inform them of the school's action and, if necessary, to request that they come to the school or make arrangements for the student to leave. If a parent/guardian is available to receive the student but cannot make transportation arrangements, the school may provide transportation for the student. If the principal cannot reach a parent/guardian, the student must remain on school property until the close of the school day, unless circumstances make that unacceptable to the principal.*
- 2. Notwithstanding the above requirements that a suspended student be released only to a parent/guardian, the principal may order students to leave the school premises immediately when faced with mass violations of school rules or when it is not possible to keep the students on school grounds and restore or maintain order, protect school property, or people on school grounds.*

## **B. Short-Term Suspension**

1. A short-term suspension is a removal from school for a period of ten (10) school days or less.
2. The principal may invoke a short-term suspension only after investigating the misconduct, confronting the student with the charges and the basis for those charges, and allowing the student to respond in his/her own defense and/or to offer mitigating circumstances. Once a principal decides to invoke short-term suspension, procedures promulgated by the superintendent shall be followed.
3. The principal shall notify the student and parent/guardian 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 on which the suspension was imposed when reasonably possible but in no event more than two (2) days after the suspension was imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.
4. 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 resources are readily available, and in English and both versions shall be in plain language and easily understandable.
5. The principal shall notify the student and parent/guardian that during a short-term suspension a student shall be provided the following:
  - a. The opportunity to take textbooks or other appropriate learning resources home for the duration of the suspension.
  - b. The opportunity to obtain homework assignments for the duration of the suspension.
  - c. The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.
6. A student is not entitled to appeal the principal's decision to impose a short-term suspension to the Superintendent or Board of Education.
7. If the principal recommends a short-term suspension, in lieu of long-term suspension, for a violation of a "Level III" rule in the Code of Student Conduct (Policy 4309), the recommendation must be based on mitigating factors documented in the suspension notice.

## **C. Suspensions Exceeding Ten Days**

1. A long-term suspension is a suspension 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 suspension may not be longer than the remainder of the school year. If the offense occurs during the final quarter of the school year, the suspension may continue through the first semester of the following school year.
2. A 365-day suspension is a suspension for 365 calendar days.
3. An expulsion is an indefinite removal from the school enrollment for disciplinary purposes.
4. If the principal, following an investigation, determines that long-term suspension, 365-day suspension or expulsion is appropriate, she/he shall invoke a short-term suspension of ten (10) school days and inform the student, parent, and superintendent of the recommendation for long-term suspension/expulsion according to the notice procedures contained in 4300 R&P.
5. The principal may recommend a long-term suspension for violation of a "Level II" rule in the Code of Student Conduct (Policy 4309) based on aggravating factors documented in the suspension notice and approved by the Superintendent or designee. Any such long-term suspension recommendation may be appealed pursuant to Section E of this policy.
6. Recommendations for long-term suspension that are properly appealed may be imposed only if they have been approved by a Hearing Panel following a formal hearing.
7. Recommendations for long-term suspension that are not properly appealed shall be reviewed by the Superintendent or designee. Following such review, the Superintendent or designee may:
  - a. impose the recommended suspension if it is consistent with Board policy and otherwise appropriate under the circumstances,
  - b. impose another consequence authorized by Board policy, or
  - c. decline to impose any penalty.

## **D. Review to Consider Alternative Education In Lieu Of Long-Term Suspension**

1. Students who are recommended for long-term suspension shall be assigned to an alternative education program unless the Superintendent or designee identifies a significant or important reason for denying such access. Depending on the circumstances, significant or important reasons for denying alternative education may include, but are not limited to, the following:
  - a. The student exhibited violent behavior;
  - b. The student threatened staff or other students;
  - c. The student substantially disrupted the learning process;
  - d. The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible;
  - e. Educationally appropriate alternative education services are not available due to limited resources; or
  - f. The student failed to comply with reasonable conditions for admittance into an alternative education program.
2. Assignment to an alternative education program that meets the academic requirements of the standard course of study established by the State Board of Education and provides the student with the opportunity to make timely progress toward graduation and grade promotion is not considered a long-term suspension and will not be reflected as a long-term suspension in the student's academic records. The student's record will reflect a short-term suspension.
3. If the Superintendent or designee denies a student the opportunity to enroll in an alternative education program in lieu of long-term suspension, the decision may be appealed to the Board of Education.
4. A student who is assigned to an alternative education program in lieu of long-term suspension is not permitted to participate in or attend school activities such as athletic, music, or drama events or graduation ceremonies without the express permission of the school principal.

