

1 **A. DEFINITIONS**

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3 1. **Superintendent**

4 For purposes of this policy, “superintendent” includes the Superintendent and the
5 Superintendent’s designee.

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7 2. **Principal**

8 For purposes of this policy, “principal” includes the Principal and the Principal’s
9 designee.

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11 3. **Long-Term Suspension**

12 A long-term suspension is the disciplinary exclusion of a student from attending
13 his or her assigned school for more than 10 school days. Disciplinary
14 reassignment of a student to a full-time educational program that meets the
15 academic requirements of the standard course of study established by the State
16 Board of Education and that provides the student with the opportunity to make
17 timely progress toward graduation and grade promotion is not a long-term
18 suspension requiring the due process procedures set out in this policy.

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20 Upon the recommendation of the principal, the superintendent may impose a
21 long-term suspension on a student who willfully engages in a serious violation of
22 the Code of Student Conduct and the violation either (1) threatens the safety of
23 students, staff or school visitors, or (2) threatens to substantially disrupt the
24 educational environment. The principal may recommend long-term suspension
25 for a minor violation if aggravating circumstances justify treating the student’s
26 behavior as a serious violation.

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28 If the offense leading to the long-term suspension occurred before the final
29 quarter of the school year, the exclusion must be no longer than the remainder of
30 the school year in which the offense was committed. If the offense leading to the
31 long-term suspension occurred during the final quarter of the school year, the
32 exclusion may include a period up to the remainder of the school year in which
33 the offense was committed and the first semester of the following school year.

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35 4. **365-Day Suspension**

36 A 365-day suspension is the disciplinary exclusion of a student from attending his
37 or her assigned school for 365 calendar days. The superintendent may impose a
38 365-day suspension only for certain firearm and destructive device violations, as
39 identified in Policy JGDC, “Weapons, Bomb Threats, Terrorist Threats, and Clear
40 Threats to Safety.”

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42 5. **Expulsion**

43 An expulsion is the indefinite exclusion of a student from school enrollment for

44 disciplinary purposes. Upon the recommendation of the superintendent, the
45 Board may expel a student who is 14 years of age or older if the student’s
46 continued presence in school constitutes a clear threat to the safety of other
47 students or employees. Additionally, a student who is subject to Policy JFCL,
48 “Student Sex Offenders,” may be expelled if the student’s continued presence in
49 school constitutes a clear threat to the safety of other students or employees.
50 During the expulsion, the student is not entitled to be present on educational
51 property and is not considered a student of the school system.
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53 **B. DETERMINATION OF APPROPRIATE CONSEQUENCE**

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55 **1. Principal’s Recommendation**

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57 The principal may impose a short-term suspension or any other consequence that
58 is consistent with Policy JGD, “Short-Term Suspension,” Policy JFDA, “School
59 Plan for Management of Student Behavior,” and the Code of Student Conduct. If
60 the principal determines that a suspension of more than 10 days (either long-term
61 or 365-day) or an expulsion is an appropriate consequence, the principal shall
62 propose the disciplinary penalty based upon a review of the student’s culpability
63 and dangerousness and the harm caused by the student, plus any other mitigating
64 or aggravating factors the principal finds relevant.
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- 66 a. Culpability of student – In assessing the culpability of the student for his
67 or her behavior, the principal may consider criteria such as:
68
69 1) The student’s age;
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71 2) The student’s ability to form the intent to cause the harm that
72 occurred or could have occurred; and
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74 3) Evidence of the student’s intent when engaging in the conduct.
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76 b. Dangerousness of the student – In assessing the dangerousness of the
77 student, the principal may consider criteria such as:
78
79 1) The student’s disciplinary or criminal record related to anti-social
80 behavior or drugs and alcohol;
81
82 2) Whether a weapon was involved in the incident and if a weapon
83 was involved, whether the student had the ability to inflict serious
84 injury or death with the weapon;
85
86 3) Evidence of the student’s ability to cause the harm that was

87 intended or that occurred; and

88
89 4) Whether the student is subject to Policy JFCL, “Student Sex
90 Offenders.”

