

CASWELL COUNTY SCHOOLS BOARD OF EDUCATION POLICY	<u>STUDENTS</u> Student Suspensions and Expulsions	465
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All students have a right to be free from fear, harm, and violence while attendance at school and at school-sponsored activities.

A student shall not by use of violence, force, noise, threat, intimidation, passive resistance, or any other conduct intentionally cause the substantial and material disruption or obstruction of any lawful mission, process or function of the school.

Neither shall he/she engage in such conduct for the purpose of causing the substantial and material disruption or obstruction of any lawful mission, process or function of the school if such a disruption or obstruction is reasonably certain to result.

Neither shall he/she urge other students to engage in such conduct for the purpose of causing the substantial and material disruption or obstruction of any lawful mission, process, or function of the school if a substantial and material disruption or obstruction is reasonable certain to result from his/her urging.

A. In-School Suspension

The principal or his/her designee, of a school shall have the authority to assign a student to in-school suspension and/or time out for violation of policies. In-school suspension is a process of continuing supervised study.

B. Short Term Suspension

The principal of a school, or his/her designee, shall have authority to suspend for a period of ten school (10) days or less any student who willfully violates policies of conduct established by the local Board of Education: provided, that a student suspended pursuant to this subsection shall be allowed to take any quarterly, semester or grading period examinations missed during the suspension period.

C. Long Term Suspension

The principal of a school, with the prior approval of the Superintendent, shall have the authority to suspend for periods of time in excess of ten (10) school days but not exceeding the time remaining in the school year any pupil who willfully violates the policies of conduct established by the local Board of Education. The student or his/her parents/guardians may appeal the decision of the principal to the local Board of Education.

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D. Expulsions

A local Board of Education may, upon recommendation of the principal and Superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose continued presence in school constitutes a clear threat to the safety and health of other students or employees.

Due Process Guarantee

Any student facing possible suspension or expulsion from a Caswell County School is guaranteed procedural due process. The following are the basic elements of this procedural due process:

1. The student must have prior knowledge of the conduct that is required or prohibited to him/her (Student Code of Conduct/School Handbook).
2. The student must be informed of the specific matters giving rise to any of the proposed penalties or disciplines (Notice).
3. The student must have some opportunity to express or convey to the decision-making authority his/her views or rebuttals regarding the incident (Conference, Hearing and/or Appeal).
4. The decision-making authority must base its decision on the incidents or matters about which the student has been appraised as indicated above.

A student shall be given an opportunity to seek clarification of information which may lead to disciplinary action, or contest the appropriateness of the sanction imposed by a disciplinary authority, or to allege prejudice or unfairness on the part of the school system's official responsible for the disciplinary action or acts of felt unfairness.

Any student, parent, or guardian who is aggrieved by simple disciplinary action shall have the right to an informal conference with the principal or his/her designee for such matters, and after exhausting this remedy, shall have the right to make a formal protest in writing to the Superintendent, following the procedures outlined in Student Code of Conduct.

Suspension and Expulsion from Attendance

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Suspension and /or expulsion from the public schools is an extreme action involving each individual’s right to a free, public education. Such actions should be taken only for the protection of the student or his/her peers or to help him/her in dealing with his/her problems. Careful attention should be given to procedures and methods whereby fairness in discipline shall be assured to each student. All principals should be sure that due process procedures have been afforded the suspended or expelled student. All personnel will take care to guard the right of the student and to advise him/her of these rights.