## **E. Long-Term Suspension Appeal**

The Superintendent shall develop procedures, consistent with state and federal law, for the appeal of a long-term suspension, 365-day suspension or expulsion and a copy of these procedures shall be provided to a student/parent/guardian at the time the student is recommended for long-term suspension/365-day suspension/expulsion. The procedures shall include, but not be limited to the following:

- 1. Suspension Appeal Hearing** - A student shall be given an opportunity for a hearing before an impartial hearing panel prior to the imposition of a long-term suspension/365 suspension or the recommendation of expulsion. The panel shall not include any person who is under the direct supervision of the administrator recommending the suspension.
  - a.** If the student/parent/guardian requests a delay in the hearing or requests a hearing after the deadline, the student is not entitled to return to school pending the hearing.
  - b.** If neither the student nor parent/guardian appears for the hearing after being given reasonable notice, the parent/guardian and student are deemed to have waived the right to a hearing, and the Superintendent or designee shall review the long-term suspension recommendation.
  - c.** The Hearing Panel will make findings regarding guilt or innocence and make a decision regarding the length of the suspension, or recommend an expulsion, as appropriate.
  - d.** The Hearing Panel shall issue a written decision that shall contain:
    - i.** the basis for the decision, including a reference to any policy violated;
    - ii.** notice of what information will be included in the student's official record pursuant to G.S. 115C-402; and
    - iii.** notice of the student's right to appeal the decision to the Board of Education and the procedure for the appeal.

## **R&P 4300**

### **E. Appeal Hearing**

1. *To appeal a recommendation for long-term suspension with an alternative educational assignment, the student or parent/guardian must complete the "Request for Appeal Hearing" form and submit it to the school principal within five (5) school days following receipt of the notice of suspension.*

*If a hearing is requested, the principal will notify the office of Student Due Process, which will schedule the hearing. The principal shall indicate the estimated number of witnesses to be called by the school and fax to the Student Due Process office the student/parent/guardian request for hearing (either letter or "Request for Appeal Hearing" form). If the form is received by Student Due Process, the school will be notified of the request and an appeal hearing will be scheduled.*

2. **It is recommended that the student requesting the hearing be present at the appeal hearing to share information related to the incident. While attending the hearing the student will not be trespassing.**
3. *At the suspension appeal hearing, the student has the following rights:*
  - a. *To be represented at the hearing by an attorney or a non-attorney advocate. The Student Due Process Representative conducting the hearing may limit the number of attorneys/advocates participating in the hearing. The office of Student Due Process must be notified no later than three (3) school days prior to the hearing if an attorney will be present for the appeal. When the student is represented by an attorney the principal will also be represented by an attorney.*
  - b. *To be present at the hearing accompanied by his/her parent/guardian.*
  - c. *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. School officials shall not be required to release names or other information that could reveal the identity of a witness when this could pose a safety risk for the witness.*
  - d. *To question witnesses appearing at the hearing.*
  - e. *To present evidence on his/her own behalf, including written statements or oral testimony, relating to the incident leading to the suspension. If the student intends to call another student as a witness, the student witness must have written permission from his/her parent/guardian to appear during the hearing. The parent/guardian must make arrangements for the student's witnesses to attend the hearing.*

