**LONG-TERM SUSPENSION,**

**365-DAY SUSPENSION, EXPULSION** *Policy Code:* **4353**

1. **Definitions**
2. Executive Director

For purposes of this policy, the xecutive director is the only school official who may impose a long-term suspension, a 365-day suspension or recommend expulsion of a scholar.

1. Long-Term Suspension

A long-term suspension is the disciplinary exclusion of a scholar from attending his or her assigned school for more than 10 school days. Disciplinary reassignment of a scholar to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education and that provides the scholar with the opportunity to make timely progress toward graduation and grade promotion is not a long-term suspension requiring the due process procedures set out in this policy, nor is an absence under G.S. 130A-440 (for failure to submit a school health assessment form within 30 days of entering school).

The executive director may impose a long-term suspension on a scholar who willfully engages in a serious violation of the Code of Scholar Conduct and the violation either (1) threatens the safety of scholars, staff, or school visitors, or (2) threatens to substantially disrupt the educational environment. The executive director may impose a long-term suspension for a minor violation if aggravating circumstances justify treating the scholar’s behavior as a serious violation.

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

1. 365-Day Suspension

A 365-day suspension is the disciplinary exclusion of a scholar from attending school for 365 calendar days. The executive director may impose a 365-day suspension only for certain firearm and destructive device violations, as identified in policy 4333, Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety.

1. Expulsion

An expulsion is the indefinite exclusion of a scholar from school enrollment for disciplinary purposes. Upon the recommendation of the executive director, the board may expel a scholar who is 14 years of age or older for certain types of misbehavior as provided in policy 4325, Drugs and Alcohol, policy 4330, Theft, Trespass, and Damage to Property, policy 4331, Assaults, Threats, and Harassment, and policy 4333, Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety, if the scholar’s continued presence in school constitutes a clear threat to the safety of other scholars or employees. Additionally, a scholar who is subject to policy 4260, Scholar Sex Offenders, may be expelled if the scholar’s continued presence in school constitutes a clear threat to the safety of other scholars or employees. During the expulsion, the scholar is not entitled to be present on educational property and is not considered a scholar of the school.

1. **Determination of Appropriate Consequence**
2. Principal’s Determination

The principal may impose a short-term suspension or any other consequence that is consistent with policy 4351, Short-Term Suspension, policy 4302, School Plan for Management of Scholar Behavior, and the Code of Scholar Conduct. If the principal determines that a suspension of more than 10 days (either long-term or 365-day) or an expulsion is an appropriate consequence, the ~~p~~executive director shall determine the disciplinary penalty based upon a review of the scholar’s culpability and dangerousness and the harm caused by the scholar, plus any other mitigating or aggravating factors the executive director finds relevant.

1. Culpability of Scholar – In assessing the culpability of the scholar for his or her behavior, the executive director may consider criteria such as:
2. the scholar’s age;
3. the scholar’s ability to form the intent to cause the harm that occurred or could have occurred; and
4. evidence of the scholar’s intent when engaging in the conduct.

1. Dangerousness of the Scholar – In assessing the dangerousness of the scholar, the executive director may consider criteria such as:
2. the scholar’s disciplinary or criminal record related to anti-social behavior or drugs and alcohol;
3. whether a weapon was involved in the incident and if a weapon was involved, whether the scholar had the ability to inflict serious injury or death with the weapon;
4. evidence of the scholar’s ability to cause the harm that was intended or that occurred; and
5. whether the scholar is subject to policy 4260, Scholar Sex Offenders.
6. Harm Caused by the Scholar – In assessing the severity of the harm caused by the scholar, the executive director may consider criteria such as whether any of the following occurred:
7. someone was physically injured or killed;
8. someone was directly threatened or property was extorted through the use of a weapon;
9. someone was directly harmed, either emotionally or psychologically;
10. educational property or others’ personal property was damaged; or
11. scholars, school employees, or parents were aware of the presence of a weapon or of dangerous behavior on the part of the perpetrator.