91
92 c. Harm caused by the student – In assessing the severity of the harm caused
93 by the student, the principal may consider criteria such as whether any of
94 the following occurred:

95
96 1) Someone was physically injured or killed;

97
98 2) Someone was directly threatened or property was extorted through
99 the use of a weapon;

100
101 3) Someone was directly harmed, either emotionally or
102 psychologically;

103
104 4) Educational property or others’ personal property was damaged; or

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106 5) Students, school employees, or parents were aware of the presence
107 of a weapon or of dangerous behavior on the part of the
108 perpetrator.

109
110 After considering the above factors, the principal shall make a recommendation to
111 the superintendent, stating the nature of the offense, the substance of the evidence
112 involved, and the length of suspension recommended. The principal also must
113 consider and make a recommendation as to whether any alternative education
114 services, counseling, or other programs should be part of the consequence for
115 violating Board policy, the Code of Student Conduct, school standards, or school
116 rules.

117
118 If the principal recommends a 365-day suspension, he or she must identify the
119 type of firearm or destructive device involved and the evidence substantiating that
120 the student brought it to school grounds or to a school activity or possessed it on
121 school grounds or at a school activity.

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123 If the principal recommends an expulsion, he or she shall identify the basis for
124 determining that there is clear and convincing evidence that the student’s
125 continued presence in school constitutes a clear threat to the safety of other
126 students or employees.

127
128 **2. Notice to the Student’s Parent**

130 The principal must provide to the student’s parent written notice of the
131 recommendation for long-term suspension, 365-day suspension, or expulsion by
132 the end of the workday during which the long-term suspension or expulsion is
133 recommended when reasonably possible or as soon thereafter as practicable. The
134 notice must be written in plain English and, when appropriate language resources
135 are readily available, also in the parent’s native language. The notice must
136 contain the following ten elements:

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- 138 a. The notice type, i.e., notice of long-term suspension, 365-day suspension,
139 or expulsion;*
- 140
- 141 b. A description of the incident and the student’s conduct that led to the
142 recommendation;
- 143
- 144 c. The specific provision(s) of the Code of Student Conduct that the student
145 allegedly violated;
- 146
- 147 d. The specific process by which the parent may request a hearing to contest
148 the decision and the deadline for making the request;*
- 149
- 150 e. The process by which the hearing will be held, including all due process
151 rights to be accorded the student during the hearing;
- 152
- 153 f. Notice of the right to retain an attorney to represent the student in the
154 hearing process;
- 155
- 156 g. Notice that an advocate, instead of an attorney, may accompany the
157 student to assist in the presentation of the appeal;
- 158
- 159 h. Notice of the right to review and obtain copies of the student’s educational
160 records prior to the hearing;
- 161
- 162 i. A reference to Policy JP, “Student Discipline Records,” regarding the
163 expungement of disciplinary records; and,
- 164
- 165 j. The identity and phone number of a school employee whom the parent
166 may call to obtain assistance in receiving a Spanish translation of the
167 English language information included in the document.*
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169 *This information must be provided on the notice in both English and
170 Spanish.

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172 **3. Superintendent’s Decision**

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174 The student or student’s parent may request a hearing before the superintendent
175 within three days of receiving notice from the principal of the recommendation
176 for long-term suspension, 365-day suspension or expulsion. Any hearing held
177 will follow the hearing procedures outlined in Policy JFA, “Student Discipline
178 Hearing Procedures.” A decision will be rendered before the long-term
179 suspension is imposed.

180
181 If the student or parent makes a timely request for a hearing, the superintendent
182 shall confirm that the charges against the student, if substantiated, could warrant
183 the recommended disciplinary action and shall give the student and parent
184 reasonable notice of the time and place of the hearing.