- f. To have a record made of the hearing.*
- g. To make his/her own audio recording of the hearing.*
- h. To receive a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:*
  - i. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.*
  - ii. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.*
  - iii. The student's right to appeal the decision and notice of the procedures for such appeal.*
- 4. The hearing will be informal in nature and conducted by an impartial representative from the office of Student Due Process, and heard by a Suspension Appeal Hearing Panel.*
- 5. The panel will be comprised of retired educators and/or certified staff not under the direct supervision of the principal making the suspension recommendation and selected from a list approved by the Superintendent or designee.*
- 6. Formal rules of evidence for court proceedings do not apply. The Hearing Panel may consider any relevant evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious matters.*
- 7. Hearings are timed, and **each side will be given up to one (1) hour to present their case, including presentation of all evidence and questioning of any witnesses.** The Student Due Process Representative facilitating the hearing may allow additional time in extenuating circumstances.*
- 8. An official recording will be made of the proceedings.*
- 9. The hearing procedure shall consist of a presentation by the principal or his/her designees, of witnesses, and of other evidence to determine if the offense was committed by the student as charged. The student may then offer witnesses and other evidence in her/his own behalf.*
- 10. At the conclusion of the hearing the Hearing Panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. If the Hearing Panel finds that the student did engage in the alleged misconduct, it shall also decide whether to uphold or reduce the recommended length of suspension or alternative education assignment.*
- 11. Following the hearing, the Hearing Panel shall issue a written decision as outlined above. The Board Hearing Request form will be enclosed.*



## **Long-Term Suspension Appeal (Cont'd)**

2. **Board Level Appeal** - A student may appeal the Hearing Panel's decision to the Board of Education.
  - a. In an appeal to the Board, the Hearing Panel's factual findings shall be adopted unless they are not supported by substantial evidence in the record.
  - b. If, at any level of investigation or appeal, the student is determined not guilty of the misconduct in question, the student's absences will be considered excused and the student shall have the right to make up missed work for credit.
  - c. In considering the appeal, the Board panel will review and consider the entire record of the proceedings from the Hearing Panel, including all of the evidence offered by the school administration and the student. Ordinarily, the Board panel will not hear witnesses or consider new or additional evidence beyond what was presented at the earlier hearing. However, in extraordinary circumstances and in the exercise of its discretion, the Board panel by majority vote may permit either party to call witnesses or offer new or additional evidence. A request by either party to call witnesses or provide new or additional evidence at a Board hearing must be received by the office of Student Due Process, no less than 48 hours prior to the scheduled hearing.

### ***R&P 4300***

#### ***F. Board Level Appeal***

1. *If the student/parent/guardian is not satisfied with the results of the appeal hearing, the student/parent/guardian must notify the office of Student Due Process in writing by completing the 'Board Hearing Request' form within five (5) school days following receipt of the Hearing Panel's decision. If there are no further appeals, the Hearing Panel's decision will stand.*
2. *The Board shall review the matter within ten (10) school days of the notice to the extent practicable and shall render a decision no more than 30 calendar days following receipt of the appeal request. The decision of the Board shall be final.*
3. *Written notification of the Board's decision shall be sent to the student or parent/guardian and principal within five (5) school days of the Board's final decision.*

**See page 46 for Board Hearing Process Outline**

1. The Board of Education, upon the recommendation of the principal and Superintendent/designee, may expel from school a student fourteen (14) years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or employees. Additionally, any student who is a registered sex offender under N.C. General Statutes 14-208 may be expelled.
2. A student that is recommended for expulsion shall be entitled to an appeal following the provisions of section 4300E. Prior to the expulsion of any student, the Board shall determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school personnel. In the event a student is expelled, the student shall be given notice of the right to petition for readmission as provided by state law.

# **POLICY 1710/4021/7230 PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND BULLYING**

The Wake County Board of Education acknowledges the dignity and worth of all students and employees and strives to create a safe, orderly, caring, and inviting school environment to facilitate student learning and achievement. The Board prohibits discrimination on the basis of race, color, national origin, sex, sexual orientation, disability, or age and will provide equal access to designated youth groups as required by law. Any form of unlawful discrimination, harassment, or bullying in any educational or employment activities or programs is against Board policy.

## **A. Prohibited Behaviors**

- 1. Discrimination** - The Board prohibits all forms of unlawful discrimination. For purposes of this policy, discrimination means any act or failure to 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, sexual orientation, pregnancy, religion, age, or disability.
- 2. Harassment and Bullying** - The Board prohibits all forms of unlawful harassment and bullying. For purposes of this policy, harassment or bullying behavior is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication that:
  - a.** 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
  - b.** creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits or by adversely altering the conditions of an employee's employment.