After considering the above factors, the executive director shall make a determination, stating the nature of the offense, the substance of the evidence involved, and the length of suspension. The executive director also must consider whether any alternative education services, counseling, or other programs should be part of the consequence for violating board policy, the Code of Scholar Conduct, school standards, or school rules.

If the executive director imposes a 365-day suspension, he or she must identify the type of firearm or destructive device involved and the evidence substantiating that the scholar brought it to school grounds or to a school activity or possessed it on school grounds or at a school activity.

If the executive director recommends an expulsion, he or she shall identify the basis for determining that there is clear and convincing evidence that the scholar’s continued presence in school constitutes a clear threat to the safety of other scholars or employees.

1. Notice to the Scholar’s Parent

The executive director must provide to the scholar’s parent written notice of the long-term or 365-day suspension or the recommendation of expulsion by the end of the workday during which the long-term suspension is imposed or expulsion is recommended when reasonably possible or as soon thereafter as practicable. The notice must be written in plain English and, when appropriate language resources are readily available, also in the parent’s native language. The notice must contain the following 10 elements:

1. the notice type, i.e., notice of long-term suspension, 365-day suspension, or expulsion;\*
2. a description of the incident and the scholar’s conduct that led to the suspension or recommendation for expulsion;
3. the specific provision(s) of the Code of Scholar Conduct that the scholar allegedly violated;
4. the specific process by which the parent may request a hearing to contest the decision and the deadline for making the request;\*
5. the process by which the hearing will be held, including all due process rights to be accorded the scholar during the hearing;
6. notice of the right to retain an attorney to represent the scholar in the hearing process;
7. notice that an advocate, instead of an attorney, may accompany the scholar to assist in the presentation of the appeal;
8. notice of the right to review and obtain copies of the scholar’s educational records prior to the hearing;
9. if applicable, notice that the executive director is recommending to the board that the scholar be expelled;
10. a reference to policy 4345, Scholar Discipline Records, regarding the expungement of disciplinary records; and
11. the identity and phone number of a school employee whom the parent may call to obtain assistance in receiving a Spanish translation of the English language information included in the document.\*

\*This information must be provided on the notice in both English and Spanish.

1. Hearings Before the Board
   1. Long-Term or 365-Day Suspensions

A scholar or his or her parent may appeal an imposed long-term or 365-day suspension. The scholar or parent must appeal to the board in writing within three days of receiving the principal’s decision. The executive director 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 board will provide to the scholar and parent and to the executive director written notice of its decision not more than 30 calendar days after receiving the appeal.

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

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

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

* 1. Expulsions

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

The scholar or parent may request a hearing within five days of receiving notice of the executive director’s recommendation that the scholar be expelled. The hearing will be scheduled with the board within five days of the executive director’s receipt of the hearing request. The executive director shall notify the scholar 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 Section B of policy 4370.

If a hearing is not requested by the scholar or parent, the executive director 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.

* 1. Notice

Based on substantial evidence presented at the hearing, the board shall decide whether to uphold, modify, or reject the long-term or 365-day suspension or recommended expulsion. The board shall immediately inform the executive director of the decision regarding the disciplinary penalty of a long-term or 365-day suspension or expulsion and, when applicable, of any modifications to the penalty recommended by the executive director.

The board will provide to the scholar and parent and to the executive director written notice of its decision not more than 30 calendar days after receiving the appeal. The board shall send notice of the decision via certified mail to the scholar and parent. The notice must include:

* + 1. the basis of the decision, with reference to any policies or rules that the scholar violated;
    2. notice of what information will be included in the scholar’s official record pursuant to G.S. 115C-402;
    3. if the decision is to suspend the scholar for 365 days, notice of the scholar’s right to petition the board for readmission under G.S. 115C-390.12; and
    4. if applicable, any required notifications related to an expulsion if the scholar did not already receive such notice from the executive director or designee; and
    5. if the scholar is to be suspended, notice of the executive director’s decision on whether to offer alternative education services to the scholar during the period of suspension, and, as applicable, a description of the services to be offered or the reason justifying the executive director’s or designee’s decision to deny such services.