185
186 If neither the student nor the parent appears for a scheduled hearing after being
187 given reasonable notice of the time and place of the hearing, the student and
188 parent are deemed to have waived the right to a hearing.

189
190 If the student and parent fail to make a timely request for a hearing or if they
191 waive the right to a hearing by failing to appear for a duly scheduled hearing, the
192 superintendent shall review the circumstances of the recommended long-term
193 suspension. Following this review, the superintendent (1) may impose the long-
194 term or 365-day suspension if it is consistent with Board policies and appropriate
195 under the circumstances, (2) may impose another appropriate penalty authorized
196 by Board policy, or (3) may decline to impose any penalty.

197
198 If the student or parent requests a postponement of the hearing, or if the request
199 for the hearing is untimely, the hearing will be scheduled, but the student does not
200 have the right to return to school pending the hearing.

201
202 Based on substantial evidence presented at the hearing, the superintendent shall
203 decide whether to uphold, modify, or reject the principal’s recommendation. The
204 superintendent shall immediately inform the principal of the decision regarding
205 the recommended disciplinary penalty of a long-term or 365-day suspension and,
206 when applicable, of any modifications to the penalty recommended by the
207 principal.

208
209 The superintendent shall send notice of the decision via certified mail to the
210 student and parent. The notice must include:

- 211
- 212 a. The basis of the decision, with reference to any policies or rules that the
213 student violated;
 - 214 b. Notice of what information will be included in the student’s official record
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- 216 pursuant to N. C. Gen. Stat. § 115C-402;
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218 c. Notice of the student’s right to appeal the decision and the procedures for
219 such appeal;
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221 d. If the decision is to suspend the student for 365 days, notice of the
222 student’s right to petition the Board for readmission under N. C. Gen. Stat.
223 § 115C-390.12;
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225 e. If applicable, notice that the superintendent or designee is recommending
226 to the Board that the student be expelled and any required notifications
227 related to the expulsion if the student did not already receive such notice
228 from the principal or designee; and,
229
230 f. If the student is to be suspended, notice of the superintendent’s or
231 designee’s decision on whether to offer alternative education services to
232 the student during the period of suspension, and, as applicable, a
233 description of the services to be offered or the reason justifying the
234 superintendent’s or designee’s decision to deny such services.
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236 Following issuance of the decision, the superintendent shall implement the
237 decision by authorizing the student’s return to school upon the completion of any
238 short-term suspension or by imposing the suspension reflected in the decision.
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240 The superintendent shall offer alternative education services to any student who
241 receives a long-term or 365-day suspension unless the superintendent provides a
242 significant or important reason for declining to offer such services. Alternative
243 education services are part-time or full-time programs that provide direct or
244 computer-based instruction to allow the student to progress in one or more core
245 academic courses. Such services may include programs described in Policy JQ,
246 “Alternative Learning Programs/Schools.”
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248 The student may appeal to the Board the superintendent’s decision not to provide
249 alternative education services, as permitted by N. C. Gen. Stat. § 115C-45(c)(1).
250 Any appeal to the Board must be made in writing within five days of receiving the
251 superintendent’s decision. The superintendent shall inform the Board chairperson
252 of the request for an appeal and arrange in a timely manner a hearing before the
253 Board. In advance of the hearing, the superintendent shall provide to the student
254 and parent and to the Board a written explanation for the denial of services along
255 with any documents or other information supporting the decision. The hearing
256 will be conducted pursuant to Policy BDA, “Hearings Before the Board.” The
257 Board will provide to the student and parent and to the superintendent written
258 notice of its decision within 30 days of receiving the appeal.

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If the superintendent determines that expulsion is appropriate, the superintendent shall submit to the Board a recommendation and the basis for the recommendation along with any proposal for alternative education services.