"Hostile environment" means that the victim subjectively views the conduct as harassment or bullying and that the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is harassment or bullying. A hostile environment may be created through pervasive or persistent misbehavior or a single incident, if sufficiently severe.

Harassment and bullying include, but are not limited to, behavior described above that is reasonably perceived as being motivated by any actual or perceived differentiating characteristic or motivated by an individual's association with a person who has or is perceived to have a 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.

Examples of behavior that may constitute bullying or harassment include, but are not limited to, verbal taunts, name-calling and put-downs, epithets, derogatory comments or slurs, lewd propositions, extortion of money or possessions, implied or stated threats, assault, impeding or blocking movement, offensive touching, and visual insults such as derogatory posters or cartoons. Legitimate age-appropriate pedagogical techniques are not considered harassment or bullying.

Harassment, including sexual or gender-based harassment, is not limited to specific situations or relationships. It may occur between fellow students or co-workers, between supervisors and subordinates, between employees and students, or between non-employees, including visitors, and employees or students. Harassment may occur between members of the opposite sex or the same sex.

3. **Cyber-Bullying and Cyber-Harassment** - The Board prohibits cyber-bullying and cyber-harassment. Cyber-bullying and cyber-harassment are any words, actions, or conduct that meet the definitions of bullying or harassing behavior described in this policy, and are conveyed via e-mail, text message, Internet message boards, interactions on social media, or other electronic media.
4. **Sexual Harassment** - The Board prohibits unlawful sexual harassment. Sexual harassment is one type of harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
  - a. submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic progress, or completion of a school-related activity;
  - b. submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual, or in the case of a student, submission to or rejection of such conduct is used in evaluating the student's performance within a course of study or other school-related activity; or
  - c. such conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with an employee's work or performance or a student's educational performance, 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.

Sexually harassing conduct may include, but is not limited to, deliberate, unwelcome touching that has sexual connotations or is of a sexual nature, suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats, pressure for sexual activity, continued or repeated offensive sexual flirtations, advances or propositions, continued or repeated verbal remarks about an individual's

body, sexually degrading words used toward an individual or to describe an individual, sexual assault, sexual violence, or the display of sexually suggestive drawings, objects, pictures or written materials. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, but not involving sexual activity or language, may be combined with incidents of sexually harassing conduct to determine if the incidents of sexually harassing conduct are sufficiently serious to create a sexually hostile environment.

Sexual harassment does not include personal compliments welcomed by the recipient or social interactions or relations freely entered into by an employee or prospective employee or appropriate social interactions between students that do not violate the Student Code of Conduct. In the case of consensual relations between students, there may be reason to question the consensual nature of the conduct if one or both of the students are very young or there is a large age disparity between the students. It is possible for sexual harassment to occur at various levels: between peers or coworkers, between supervisors and subordinates, between employees and students, between students, or imposed by non-employees on employees and/or students.

Sexual harassment may be committed by members of the same sex or by members of the opposite sex. Romantic or sexual advances toward students by employees or romantic or sexual relationships between school system employees and students are never appropriate, whether they are consensual or otherwise outside the definition of sexual harassment. Such relationships are prohibited. Employees engaging in inappropriate relationships with students will be subject to disciplinary action, up to and including dismissal.

5. **Gender-Based Harassment** - The Board prohibits unlawful gender-based harassment. Gender-based harassment is also a type of harassment. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature.
6. **Retaliation** - The Board prohibits reprisal or retaliation against any person for reporting or intending to report violations of this policy, supporting someone for reporting or intending to report a violation of this policy, or participating in the investigation of reported violations of this policy.

## **B. Application of Policy**

This policy applies to students, employees, volunteers, and visitors. "Visitors" includes persons, agencies, vendors, contractors, and organizations doing business with or performing services for the school system.

This policy applies to behavior that takes place:

1. in any school building or on any school premises before, during or after school hours;
2. on any bus or other vehicle as part of any school activity;
3. at any bus stop;
4. during any school-sponsored activity or extracurricular activity;
5. at any time or place when the individual is subject to the authority of school personnel; and
6. at any time or place when the behavior has a direct and immediate effect on maintaining order and discipline in the schools.

