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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30140-MT-57A

Short Title: Standards of Student Conduct. (Public)

Sponsors: Representative Torbett.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE VARIOUS CHANGES TO LOCAL STANDARDS OF STUDENT  
3 CONDUCT.

4 The General Assembly of North Carolina enacts:

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

6 "§ 115C-390.1. State policy and definitions.

7 ...

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

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

15 ...

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

19 ...

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

24 (9a) Public school unit board or board. – The governing entity of a public school  
25 unit.

26 ...

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

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

34 ...



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 "**§ 115C-390.2. Discipline policies.**

7 (a) ~~Local boards of education~~Public school unit boards, in consultation with teachers,  
8 school-based administrators, parents, and local law enforcement agencies, shall adopt policies to  
9 govern the conduct of students and establish procedures to be followed by school officials in  
10 disciplining students. These policies must be consistent with the provisions of this Article and  
11 the constitutions, statutes, and regulations of the United States and the State of North Carolina.  
12 Prior to adopting these policies, public school unit boards shall review current federal guidance  
13 on school discipline practices issued by the United States Department of Education.

14 (a1) No later than September 1 of each year, each public school unit board shall provide  
15 the Department of Public Instruction with a copy of its most up-to-date student discipline  
16 policies.

17 (b) Board policies shall include or provide for the development of a Code of Student  
18 Conduct that notifies students of the standards of behavior expected of them, conduct that may  
19 subject them to discipline, and the range of disciplinary measures that may be used by school  
20 officials.

21 (c) Board policies may authorize suspension for conduct not occurring on educational  
22 property, but only if the student's conduct otherwise violates the Code of Student Conduct and  
23 the conduct has or is reasonably expected to have a direct and immediate impact on the orderly  
24 and efficient operation of the schools or the safety of individuals in the school environment.

25 (d) Board policies shall not allow students to be long-term suspended or expelled from  
26 school solely for truancy or tardiness offenses and shall not allow short-term suspension of more  
27 than two days for such offenses.

28 (e) Board policies shall not impose mandatory long-term suspensions or expulsions for  
29 specific violations unless otherwise provided in State or federal law.

30 (f) Board policies shall minimize the use of long-term suspension and expulsion by  
31 restricting the availability of long-term suspension or expulsion to those violations deemed to be  
32 serious violations of the board's Code of Student Conduct that either threaten the safety of  
33 students, staff, or school visitors or threaten to substantially disrupt the educational environment.  
34 ~~Examples of conduct that would not be deemed to be a serious violation include the use of~~  
35 ~~inappropriate or disrespectful language, noncompliance with a staff directive, dress code~~  
36 ~~violations, and minor physical altercations that do not involve weapons or injury.~~ The principal  
37 may, however, in his or her discretion, determine that aggravating circumstances justify treating  
38 a minor violation as a serious violation.

39 (g) Board policies shall not prohibit the superintendent and principals from considering  
40 the student's intent, disciplinary and academic history, the potential benefits to the student of  
41 alternatives to suspension, and other mitigating or aggravating factors when deciding whether to  
42 recommend or impose long-term suspension.

43 (h) Board policies shall include the procedures to be followed by school officials in  
44 suspending, expelling, or administering corporal punishment to any student, which shall be  
45 consistent with this Article.

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

1 parents or guardians to sign an acknowledgement that they have received a copy of such policies,  
2 procedures, or rules.

3 ~~(j) Local boards of education~~ Public school unit boards are encouraged to include in their  
4 safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management  
5 programs that take positive approaches to improving student behaviors.

6 (k) School officials are encouraged to use a full range of responses to violations of  
7 disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts,  
8 instruction in conflict resolution and anger management, detention, academic interventions,  
9 community service, and other similar tools that do not remove a student from the classroom or  
10 school building.

11 (l) Board policies shall state that absences under G.S. 130A-440 shall not be suspensions.  
12 A student subject to an absence under G.S. 130A-440 shall be provided the following:

13 (1) The opportunity to take textbooks and school-furnished digital devices home  
14 for the duration of the absence.

15 (2) Upon request, the right to receive all missed assignments and, to the extent  
16 practicable, the materials distributed to students in connection with the  
17 assignment.

18 (3) The opportunity to take any quarterly, semester, or grading period  
19 examinations missed during the absence period.

20 (m) Nothing in this section or any section of this Chapter shall be construed as regulating  
21 a public school unit board's discretion to devise, impose, and enforce personal appearance codes."

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

23 **"§ 115C-390.3. Reasonable force.**

24 ...