- I. Minor disciplinary matters. It is anticipated that most disciplinary matters can be handled by the teacher or the principal without resorting to suspensions or expulsions. This discipline may range from a warning, detention, probation, conference with parents/guardians, etc. Whenever any student has been accused of a minor infraction, he/she shall have the right to know of what he/she is accused of and have the right to present his/her side of the story to the teacher or the principal, as the case may be.
- II. In any more serious cases in which a student is accused of immoral or disreputable conduct or conduct constituting a menace to the school and which, if proven, would warrant suspension for not more than ten days, the principal will follow the procedures outlined below:
 - A. Investigate the incident and obtain all available accounts, including written accounts whenever possible from eyewitnesses.
 - B. Whenever any student has been accused of a more serious infraction, he/she shall have the right to know of what he/she is accused and have the right to present his/her side of the story to the teacher and/or the principal.
 - C. After considering the available evidence, the principal should make the decision based on that evidence. The decision should be announced to the student and his/her parents/guardians. If the principal decides to suspend the student, the principal should notify the student, and his/her parents or guardian by written notice the terms of suspension (facts warranting suspension, number of days and returning date) with a copy sent to the Superintendent.
- III. In most serious cases, in which a student is accused of an act which, if proven, would warrant suspension for over ten school (10) days or expulsion, the principal shall follow the procedures outlined below.
 - A. Steps A through C will be followed as outlined in Section II.

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- B. If the principal decides to request suspension for more than ten school (10) days or expulsion, the principal shall make a written report thereof within two school days, after the conference to the Superintendent and to the parents/guardians of the pupil, setting forth in reasonable detail the facts and recommendations.
 - C. If an appeal to the principal's recommendation is not made within five school (5) days, the superintendent shall review the principal's recommendation prior to the expiration of the short-term suspension. The superintendent shall provide the student/parent/guardian written notice of their decision to approve the long-term suspension. The decision of the Superintendent shall be final.
- IV. Hearing when the principal has recommended suspension of more than ten school (10) days or expulsion.

If the student or parent/guardian desires to contest the principal's recommendation, the student or the parent/guardian must notify the superintendent/designee in writing within the five (5) school days following receipt of the notice of suspension. The notice of appeal shall state the issue(s) for the appeal including concerns regarding the level of suspension, if any.

- A. The Superintendent/designee may appoint a hearing panel to act on his/her behalf at the hearing. The Chairman of the hearing panel shall convene a hearing within five (5) school days of this appointment and shall send at least three days written notice of the time and place of hearing and the offenses of which the student is accused to the student/parent/guardian and to the principal.
- C. The following rules will govern the conduct of the hearing:
 1. The hearing shall be conducted in private. Witnesses should be present only when they are giving information. The hearing may be attended by the panel, the principal and his/her administrative assistants, the student, his/her parents/guardians, and, if desired, his/her representative and such other persons as the hearing officer deems necessary.
 2. The hearing panel may consider the school record of the student as well as the testimony of any witness.

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3. In presenting evidence, the principal or other representatives of the school shall present first the witnesses and documentary evidence against the student.
4. Next, the student or his/her representative may present his/her evidence, including any documents and witnesses he may have.
5. Both the principal or school representative and the student or his/her representative may examine the witnesses presented by the other side. The Chairman of the hearing panel has the power to limit questioning by any person, if such questioning is unproductively lengthy or irrelevant.
6. The Chairman of the hearing panel shall provide for making a record of any information orally presented at the hearing.
7. After the evidence has been presented, all parties shall leave the hearing room, and the hearing panel shall reach its decision in private. Based upon the information presented at the hearing, recommendations will be made to the Superintendent. The Superintendent shall resolve issue(s) raised on appeal and approve, disapprove, or modify the principal's recommendation. The Superintendent shall determine whether the principal's recommendation is supported by substantial evidence consistent with board policy, and whether due process was afforded.

D. The Superintendent shall make every reasonable effort to provide the student/parent/guardian and principal written notice of his/her decision within ten (10) school days after the hearing. The written notice shall explain the reasons for the decision and inform the student/parent/guardian of the right to appeal the decision to the Board of Education.

V. Appeal to the Board of Education. Any student aggrieved by the final action of the Superintendent may appeal to the Board of Education within ten (10) school days. The period of suspension or expulsion awarded by the Superintendent need not be postponed pending the outcome of the appeal. Such an appeal shall be on the record made in the hearing, and new evidence will be admitted only to avoid a substantial threat of unfairness. The Board of Education shall alter the Superintendent's decision only if, in its opinion, the decision of the Superintendent amounts to an abuse of discretion. The Board of Education shall make every reasonable effort to render a decision within thirty (30) days. The decision of the Board shall be final, except an adverse decision may be appealed to a court of law as provided by statute.