This policy shall not be construed to allow school officials to punish student expression or speech based on an undifferentiated fear or apprehension of a disturbance or out of a desire to avoid the discomfort and unpleasantness that may accompany an unpopular viewpoint.

The board provides its students and staff access to a variety of technological resources. These resources provide opportunities to enhance learning and improve communication within the school community and with the larger global community. Through the school system's technological resources, users can observe events as they occur around the world, interact with others on a variety of subjects, and acquire access to current and in-depth information.

The board intends that students and employees benefit from these resources while remaining within the bounds of safe, legal, and responsible use. Accordingly, the board establishes this policy to govern student and employee use of school system technological resources. This policy applies regardless of whether such use occurs on or off school system property, and it applies to all school system technological resources, including but not limited to computer networks and connections, the resources, tools, and learning environments made available by or on the networks, and all devices that connect to those networks.

## **A. EXPECTATIONS FOR USE OF SCHOOL TECHNOLOGICAL RESOURCES**

The use of school system technological resources, including access to the Internet, is a privilege, not a right. Individual users of the school system's technological resources are responsible for their behavior and communications when using those resources. Responsible use of school system technological resources is use that is ethical, respectful, academically honest, and supportive of student learning. Each user has the responsibility to respect others in the school community and on the Internet. Users are expected to abide by the generally accepted rules of network etiquette. General student and employee behavior standards, including those prescribed in applicable board policies, the Code of Student Conduct, and other regulations and school rules, apply to use of the Internet and other school technological resources.

In addition, anyone who uses school system computers or electronic devices or who accesses the school network or the Internet using school system resources must comply with the additional rules for responsible use listed in Section B, below. These rules are intended to clarify expectations for conduct but should not be construed as all-inclusive.

Before using the Internet, all students must be trained about appropriate online behavior.

All students and employees must be informed annually of the requirements of this policy and the methods by which they may obtain a copy of this policy. Before using school system technological resources, students and employees must sign a statement indicating that they understand and will strictly comply with these requirements and acknowledging awareness that the school system uses monitoring systems to monitor and detect

inappropriate use of technological resources. Failure to adhere to these requirements will result in disciplinary action, including revocation of user privileges. Willful misuse may result in disciplinary action and/or criminal prosecution under applicable state and federal law.

## **B. RULES FOR USE OF SCHOOL TECHNOLOGICAL RESOURCES**

1. School system technological resources are provided for school-related purposes only. Acceptable uses of such technological resources are limited to responsible, efficient, and legal activities that support learning and teaching.
2. Under no circumstance may software purchased by the school system be copied for personal use.
3. Students and employees must comply with all applicable laws, including those relating to copyrights and trademarks, confidential information, and public records. Any use that violates state or federal law is strictly prohibited. Plagiarism of Internet resources will be treated in the same manner as any other incidents of plagiarism, as stated in the Code of Student Conduct.
4. No user of technological resources, including a person sending or receiving electronic communications, may engage in creating, intentionally viewing, accessing, downloading, storing, printing, or transmitting images, graphics (including still or moving pictures), sound files, text files, documents, messages, or other material that is obscene, defamatory, profane, pornographic, harassing, abusive, or considered to be harmful to minors.
5. The use of anonymous proxies to circumvent content filtering is prohibited.
6. Users may not install or use any Internet-based file sharing program designed to facilitate sharing of copyrighted material.
7. Users of technological resources may not send electronic communications fraudulently (i.e., by misrepresenting the identity of the sender).
8. Users must respect the privacy of others. When using e-mail, chat rooms, blogs, or other forms of electronic communication, students must not reveal personal identifying information or information that is private or confidential, such as the home address or telephone number, credit or checking account information, or social security number of themselves or fellow students...



9. Users may not intentionally or negligently damage computers, computer systems, electronic devices, software, computer networks, or data of any user connected to school system technological resources. Users may not knowingly or negligently transmit computer viruses or self-replicating messages or deliberately try to degrade or disrupt system performance. Users must scan any downloaded files for viruses.

