

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 295

AMENDMENT NO. A3
(to be filled in by
Principal Clerk)

S295-ATC-83 [v.1]

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Amends Title [NO]
Third Edition

Date _____, 2019

Representative Reives

1 moves to amend the bill on page 1, line 8, by rewriting that line to read:

2
3 "SECTION 1.(a) G.S. 115C-390.1 reads as rewritten:

4 "**§ 115C-390.1. State policy and definitions.**

5 ...

6 (b) The following definitions apply in this Article:

7 (1) Alternative education services. – Part or full-time programs, wherever
8 situated, providing direct or computer-based instruction that allow a student
9 to progress in one or more core academic courses. Alternative education
10 services include programs established by the local board of education in
11 conformity with G.S. 115C-105.47A and ~~local board of education~~public
12 school unit board policies.

13 ...

14 (4) Educational property. – Any school building or bus, school campus, grounds,
15 recreational area, athletic field, or other property under the control of any ~~local~~
16 ~~board of education or charter school~~public school unit.

17 ...

18 (9) Principal. – Includes the principal and the principal's ~~designee~~designee, or if
19 there is no designated principal, the staff member designated by the public
20 school unit board with the highest decision-making authority at an individual
21 school.

22 (9a) Public school unit board or board. – The governing entity of a public school
23 unit.

24 ...

25 (11) School personnel. – Any of the following:

- 26 a. An employee of a ~~local board of education~~public school unit board.
27 b. Any person working on school grounds or at a school function under
28 a contract or written agreement with the public school ~~system~~unit to
29 provide educational or related services to students.
30 c. Any person working on school grounds or at a school function for
31 another agency providing educational or related services to students.

32 ...



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1 (14) Superintendent. – Includes the superintendent and the superintendent's
2 ~~designee.~~ designee, or if there is no superintendent, the staff member with the
3 highest decision-making authority and that staff member's designee.

4"

5 SECTION 1.(b) G.S. 115C-390.2 reads as rewritten:";

6

7 and on page 1, line 10, by rewriting that line to read:

8

9 "(a) ~~Local boards of education~~ Public school unit boards, in consultation with teachers,
10 school-based";

11

12 and on page 1, line 15, by rewriting that line to read:

13

14 "to adopting these policies, public school unit boards shall review current federal guidance on";

15

16 and on page 1, line 17, by rewriting that line to read:

17

18 "(a1) No later than September 1 of each year, each public school unit board shall provide";

19

20 and on page 2, lines 14-18, by rewriting those lines to read:

21

22 "(i) Each ~~local~~ board shall publish all policies, administrative procedures, or school rules
23 mandated by this section and make them available to each student and his or her parent at the
24 beginning of each school year and upon request. This information shall include the full range of
25 responses to violations of disciplinary rules, including responses that do not remove a student
26 from the classroom or school building. Public school unit boards may require students and";

27

28 and on page 2, line 21, by rewriting that line to read:

29

30 "(j) ~~Local boards of education~~ Public school unit boards are encouraged to include in their
31 safe schools plans,";

32

33 and on page 2, line 39, by rewriting that line to read:

34

35 "a public school unit board's discretion to devise, impose, and enforce personal appearance
36 codes."";

37

38 and on page 2, lines 39-40, by inserting the following between those lines:

39

40 "SECTION 1.(c) G.S. 115C-390.3 reads as rewritten:

41

42 "§ 115C-390.3. Reasonable force.

...

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1 (c) Notwithstanding any other law, no officer, member, or employee of the State Board
2 of Education, the Superintendent of Public Instruction, or of a ~~local board of education, public~~
3 school unit board, individually or collectively, shall be civilly liable for using reasonable force
4 in conformity with State law, State or local rules, or State or local policies regarding the control,
5 discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the
6 claimant to show that the amount of force used was not reasonable.

7 (d) No school employee shall be reprimanded or dismissed for acting or failing to act to
8 stop or intervene in an altercation between students if the employee's actions are consistent with
9 ~~local board policies. Local boards of education~~Public school unit boards shall adopt policies,
10 pursuant to their authority under G.S. 115C-47(18), or as otherwise provided by law, which
11 provide guidelines for an employee's response if the employee has personal knowledge or actual
12 notice of an altercation between students."

