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**General Guidelines**

1. A student may be expelled whether or not the acts result in the filing of criminal charges or a juvenile petition, and whether or not the student is convicted or adjudicated.
2. The acts and conduct do not have to occur on school premises for the school board to expel the student.
3. Each case to determine whether expulsion is warranted, including the age and maturity of the student, will be reviewed to consider the facts and circumstances.
4. Students who have been identified to receive special educational services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq., and by Article 9 of Chapter 115C of the General Statutes, are entitled to all protections provided by those laws.

**Definitions of Acts/Conduct Supporting Expulsion**

Any one or more of the acts listed below committed by a student may constitute a clear threat to the safety of others warranting the student's expulsion.

1. Theft or attempted theft by a student from another person by using, or threatening to use, a dangerous weapon.\*
2. The intentional and malicious burning of any structure or personal property, including vehicles.
3. An attack, or threatened attack, by a student against another person wherein the student uses a weapon\* or displays it in a threatening manner.
4. An attack by a student on school administrators; professional (e.g., teachers) or classified (e.g., custodial, clerical) personnel; or adult volunteers which does not result in serious injury but which is intended to cause or reasonably could cause serious injury.
5. An attack by a student upon another person whereby the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injuries, severe laceration, loss of consciousness, or the victim requires hospitalization as a result of the attack.
6. Any intentional or negligent act that results in the death of another person.
7. Confining, restraining, or removing another person from one place to another, without the victim's consent, or the consent of the victim's parents, for the purpose of committing a

felony, or for the purpose of holding the victim as a hostage or for ransom or for use as a shield.

8. Possession by a student of a weapon as defined in G.S. 14-269.2(b) and (g) on any educational property, including vehicles; and possession by a student under age 18 of a handgun, whether on school property or not.
9. The taking or attempting to take anything of value from the care, custody or control of another person or persons, by force, threat of force, or violence, or by putting the victim in fear.
10. Any unauthorized and unwanted intentional touching, or attempt to touch, by one person of the sex organs of another. The sex organs are the breasts of the female and the genital areas of the male and female.
11. The possession, manufacture, sale, or delivery, or any attempted sale or delivery, of a controlled substance in violation of Chapter 90 of the General Statutes.

\*As used in the above definitions, the term "weapon" or "dangerous weapon" means any gun, rifle, pistol, or other firearm of any kind; or any dynamite cartridge, bomb, grenade, mine, or powerful explosive; also any BB gun, air rifle, air pistol, knife, club, dagger, blackjack, metallic knuckles, razor, razor blade, and any sharp-pointed or sharp-edged instrument.

#### I. PRINCIPAL'S ACTIONS

If the principal, following an investigation, believes there is sufficient reason to expel a student, he shall notify the Superintendent in writing of his findings. The notification to the Superintendent shall include the specific details that may warrant expulsion. Copies of the notification shall be sent by registered mail to the parent(s)/guardian(s) of the student and given to the student in the presence of a witness. Notification to the student and the parent(s)/guardian(s) shall contain a copy of this policy.

#### II. EXPULSION HEARING PROCEDURES

Upon receipt of the principal's findings in the case, the Superintendent or his designee shall promptly appoint a hearing officer. The hearing officer shall convene a hearing within five school days of his appointment. The principal or designee shall give at least three days' written notice to the parent(s) or guardian(s) of the time and place of the hearing and the offenses of which the student is accused. A copy of this notification shall be sent to the Superintendent.

The following rules will govern the conduct of the hearing:

1. The hearing shall be conducted in private.

2. The student, his parent(s) or guardian(s) may be present at the hearing and may be represented by counsel. Notification must be given to the principal at least two days prior to the hearing if the student will be represented by counsel.
3. Witnesses, other than the student and the principal, should be present only when giving information. The hearing may be attended by the hearing officer; the principal; the assistant principal; the student; his parent(s)/guardian(s); legal counsel for the plaintiff and/or defendant, if desired; and such other persons as the hearing officer deems necessary.
4. The hearing officer may consider pertinent school records of the student as well as the testimony of any witnesses.
5. In presenting evidence, the principal or other representatives of the school have the burden of proof and shall present first the witnesses and documentary evidence against the student. Next, the student or his representative may present evidence, including any documents and witnesses.
6. Both the principal or school representative and the student or his representative may examine the witnesses presented by the other side. The hearing officer has power to limit questioning by any person, if such questioning is unproductively lengthy, irrelevant, hostile, or intimidating.
7. The hearing officer shall provide to the parent(s)/guardian(s) of the student a recording of any information orally presented at the hearing. An audio tape of the hearing shall be available for a fee of ten dollars or a written copy furnished at a rate of three dollars per page.
8. The hearing officer shall set forth in writing the findings of fact(s) and send the report to the Superintendent within three school days after the hearing is completed.

### III. REVIEW BY THE SUPERINTENDENT

The hearing officer's report shall be reviewed promptly by the Superintendent. In reaching his decision, the Superintendent shall consider only the reports from the principal and the hearing officer. If the Superintendent concurs with the principal's recommendation to expel, he shall notify the Board of Education in writing of his decision within three school days.

### IV. BOARD OF EDUCATION ACTION

After receiving notification from the Superintendent, the Board of Education shall meet in closed session within three school days to review the findings to determine if the student's action(s) warrant expulsion. The Board Chairman shall notify, by registered mail, the Board's decision on expulsion.

V. APPEAL

An adverse decision by the Transylvania County Board of Education may be appealed by the student to a court of law as provided by statute.

Reference: G.S. 115C-391(d)

APPROVED BY BOARD  
AND EFFECTIVE 11/6/95

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