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- VI. A local Board of Education may, upon recommendation of the principal and the Superintendent, permanently expel any student if:
- A. He/She is 14 years of age or older, and,
 - B. He/She has been convicted of a felony and,
 - C. His/Her presence is a clear threat to the safety and health of students and employees.

Discipline of Students with Disabilities

I. **Introduction.** The discipline, suspension and expulsion of a student with handicaps and disabilities is governed by federal law – the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act and their implementing regulations – as well as state law, G.S. §115C-391, and N.C.D.P.I. “Policies Governing Services for Children with Disabilities” (NC 1504-2). It is the purpose of this regulation to provide guidelines for school administrators regarding the discipline of students with handicaps, disabilities and special needs as those terms are defined in the federal and state laws and regulations referred to above.

II. **Authority of School Personnel (NC 1504-2.1)**

A. **Case-by-case determination.** School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with disability who violates a code of student conduct. Circumstances considered should include area of disability, functioning level of the child, intent of the behavior, and relevant factors.

B. **General**

1. **First Ten Days of Suspension.** School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under NC 1504-2.7).

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2. **Services after 10th Day of Suspension.** After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

- C. Additional authority.** For discipline changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child’s disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

- D. Services.**

 1. A child with a disability who is removed from the child’s current placement pursuant to paragraphs (c) or (g) of this section must ---

 - (i.) Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP; and
 - (ii.) Receive a functional behavior assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. If a behavioral intervention plan already has been developed, it must be reviewed and modified, as necessary, to address the behavior.

 2. The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

 3. A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

 4. After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under NC 1504-2.7, school personnel, in consultation with at least one of the child’s teachers, determine the extent to which services are needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.

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5. If the removal is a change of placement under NC 1504-2.7, the child’s IEP Team determines appropriate services under paragraph (d)(1) of this section.

E. Manifestation determination

1. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child’s IEP Team (as determined by the parent and the LEA) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine --
 - (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
 - (ii) If the conduct in question was the direct result of the LEA’s failure to implement the IEP.
2. The conduct must be determined to be a manifestation of the child’s disability if the LEA, the parent and relevant members of the child’s IEP team determine that a condition in either paragraph (e)(1)(i) or (e)(1)(ii) of this section was met.
3. If the LEA, the parent and relevant members of the child’s IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

F. Determination that behavior was a manifestation. If the LEA, parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child’s disability, the IEP Team must --

1. Either --
 - (i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implemented a behavioral intervention plan for the child; or
 - (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
2. Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA, through the IEP process, agree to a change of placement.

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G. Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 days without regard to whether the behavior is determined to be a manifestation of the child’s disability, if the child --

1. Carries a weapon to or possesses a weapon at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substances, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
3. Has inflicted serious bodily injury upon another person while at school, on the premises, or at a school function under the jurisdiction of an SEA or an LEA;
4. Upon the end of the not more than 45 day removal to the interim educational setting for reasons (1) through (3) above, the child shall be returned to the placement from which they were removed, unless the parent and the LEA, through the IEP process, agree to a change in placement.

H. Notification. On the date on which the decision is made to make a removal that constitutes a change in placement of a child with a disability because of a violation of the code of student conduct, the LEA must notify the parents of that decision, and provide the procedural safeguards notice described in NC 1504-1.5.

III. Determination of setting (NC 1504-2.2)

- A. The child’s IEP Team determines the interim alternative educational setting for services under NC 1504-2.1(c), (d)(5) and (g). (Authority: 20 U.S.C. 1415(k)(2); 34 CFR 300.531).

If the child’s IEP Team determines that homebound services is the appropriate placement instead of the school systems Alternate Education Program for these extreme offenses then the child shall not be allowed on any school grounds at any time during which time homebound instruction is provided.

Statute Reference 115C-390