13 **SECTION 1.(d)** G.S. 115C-390.4 reads as rewritten:

14 **"§ 115C-390.4. Corporal punishment.**

15 (a) Each ~~local board of education~~public school unit board shall determine whether
16 corporal punishment will be permitted in its public school administrative unit. Notwithstanding
17 a ~~local board of education's board's~~ prohibition on the use of corporal punishment, school
18 personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and
19 reasonable force pursuant to G.S. 115C-390.3.

20 ...

21 (c) Each ~~local board of education~~public school unit board shall report annually to the
22 State Board of Education, in a manner prescribed by the State Board of Education, on the number
23 of times that corporal punishment was administered. The report shall be in compliance with the
24 federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the
25 following:

26"

27 **SECTION 1.(e)** G.S. 115C-390.6 reads as rewritten:

28 **"§ 115C-390.6. Short-term suspension procedures.**

29 ...

30 (e) A student is not entitled to appeal the principal's decision to impose a short-term
31 suspension to the superintendent or ~~local board of education, public school unit board~~. Further,
32 such a decision is not subject to judicial review. Notwithstanding this subsection, the ~~local board~~
33 of education, public school unit board, in its discretion, may provide students an opportunity for
34 a review or appeal of a short-term suspension to the superintendent or ~~local board of~~
35 education, public school unit board."

36 **SECTION 1.(f)** G.S. 115C-390.8 reads as rewritten:

37 **"§ 115C-390.8. Long-term suspension procedures.**

38 (a) When a student is recommended by the principal for long-term suspension, the
39 principal shall give written notice to the student's parent. The notice shall be provided to the
40 student's parent by the end of the workday during which the suspension was recommended when
41 reasonably possible or as soon thereafter as practicable. The written notice shall provide at least
42 the following information:

43 ...

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- 1 (6) The extent to which the ~~local~~ board policy permits the parent to have an
2 advocate, instead of an attorney, accompany the student to assist in the
3 presentation of his or her appeal.
4 ...
- 5 (8) A reference to the ~~local~~ board policy on the expungement of discipline records
6 as required by G.S. 115C-402.
- 7 (b) Written notice may be provided by certified mail, fax, e-mail, or any other written
8 method reasonably designed to achieve actual notice of the recommendation for long-term
9 suspension. When school personnel are aware that English is not the primary language of the
10 parent or guardian, the notice shall be written in both English and in the primary language of the
11 parent or guardian when the appropriate foreign language resources are readily available. All
12 notices described in this section shall be written in plain English, and shall include the following
13 information translated into the dominant non-English language used by residents within the ~~local~~
14 school administrative unit: public school unit.
15 ...
- 16 (d) The formal hearing may be conducted by the ~~local board of education~~, public school
17 unit board, by the superintendent, or by a person or group of persons appointed by the ~~local~~ board
18 or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the
19 superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel
20 who is under the direct supervision of the principal recommending suspension. If the hearing is
21 conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine
22 the relevant facts and credibility of witnesses based on the evidence presented at the hearing.
23 Following the hearing, the superintendent or ~~local~~ board shall make a final decision regarding
24 the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual
25 determinations unless they are not supported by substantial evidence in the record.
- 26 (e) Long-term suspension hearings shall be conducted in accordance with policies
27 adopted by the ~~board of education~~, public school unit board. Such policies shall offer the student
28 procedural due process including, but not limited to, the following:
29 ...
- 30 (g) Unless the decision was made by the ~~local~~ board, the student may appeal the decision
31 to ~~the a~~ local board of education in accordance with G.S. 115C-45(c) and policies adopted by the
32 ~~board~~, public school unit board. Notwithstanding the provisions of G.S. 115C-45(c), a student's
33 appeal to the board of a decision upholding a long-term suspension shall be heard and a final
34 written decision issued in not more than 30 calendar days following the request for such appeal.
35 ...
- 36 (i) A decision of the ~~local~~ board to uphold the long-term suspension of a student is
37 subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.
38 The action must be brought within 30 days of the ~~local~~ board's decision. A person seeking judicial
39 review shall file a petition in the superior court of the county where the ~~local~~ board made its
40 decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension
41 shall be set for hearing in the first succeeding term of superior court in the county following the
42 filing of the certified copy of the official record."