4. Hearings Before the Board

a. Long-Term or 365-Day Suspensions

A student or his or her parent may appeal an imposed long-term or 365-day suspension. The student or parent must appeal to the Board in writing within ~~three~~ five days of receiving the superintendent’s decision. The superintendent shall inform the Board chairperson of the request for an appeal and shall arrange in a timely manner a hearing before the Board. The suspension need not be postponed pending the outcome of the appeal. The hearing will be conducted pursuant to Policy JFA, “Student Discipline Hearing Procedures.” The Board will provide to the student and parent and to the superintendent written notice of its decision not more than 30 calendar days after receiving the appeal.

b. Expulsions

The student or parent may request a hearing within five days of receiving notice of the superintendent’s recommendation that the student be expelled. The hearing will be scheduled with the Board within five days of the superintendent’s receipt of the hearing request. The superintendent shall notify the student and parent of the date, time and place of the hearing. Any appeal of a long-term or 365-day suspension will be addressed in the same hearing. The hearing will be conducted pursuant to Policy JFA, “Student Discipline Hearing Procedures.”

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

When the Board decides to expel a student, the Board will document the basis for its determination that there is clear and convincing evidence that the student’s behavior indicates that the student’s continued presence in school constitutes a clear threat to the safety of other students or employees. The Board also will consider and make a written determination of whether alternative education services are to be provided to the expelled student. Regardless of whether the school system provides

302 alternative education services, the Board expects school system
303 administrators to work with other agencies to help the student and parent
304 identify other types of services that may be of assistance to the student.
305 The Board will send via certified mail to the student’s parent a copy of the
306 decision, notification of what information will be included in the student’s
307 official record, the procedure for expungement of this information under
308 N. C. Gen. Stat. § 115C-402, and notice of the right to petition for
309 readmission pursuant to N. C. Gen. Stat. § 115C-390.12.
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311 **C. EDUCATIONAL SERVICES FOR STUDENTS WITH DISABILITIES DURING LONG-TERM**
312 **SUSPENSION, 365-DAY SUSPENSION OR EXPULSION**

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314 Students with disabilities recognized by the Individuals with Disabilities Education Act
315 will receive educational services during periods of suspension or expulsion to the extent
316 required by *Policies Governing Services for Children with Disabilities* and state and
317 federal law.
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319 **D. REDUCING SUSPENSION AND EXPULSION RATES**

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321 Though the Board believes that suspension or expulsion may be an appropriate and
322 necessary consequence in certain situations, the Board also recognizes that excessive use
323 of suspension and expulsion may have a negative impact on academic achievement and
324 graduation rates. Thus, the Board encourages school administrators to find ways to
325 reduce suspension and expulsion rates in the schools.
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328 Legal References: U.S. Const. amend. XIV, § 1; Individuals with Disabilities Education Act, 20
329 U.S.C. 1400 *et seq.*, 34 C.F.R. pt. 300; N.C. Const. art. I, § 19; G.S. 14-208.18; 115C art. 9; N.
330 C. Gen. Stat. § 115C-45(c)(2), -47(55), -276(r), -288, -390.1, -390.2, -390.7, -390.8, -390.9, -
331 390.10, -390.11, -390.12, -402; State Board of Education Policy GCS-D-000; *Policies*
332 *Governing Services for Children with Disabilities*
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334 Cross References:

335 Policy BDA, “Hearings Before the Board”
336 Policy IGAJ, “Driver’s Education and License Eligibility”
337 Policy JFA, “Student Discipline Hearing Procedures”
338 Policy JFC, “Student Conduct/Discipline”
339 Policy JFCL, “Student Sex Offenders”
340 Policy JFDA, “School Plan for Management of Student Behavior”
341 Policy JGD, “Short-Term Suspension”
342 Policy JGDB, “Drugs and Alcohol”
343 Policy JGDC, “Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety”
344 Policy JFCA, “Criminal Behavior”

345 Policy JP, "Student Discipline Records"
346 Policy JQ, "Alternative Learning Programs/Schools"
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350 APPROVED BY BOARD
351 AND EFFECTIVE _____
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