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

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

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

38 **"§ 115C-390.4. Corporal punishment.**

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

44 ...

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

50 ...."

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

1 **"§ 115C-390.6. Short-term suspension procedures.**

2 ...

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

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

10 **"§ 115C-390.8. Long-term suspension procedures.**

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

16 ...

17 (6) The extent to which the ~~local board~~ policy permits the parent to have an  
18 advocate, instead of an attorney, accompany the student to assist in the  
19 presentation of his or her appeal.

20 ...

21 (8) A reference to the ~~local board~~ policy on the expungement of discipline records  
22 as required by G.S. 115C-402.

23 (b) Written notice may be provided by certified mail, fax, e-mail, or any other written  
24 method reasonably designed to achieve actual notice of the recommendation for long-term  
25 suspension. When school personnel are aware that English is not the primary language of the  
26 parent or guardian, the notice shall be written in both English and in the primary language of the  
27 parent or guardian when the appropriate foreign language resources are readily available. All  
28 notices described in this section shall be written in plain English, and shall include the following  
29 information translated into the dominant non-English language used by residents within the ~~local~~  
30 ~~school administrative unit~~, public school unit:

31 ...

32 (d) The formal hearing may be conducted by the ~~local board of education~~, public school  
33 unit board, by the superintendent, or by a person or group of persons appointed by the ~~local board~~  
34 or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the  
35 superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel  
36 who is under the direct supervision of the principal recommending suspension. If the hearing is  
37 conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine  
38 the relevant facts and credibility of witnesses based on the evidence presented at the hearing.  
39 Following the hearing, the superintendent or ~~local board~~ shall make a final decision regarding  
40 the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual  
41 determinations unless they are not supported by substantial evidence in the record.

42 (e) Long-term suspension hearings shall be conducted in accordance with policies  
43 adopted by the ~~board of education~~, public school unit board. Such policies shall offer the student  
44 procedural due process including, but not limited to, the following:

45 ...

46 (g) Unless the decision was made by the ~~local board~~, the student may appeal the decision  
47 to ~~the a~~ local board of education in accordance with G.S. 115C-45(c) and policies adopted by the  
48 ~~board~~, public school unit board. Notwithstanding the provisions of G.S. 115C-45(c), a student's  
49 appeal to the board of a decision upholding a long-term suspension shall be heard and a final  
50 written decision issued in not more than 30 calendar days following the request for such appeal.

51 ...

1 (i) A decision of the ~~local~~ board to uphold the long-term suspension of a student is  
2 subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.  
3 The action must be brought within 30 days of the ~~local~~ board's decision. A person seeking judicial  
4 review shall file a petition in the superior court of the county where the ~~local~~ board made its  
5 decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension  
6 shall be set for hearing in the first succeeding term of superior court in the county following the  
7 filing of the certified copy of the official record."

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

9 **"§ 115C-390.9. Alternative education services.**

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

14 ...

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

17 ...

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

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

25 **"§ 115C-390.10. 365-day suspension for gun possession.**

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

42 ...

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

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

51 ...."

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

2   "**§ 115C-390.11. Expulsion.**

3       (a) Upon recommendation of the superintendent, a ~~local board of education~~ public school  
4 unit board may expel any student 14 years of age or older whose continued presence in school  
5 constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of  
6 any student, the ~~local board~~ shall conduct a hearing to determine whether the student's continued  
7 presence in school constitutes a clear threat to the safety of other students or school staff. The  
8 student shall be given reasonable notice of the recommendation in accordance with  
9 G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled  
10 hearing.

11           (1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students  
12 facing expulsion pursuant to this section, except that the decision to expel a  
13 student by the ~~local board of education~~ public school unit board shall be based  
14 on clear and convincing evidence that the student's continued presence in  
15 school constitutes a clear threat to the safety of other students and school staff.

16           (2) A ~~local board of education~~ public school unit board may expel any student  
17 subject to G.S. 14-208.18 in accordance with the procedures of this section.  
18 Prior to ordering the expulsion of a student, the ~~local board of education~~ public  
19 school unit board shall consider whether there are alternative education  
20 services that may be offered to the student. As provided by G.S. 14-208.18(f),  
21 if the ~~local board of education~~ public school unit board determines that the  
22 student shall be provided educational services on school property, the student  
23 shall be under the supervision of school personnel at all times.

24           ...