43 **SECTION 1.(g)** G.S. 115C-390.9 reads as rewritten:

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1 **"§ 115C-390.9. Alternative education services.**

2 (a) Students who are long-term suspended shall be offered alternative education services
3 unless the superintendent provides a significant or important reason for declining to offer such
4 services. The following may be significant or important reasons, depending on the circumstances
5 and the nature and setting of the alternative education services:

6

7

...

8

(5) Educationally appropriate alternative education services are not available in
9 the ~~local school administrative~~public school unit due to limited resources.

10

...

11

(b) If the superintendent declines to provide alternative education services to the
12 suspended student, the student may seek review of such decision by the ~~local board of~~
13 ~~education~~public school unit board as permitted by G.S. 115C-45(c)(2). If the student seeks such
14 review, the superintendent shall provide to the student and the ~~local~~ board, in advance of the
15 board's review, a written explanation for the denial of services together with any documents or
16 other information supporting the decision."

17

SECTION 1.(h) G.S. 115C-390.10 reads as rewritten:

18

"§ 115C-390.10. 365-day suspension for gun possession.

19

(a) All ~~local boards of education~~public school unit boards shall develop and implement
20 written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. §
21 7151, requiring suspension for 365 calendar days of any student who is determined to have
22 brought or been in possession of a firearm or destructive device on educational property, or to a
23 school-sponsored event off of educational property. A principal shall recommend to the
24 superintendent the 365-day suspension of any student believed to have violated board policies
25 regarding weapons. The superintendent has the authority to suspend for 365 days a student who
26 has been recommended for such suspension by the principal when such recommendation is
27 consistent with board policies. Notwithstanding the foregoing, the superintendent may modify,
28 in writing, the required 365-day suspension for an individual student on a case-by-case basis.
29 The superintendent shall not impose a 365-day suspension if the superintendent determines that
30 the student took or received the firearm or destructive device from another person at school or
31 found the firearm or destructive device at school, provided that the student delivered or reported
32 the firearm or destructive device as soon as practicable to a law enforcement officer or a school
33 employee and had no intent to use such firearm or destructive device in a harmful or threatening
34 way.

35

...

36

(c) Nothing in this provision shall apply to a firearm that was brought onto educational
37 property for activities approved and authorized by the ~~local board of education~~public school unit
38 board, provided that the ~~local board of education~~public school unit board has adopted appropriate
39 safeguards to protect student safety.

40

(d) At the time the student and parent receive notice that the student is suspended for 365
41 days under this section, the superintendent shall provide notice to the student and the student's
42 parent of the right to petition the ~~local board of education~~public school unit board for readmission
43 pursuant to G.S. 115C-390.12.

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1 "

2 **SECTION 1.(i)** G.S. 115C-390.11 reads as rewritten:

3 "**§ 115C-390.11. Expulsion.**

4 (a) Upon recommendation of the superintendent, a ~~local board of education~~public school

5 unit board may expel any student 14 years of age or older whose continued presence in school

6 constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of

7 any student, the ~~local board~~ shall conduct a hearing to determine whether the student's continued

8 presence in school constitutes a clear threat to the safety of other students or school staff. The

9 student shall be given reasonable notice of the recommendation in accordance with G.S.

10 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled

11 hearing.

12 (1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students

13 facing expulsion pursuant to this section, except that the decision to expel a

14 student by the ~~local board of education~~public school unit board shall be based

15 on clear and convincing evidence that the student's continued presence in

16 school constitutes a clear threat to the safety of other students and school staff.

17 (2) A ~~local board of education~~public school unit board may expel any student

18 subject to G.S. 14-208.18 in accordance with the procedures of this section.

19 Prior to ordering the expulsion of a student, the ~~local board of education~~public

20 school unit board shall consider whether there are alternative education

21 services that may be offered to the student. As provided by G.S. 14-208.18(f),

22 if the ~~local board of education~~public school unit board determines that the

23 student shall be provided educational services on school property, the student

24 shall be under the supervision of school personnel at all times.

25 ...