10. Users may not create or introduce games, network communications programs, or any foreign program or software onto any school system computer, electronic device, or network without the express permission of the technology director or designee.

11. Users are prohibited from engaging in unauthorized or unlawful activities, such as "hacking" or using the computer network to gain or attempt to gain unauthorized or unlawful access to other computers, computer systems, or accounts.

12. Users are prohibited from using another individual's ID or password for any technological resource without permission from the individual. Students must also have permission from the teacher or other school official.

13. Users may not read, alter, change, block, execute, or delete files or communications belonging to another user without the owner's express prior permission.

14. Employees shall not use passwords or user IDs for any data system (e.g., the state student information and instructional improvement system applications, time-keeping software, etc.) for an unauthorized or improper purpose.

15. If a user identifies a security problem on a technological resource, he or she must immediately notify a system administrator. Users must not demonstrate the problem to other users. Any user identified as a security risk will be denied access.

16. Teachers shall make reasonable efforts to supervise students' use of the Internet during instructional time.

17. Views may be expressed on the Internet or other technological resources as representing the view of the school system or part of the school system only with prior approval by the superintendent or designee.

## **C. RESTRICTED MATERIAL ON THE INTERNET**

The Internet and electronic communications offer fluid environments in which students may access or be exposed to materials and information from diverse and rapidly changing sources, including some that may be harmful

to students. The board recognizes that it is impossible to predict with certainty what information on the Internet students may access or obtain. Nevertheless school system personnel shall take reasonable precautions to prevent students from accessing material and information that is obscene, pornographic, or otherwise harmful to minors, including violence, nudity, or graphic language that does not serve a legitimate pedagogical purpose.

## **D. PARENTAL CONSENT**

The board recognizes that parents of minors are responsible for setting and conveying the standards their children should follow when using media and information sources. Accordingly, before a student may independently access the Internet, the student's parent must be made aware of the possibility that the student could obtain access to inappropriate material while engaged in independent use of the Internet. The parent and student must consent to the student's independent access to the Internet and to monitoring of the student's Internet activity and e-mail communication by school personnel.

In addition, in accordance with the board's goals and visions for technology, students may require accounts in third party systems for school related projects designed to assist students in mastering effective and proper online communications or to meet other educational goals. Parental permission will be obtained when necessary to create and manage such third party accounts.

## **E. PRIVACY**

Students, employees, visitors, and other users have no expectation of privacy in anything they create, store, send, delete, receive, or display when using the school system's network, devices, Internet access, email system, or other technological resources owned or issued by the school system, whether the resources are used at school or elsewhere, and even if the use is for personal purposes.

By using the school system's network, Internet access, email system, devices, or other technological resources, individuals consent to have that use monitored by authorized school system personnel as described in this policy.

## **F. USE OF PERSONAL TECHNOLOGY ON SCHOOL SYSTEM PROPERTY**

Each principal may establish rules for his or her school site as to whether and how personal technology devices (including, but not limited to smart phones, tablets, laptops, etc.) may be used on campus. The school system assumes no responsibility for personal technology devices brought to school.

## **G. PERSONAL WEBSITES**

The superintendent may use any means available to request the removal of personal websites that substantially disrupt the school environment or that utilize school system or individual school names, logos, or trademarks without permission.

Though school personnel generally do not monitor students' Internet activity conducted on non-school system devices during non-school hours, when the student's online behavior has a direct and immediate effect on school safety or maintaining order and discipline in the schools, the student may be disciplined in accordance with board policy.

## **POLICY 4342 STUDENT SEARCHES**

School officials have the authority to conduct reasonable searches of students and to seize students' unauthorized materials for the purposes of maintaining a safe, orderly environment and upholding standards of conduct established by the board or school. Any searches or seizures must be conducted in accordance with the standards described in this policy and any other applicable legal requirements. All school officials carrying out a search or seizure are expected to be knowledgeable about the constitutional rights of students and the appropriate procedures for conducting the search or seizure. A search must be justified at its inception and permissible in scope. School officials shall make reasonable, good faith efforts to investigate allegations of misconduct before a student search is conducted.