25       (b) During the expulsion, the student is not entitled to be present on any property of the  
26 ~~local school administrative~~ public school unit and is not considered a student of the ~~local board~~  
27 ~~of education~~ public school unit board. Nothing in this section shall prevent a ~~local board of~~  
28 ~~education~~ public school unit board from offering access to some type of alternative educational  
29 services that can be provided to the student in a manner that does not create safety risks to other  
30 students and school staff."

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

32   "**§ 115C-390.12. Request for readmission.**

33       (a) All students suspended for 365 days or expelled may, after 180 calendar days from  
34 the date of the beginning of the student's suspension or expulsion, request in writing readmission  
35 to the ~~local school administrative~~ public school unit. The ~~local board of education~~ public school  
36 unit board shall develop and publish written policies and procedures for the readmission of all  
37 students who have been expelled or suspended for 365 days, which shall provide, at a minimum,  
38 the following process:

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

40           a. At the ~~local board's~~ discretion, either the superintendent or the ~~local~~  
41 board itself shall consider and decide on petitions for readmission. If  
42 the decision maker is the superintendent, the superintendent shall offer  
43 the student an opportunity for an in-person meeting. If the decision  
44 maker is the ~~local board of education~~ public school unit board, the  
45 board may offer the student an in-person meeting or may make a  
46 determination based on the records submitted by the student and the  
47 superintendent.

48           ...

49           c. A superintendent's decision not to readmit the student may be appealed  
50 to the ~~local board of education~~ public school unit board pursuant to

- 1 G.S. 115C-45(c). The superintendent shall notify the parents of the  
 2 right to appeal.  
 3 ...  
 4 (2) The process for expelled students.  
 5 a. The board of ~~education~~ shall consider all petitions for readmission of  
 6 expelled students, together with the recommendation of the  
 7 superintendent on the matter, and shall rule on the request for  
 8 readmission. The board shall consider the petition based on the records  
 9 submitted by the student and the response by the administration and  
 10 shall allow the parties to be heard in the same manner as provided by  
 11 G.S. 115C-45(c).  
 12 ...  
 13 c. A decision by a board of ~~education~~ to deny readmission of an expelled  
 14 student is not subject to judicial review.  
 15 d. An expelled student may subsequently request readmission not more  
 16 often than every six months. The ~~local board of education~~ public  
 17 school unit board is not required to consider subsequent readmission  
 18 petitions filed sooner than six months after the previous petition was  
 19 filed.  
 20 ...  
 21 (b) If a student is readmitted under this section, the board and the superintendent have the  
 22 right to assign the student to any program within the ~~school system~~ public school unit and to  
 23 place reasonable conditions on the readmission.  
 24 ...."  
 25 **SECTION 1.(k)** G.S. 115C-391.1 reads as rewritten:  
 26 "**§ 115C-391.1. Permissible use of seclusion and restraint.**  
 27 ...  
 28 (b) The following definitions apply in this section:  
 29 ...  
 30 (9) "School personnel" means:  
 31 a. Employees of a ~~local board of education~~ public school unit board.  
 32 b. Any person working on school grounds or at a school function under  
 33 a contract or written agreement with the public school ~~system~~ unit to  
 34 provide educational or related services to students.  
 35 c. Any person working on school grounds or at a school function for  
 36 another agency providing educational or related services to students.  
 37 ...  
 38 (j) Notice, Reporting, and Documentation.  
 39 (1) Notice of procedures. – Each ~~local board of education~~ public school unit board  
 40 shall provide copies of this section and all ~~local board~~ policies developed to  
 41 implement this section to school personnel and parents or guardians at the  
 42 beginning of each school year.  
 43 ...  
 44 (5) No ~~local board of education~~ public school unit board or employee of a ~~local~~  
 45 ~~board of education~~ public school unit board shall discharge, threaten, or  
 46 otherwise retaliate against another employee of the board regarding that  
 47 employee's compensation, terms, conditions, location, or privileges of  
 48 employment because the employee makes a report alleging a prohibited use  
 49 of physical restraint, mechanical restraint, aversive procedure, or seclusion,  
 50 unless the employee knew or should have known that the report was false.

1 (k) Nothing in this section shall be construed to create a private cause of action against  
2 any ~~local board of education, public school unit board,~~ its agents or employees, or any ~~institutions~~  
3 ~~of teacher education-educator preparation programs~~ or their agents or employees or to create a  
4 criminal offense."

5 **SECTION 2.** This act is effective when it becomes law. Section 1 of this act applies  
6 beginning with the 2021-2022 school year. G.S. 115C-390.2(a), as amended by this act, shall  
7 apply to material changes to policies existing on July 1, 2021, or new policies adopted on or after  
8 July 1, 2021.