26 (b) During the expulsion, the student is not entitled to be present on any property of the

27 ~~local school administrative~~public school unit and is not considered a student of the ~~local board~~

28 ~~of education~~public school unit board. Nothing in this section shall prevent a ~~local board of~~

29 ~~education~~public school unit board from offering access to some type of alternative educational

30 services that can be provided to the student in a manner that does not create safety risks to other

31 students and school staff."

32 **SECTION 1.(j)** G.S. 115C-390.12 reads as rewritten:

33 "**§ 115C-390.12. Request for readmission.**

34 (a) All students suspended for 365 days or expelled may, after 180 calendar days from

35 the date of the beginning of the student's suspension or expulsion, request in writing readmission

36 to the ~~local school administrative~~public school unit. The ~~local board of education~~public school

37 unit board shall develop and publish written policies and procedures for the readmission of all

38 students who have been expelled or suspended for 365 days, which shall provide, at a minimum,

39 the following process:

40 (1) The process for 365-day suspended students.

41 a. At the ~~local board's~~ discretion, either the superintendent or the ~~local~~

42 board itself shall consider and decide on petitions for readmission. If

43 the decision maker is the superintendent, the superintendent shall offer

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1 the student an opportunity for an in-person meeting. If the decision
2 maker is the ~~local board of education~~, public school unit board, the
3 board may offer the student an in-person meeting or may make a
4 determination based on the records submitted by the student and the
5 superintendent.

6 ...

7 c. A superintendent's decision not to readmit the student may be appealed
8 to the ~~local board of education~~ public school unit board pursuant to
9 G.S. 115C-45(c). The superintendent shall notify the parents of the
10 right to appeal.

11 ...

12 (2) The process for expelled students.

13 a. The board ~~of education~~ shall consider all petitions for readmission of
14 expelled students, together with the recommendation of the
15 superintendent on the matter, and shall rule on the request for
16 readmission. The board shall consider the petition based on the records
17 submitted by the student and the response by the administration and
18 shall allow the parties to be heard in the same manner as provided by
19 G.S. 115C-45(c).

20 ...

21 c. A decision by a board ~~of education~~ to deny readmission of an expelled
22 student is not subject to judicial review.

23 d. An expelled student may subsequently request readmission not more
24 often than every six months. The ~~local board of education~~ public school
25 unit board is not required to consider subsequent readmission petitions
26 filed sooner than six months after the previous petition was filed.

27 ...

28 (b) If a student is readmitted under this section, the board and the superintendent have the
29 right to assign the student to any program within the ~~school system~~ public school unit and to place
30 reasonable conditions on the readmission.

31"

32 SECTION 1.(k) G.S. 115C-391.1 reads as rewritten:

33 "§ 115C-391.1. Permissible use of seclusion and restraint.

34 ...

35 (b) The following definitions apply in this section:

36 ...

37 (9) "School personnel" means:

- 38 a. Employees of a ~~local board of education~~ public school unit board.
- 39 b. Any person working on school grounds or at a school function under
40 a contract or written agreement with the public school ~~system~~ unit to
41 provide educational or related services to students.
- 42 c. Any person working on school grounds or at a school function for
43 another agency providing educational or related services to students.

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- 1 ...
- 2 (j) Notice, Reporting, and Documentation.
- 3 (1) Notice of procedures. – Each ~~local board of education~~ public school unit board
- 4 shall provide copies of this section and all ~~local board~~ policies developed to
- 5 implement this section to school personnel and parents or guardians at the
- 6 beginning of each school year.
- 7 ...
- 8 (5) No ~~local board of education~~ public school unit board or employee of a ~~local~~
- 9 ~~board of education~~ public school unit board shall discharge, threaten, or
- 10 otherwise retaliate against another employee of the board regarding that
- 11 employee's compensation, terms, conditions, location, or privileges of
- 12 employment because the employee makes a report alleging a prohibited use
- 13 of physical restraint, mechanical restraint, aversive procedure, or seclusion,
- 14 unless the employee knew or should have known that the report was false.
- 15 (k) Nothing in this section shall be construed to create a private cause of action against
- 16 any ~~local board of education~~ public school unit board, its agents or employees, or any ~~institutions~~
- 17 ~~of teacher education~~ educator preparation programs or their agents or employees or to create a
- 18 criminal offense."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

**The official copy of this document, with signatures
and vote information, is available in the
House Principal Clerk's Office**