This policy applies to searches conducted on school grounds, in school facilities, or at school-sponsored events.

School computers and any data they contain remain under the control of the school and are subject to inspection at any time. The Technology Responsible Use policy also applies to the search of school system-owned technological resources and the data located on school system-owned electronic equipment.

### **A. SEARCHES BASED ON INDIVIDUALIZED REASONABLE SUSPICION**

A student or the student's possessions may be searched when a school official has reasonable suspicion that the search will turn up evidence that the particular student has violated or is violating a specific law or school rule.

Reasonable suspicion is defined as: based upon specific and articulable facts, which have been acquired through reliable and/or corroborated information from employees, students, law enforcement officers, or other credible sources, or upon visual or other evidence (e.g., the smell of alcohol or marijuana, an alert from a metal detector or drug dog) viewed in light of the totality of the circumstances and the school official's professional judgment.

The scope of the search and the methods used to conduct the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

Reasonable suspicion is not required if a student freely and voluntarily consents to the search of his or her person or possessions.

In accordance with the standards described above, the board authorizes the following types of searches based on reasonable suspicion.

**1. Searches of Personal Effects**

School officials may search a student’s desk, locker, and/or personal effects, including but not limited to purses, book bags, and outer clothing. The Use of Wireless Communication Devices policy addresses the circumstances under which searches of student cell phones and other electronic devices may be conducted.

**2. Searches of Motor Vehicles**

Students are permitted to park on school premises as a matter of privilege, not of right. The school retains authority to conduct routine patrols of student parking lots and inspections of the exteriors of student automobiles on school property. School officials may search the interior of a student’s motor vehicle based on reasonable suspicion. Such patrols and inspections may be conducted without notice, without student consent, and without a search warrant.

**3. “Pat-down” Searches**

A school official may conduct a frisk or “pat-down” search of a student’s person. The search must be conducted in private by a school official of the same gender with an adult witness present.

**4. More Intrusive Personal Searches**

More intrusive personal searches are discouraged and are to be used only in very limited circumstances and only with prior approval of the Senior Director of Security. A personal search is more intrusive when it extends beyond a student’s personal effects and outer clothing and potentially exposes intimate body parts and/or undergarments. Such intrusive personal searches will be permissible only if: (1) the school official has reasonable suspicion that a search of a particular student will yield dangerous contraband (e.g., drugs or weapons); and (2) the school official has reasonable suspicion that the student has hidden the contraband in his or her undergarments. This search must be conducted in private by a school official of the same gender, with an adult witness of the same gender present, and only with the prior approval of the Senior Director of Security, unless the health or safety of students will be endangered by the delay that might be caused by following these procedures. Body cavity searches and searches that require a student to completely disrobe are strictly prohibited.

**5. Metal Detector Searches**

A metal detector may be used to search a student’s person and/or personal effects. The search must be conducted by a school official and, except as provided in Section B.2, below, will be done in private, when feasible.

**B. SUSPICIONLESS GENERAL SEARCHES**

In an effort to maintain a safe, drug-free, and weapon-free learning environment, school officials may conduct certain types of general, suspicionless searches in the schools. All general searches must be conducted in a minimally-intrusive, nondiscriminatory manner (e.g., all students in randomly selected classrooms, every third individual entering a school-sponsored extracurricular activity) and may not be used to single out a particular individual or category of individuals. The searches must be conducted in accordance with standardized procedures established by the superintendent or designee.

When conducted in accordance with the standards described above and any corresponding procedures, the board authorizes the following types of general, suspicionless searches.

### **1. Searches of Desks and Lockers**

School officials may conduct routine searches of student desks and lockers. Student desks and lockers are school property and remain at all times under the control of the school. However, students are expected to assume full responsibility for the security of their desks and lockers. Student desks and lockers may not be used to store illegal, unauthorized, or contraband materials.

A student's personal effects found within a desk or locker, such as a backpack, gym bag, or purse, may be searched only in accordance with the guidelines for individualized searches of personal effects described in Section A, above.