Following issuance of the decision, the executive director shall implement the decision by authorizing the scholar’s return to school upon the completion of any short-term suspension or by imposing the suspension or expulsion reflected in the decision.

* 1. Alternative Education Services During a Long-Term or 365-Day Suspension

The executive director shall offer alternative education services to any scholar who receives a long-term or 365-day suspension unless the executive director provides a significant or important reason for declining to offer such services. Alternative education services are part-time or full-time programs that provide direct or computer-based instruction to allow the scholar to progress in one or more core academic courses.

The scholar may appeal to the board the executive director’s decision not to provide alternative education services, as permitted by G.S. 115C-45(c)(2). Any appeal to the board must be made in writing within five days of receiving the executive director’s decision.  The executive director shall inform the board chairperson of the request for an appeal and arrange in a timely manner a hearing before the board.  In advance of the hearing, the executive director shall provide to the scholar and parent and to the board a written explanation for the denial of services along with any documents or other information supporting the decision. The hearing will be conducted pursuant to policy 2500, Hearings Before the Board. The board will provide to the scholar and parent and to the executive director written notice of its decision within 30 days of receiving the appeal.

* 1. Additional Notice and Alternative Education Services After an Expulsion

When the board decides to expel a scholar, the board will document the basis for its determination that there is clear and convincing evidence that the scholar’s behavior indicates that the scholar’s continued presence in school constitutes a clear threat to the safety of other scholars or employees. The board also will consider and make a written determination of whether alternative education services are to be provided to the expelled scholar. Regardless of whether the school provides alternative education services, the board expects school administrators to work with other agencies to help the scholar and parent identify other types of services that may be of assistance to the scholar. The board will send via certified mail to the scholar’s parent a copy of the decision, notification of what information will be included in the scholar’s official record, the procedure for expungement of this information under G.S. 115C-402, and notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

# Educational Services for Scholars with Disabilities During Long-Term Suspension, 365-Day Suspension or Expulsion

Scholars with disabilities recognized by the Individuals with Disabilities Education Act will receive educational services during periods of suspension or expulsion to the extent required by *Policies Governing Services for Children with Disabilities* and state and federal law.

1. **Reducing Suspension and Expulsion Rates**

Though the board believes that suspension or expulsion may be an appropriate and necessary consequence in certain situations, the board also recognizes that excessive use of suspension and expulsion may have a negative impact on academic achievement and graduation rates. Thus, the board encourages school administrators to find ways to reduce suspension and expulsion rates in the school.

Legal References: U.S. Const. amend. XIV, § 1; Individuals with Disabilities Education Act, 20 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; 115C-45(c)(2), -47(55), -276(r), -288, -390.1, -390.2, -390.7, -390.8, -390.9, -390.10, -390.11, -390.12, -402; 130A-440; State Board of Education Policy GCS-D-000; *Policies Governing Services for Children with Disabilities*

Cross References: Hearings Before the Board (policy 2500), Alternative Learning Programs/Schools (policy 3470/4305), Scholar Sex Offenders (policy 4260), School Plan for Management of Scholar Behavior (policy 4302), Drugs and Alcohol (policy 4325), Theft, Trespass, and Damage to Property (policy 4330), Assaults, Threats, and Harassment (policy 4331), Weapons, Bomb Threats, Terrorist Threats, and Clear Threats to Safety (policy 4333), Criminal Behavior (policy 4335), School-Level Investigations (policy 4340), Scholar Discipline Records (policy 4345), Short-Term Suspension (policy 4351), Scholar Discipline Hearing Procedures (policy 4370)

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