### **2. Metal Detector Searches**

Due to the increasing problem of weapons in schools, school officials may use metal detectors to conduct general point-of-entry searches of students and other persons for weapons. Additionally, school officials may conduct metal detector searches of groups of individuals if the checks are done in a minimally intrusive, non-discriminatory manner (e.g., on all students in a randomly selected class; on every third individual entering an athletic event). Metal detector searches of groups of individuals may not be used to single out a particular individual or category of individuals.

### **3. Use of Trained Dogs**

With the prior approval of the superintendent, and in conjunction with local law enforcement, school officials may use trained dogs (canines) to locate

illegal materials. All dogs must be accompanied by a certified and authorized trainer who is responsible for the dog's actions and who is able to verify the dog's reliability and accuracy in sniffing out illegal material. Trained dogs may sniff lockers, desks, book bags, motor vehicles, and other inanimate objects. Dogs may not be used to sniff students or other persons under any circumstances. No students should be present during a dog search. Before a search occurs in a classroom, students will first be moved to a location outside the classroom.

### **C. SEIZED ITEMS**

Any illegal contraband seized by school officials must be promptly turned over to the proper law enforcement authorities.

### **D. Failure to Cooperate**

A student's failure to cooperate with a reasonable search or seizure as provided in this policy will be considered a violation of the expected standard of behavior, and will subject the student to appropriate consequences.

Any person who is not a student who refuses to permit a general metal detector search of his or her person and/or belongings at the point-of-entry to a school-sponsored activity may be denied entry to the activity.

### **E. Notice**

School principals shall take reasonable steps to provide notice of this policy to students and parents at the start of each school year.

# SUSPENSION APPEAL HEARING PROCESS

***Note: The identity of students other than the student appealing the suspension shall be protected to the extent required by the Family Education Rights and Privacy Act.***

## **Present in the appeal hearing:**

1. Student Due Process Representative
2. Hearing Panel
3. School Administrator(s)
4. Parent/Guardian(s) and Student
5. Student's Advocate (*when applicable*)
6. Attorneys for all parties (*when applicable*)

***Note: The office of Student Due Process must be notified three (3) days in advance of an appeal hearing if the student is to be represented by an advocate or legal counsel.***

The Student Due Process representative will meet separately with all parties prior to the hearing. The panel will convene separately in the hearing room, and all other parties, except witnesses, will enter the hearing room together just prior to beginning the hearing.

## **The appeal hearing process will follow this outline:**

1. Introductions
2. Focus of Hearing
3. Hearing Procedures & Instructions to the Panel
4. Reading of Incident Description & Rules of Conduct
5. Student Response to Charges
6. Presentation for the School (*to include any witnesses*)
7. Questions from the Student Representative and Panel
8. Presentation for the Student (*to include any witnesses*)
9. Questions from the School Representative and Panel
10. Student Representative Closing Statement
11. School Representative Closing Statement
12. Adjourn for Hearing Panel Deliberation



## **BOARD HEARING PROCESS**

**Note:** *The identity of students other than the student appealing the suspension shall be protected to the extent required by the Family Education Rights and Privacy Act.*

### **Present in the Board hearing:**

1. Board Panel
2. Student Due Process Representative
3. Area Assistant Superintendent
4. School Administrator(s)
5. Student and Parent/Guardian(s)
6. Student's Advocate (*when applicable*)
7. Attorneys for all parties (*when applicable*)
8. Special Education Representative (*when applicable*)

**Note:** *The office of Student Due Process must be notified three (3) days in advance of a Board hearing if the student is to be represented by an advocate or legal counsel.*

The Student Due Process representative will meet separately with all parties prior to the hearing. The panel will convene separately in the hearing room, and all other parties, except witnesses, will enter the hearing room together just prior to beginning the hearing.

### **The process will follow this outline:**

1. Introductions
2. Focus of Hearing
3. Hearing Procedures
4. Identification of Student Charge(s)
5. Reading of Policy
6. Presentation of Information
  - a. Student and/or Parent/Guardian (15 minutes to present basis for appeal)
  - b. Questions from Board
  - c. School (15 minutes to present case)
  - d. Questions from Board
7. Final questions from Board
8. Adjourn for Board Deliberation

# **SDP RED BOOK 17-18**

**Back Cover**

**Solid Red, No Print**