

Student Conduct and Discipline

DRAFT

Board Policy: SA-1
Adopted: August 9, 1993
Revised: December 10, 2007
Revised: Date Pending

Section II. - Item B. 10. found on page 6

10. **Narcotics, Alcoholic Beverages and Stimulant Drugs**

- a. No student shall possess, use, transmit or be under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance, or any alcoholic beverage, malt beverage or fortified wine or other intoxicating liquor. No student shall possess, use, or transmit drug paraphernalia or counterfeit drugs. No student shall ~~inhale or ingest~~ **use** any chemicals or products with the intention of bringing about a state of exhilaration or euphoria or of otherwise altering the student's mood or behavior.
- b. Use of a drug authorized by valid medical prescription from a registered physician shall not be considered a violation of this code when the drug is taken by the person for whom the drug was prescribed.
- c. Any student using any drugs prescribed by a physician or over-the-counter medication, including aspirin and cold medicines is required to leave the medication with school office personnel or other designated personnel and to come to the office or other designated area at the required time(s) to take the required dosage. A note from the parent (guardian) and/or physician must be sent with the medication to authorize its use.
- d. Any of the aforementioned substances which may lawfully be possessed by students may be brought to school with the prior permission of school personnel and used for an approved school project under supervision of school personnel.

****Some violations of this rule require mandatory suspension or expulsion.***

Section III. Options for Discipline and Sanctions – Item G.1.b. – pages 8 - 9

- G. Suspension. Suspension is the removal of a student from school for a period of time. The length of the suspension will be determined by the severity and/ or frequency of the offense.

1. **Mandatory Suspension**

The following disciplinary measures are mandatory for violations of the specified provisions of the Code of Student Conduct, except in grades K-5, where principals may use discretion in determining the appropriate sanctions. Disciplinary measures other than those specified herein are up to the discretion of the principal, except suspensions for more than ten days, which require the prior approval of the superintendent.

A child with disabilities recognized by Section 504 of the 1973 Rehabilitation Act, 29 U.S.C. 705 et seq., or the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 2400 et seq., has a right to all procedures established in the law and accompanying federal and state regulations. If the student is identified as a child with disabilities either under the IDEA or Section 504, a determination must be made whether the child's conduct in violating the policy is related to the disability. The student's record and master file will reflect the disability and document the determination as to whether the violation is associated with the disability. If the violation of the policy is due to the disability recognized by the IDEA or Section 504, procedures for changes in placement must be followed prior to initiating suspensions of greater than ten days. Section 504 students who violate the weapons or the drug and alcohol policy are exempt from this determination and are disciplined as non-identified students.

a. Violation of assault and theft/damage policies

Violation of Board Policies SA-1 (Code 4: Assault, Injury), or (Code 7: Theft, Damage to Property) by a student during a school year shall result in a suspension of the student from the Haywood County Public Schools for up to ten (10) days, and, depending upon the severity of the offense, may result in a long-term suspension for up to the remainder of the school year.

b. Violation of weapons policy, (Code 9: Weapons and Facsimiles)

Any student in grades 6-12 who is found to have possessed, handled, or transmitted any type of weapon or facsimile other than a firearm or explosive in violation of Board Policy SA-1, Code 9, shall receive a long-term suspension from the school system for the remainder of the school year. ~~unless the principal finds sufficient mitigating factors proved by the student.~~ **The principal shall consider mitigating and aggravating factors to determine if a suspension less than the remainder of the year is appropriate.** The factors listed below shall be considered in determining if a **punishment discipline** other than long-term suspension should be invoked. ~~If a sanction other than long-term suspension for the remainder of the year is chosen, the principal shall document which criteria were used and the basis for the decision on sanctions.~~ **If the principal chooses a sanction other than long-term suspension for the remainder of the year, he/she shall document the criteria used.**

Criteria to be considered as mitigating factors:

- ~~1. Lack of Culpability of the Student—The culpability of the student for his conduct will be measured by:~~
 - ~~a. the student's age;~~
 - ~~b. likely ability to form the intent to use the weapon in any manner, given emotional and mental development;~~
 - ~~c. the intent in having the weapon on campus, i.e., whether the student had the weapon on campus for display, for self-protection, to transmit it to another student, or to use it as a threat or to assault someone with it.~~
- ~~2. Lack of Dangerousness of the Student—The dangerousness of the student will be measured by:~~
 - ~~a. prior school or criminal record related to weapons, threats, extortion, and assaults;~~
 - ~~b. type of weapon and capacity to inflict serious injury or death with it;~~
 - ~~c. threats or other evidence that the student intended to use the weapon.~~
- ~~3. Lack of Harm Caused by the Student—The harm caused by the student will be measured by whether:~~
 - ~~a. anyone was physically injured;~~
 - ~~b. anyone was directly threatened or property extorted by the use of the weapon;~~
 - ~~c. school property or personal property of others was damaged;~~
 - ~~d. students, school employees, or parents were aware of the presence of the weapon on the school campus.~~

Mitigating and Aggravating Factors:

- a. Culpability**
 - 1. Age**
 - 2. Intent to use weapon**
 - 3. Mental ability**
- b. Dangerousness**
 - 1. Prior school or criminal record related to weapons, threats, aggression, assaults, etc.**
 - 2. Student's emotional state**
 - 3. Type of weapon**
 - 4. Capacity of weapon to inflict serious injury or death**
 - 5. Reportable nature of the offense**
- c. Harm Caused**
 - 1. Physically injured**
 - 2. Property damage**
 - 3. Awareness of weapon on campus by students, parents, staff, etc.**
 - 4. Reputation of the school**

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- c.** The first violation of Board Policy SA-1, Code 10: Narcotics, Alcoholic Beverages and Stimulant Drugs shall result in the suspension of the student from the Haywood County Public Schools for the remainder of the school year unless the Principal determines that such suspension is not warranted. ~~and the student agrees to and abides by the following:~~
 - ~~1. The student shall be suspended from school for a period not to exceed 10 (ten) school days. The length of the suspension shall be determined by the principal with notification to the superintendent. Any suspension beyond the ten (10) days shall require the superintendent's approval.~~
 - ~~2. Upon re-entry to school following suspension, the student may be assigned to a guidance counselor for counseling services as determined by the principal, student, and counselor involved. The parents are also encouraged to participate in determining counseling services.~~
 - ~~3. The student may be required to attend an appropriate substance abuse program selected by the superintendent. Failure to comply with this requirement shall result in automatic suspension for the remainder of the school year. This student's parent(s) or guardian(s) is/are encouraged to attend the program as well.~~

Since school officials act *in loco parentis*, they are not bound by the amount of drugs when determining if a violation of this policy has occurred. Any amount is unacceptable.

The principal shall consider mitigating and aggravating factors (listed below) to determine if a suspension less than the remainder of the year is appropriate. If the principal chooses a sanction other than long-term suspension for the remainder of the year, he/she shall document the criteria used to invoke one or more of the following:

- **A suspension less than the remainder of the year**
- **Counseling or therapeutic services funded by the family and approved mutually by the principal and family**
- **Random drug testing approved by the principal**

Mitigating and Aggravating Factors:

- a. **Culpability**
 - 1. **Age**
 - 2. **Intent to use or distribute drug**
 - 3. **Mental ability**
- b. **Dangerousness**
 - 1. **Prior school or criminal record related to drugs**
 - 2. **Student's emotional state**
 - 3. **Type and amount of drug(s)**
 - 4. **Capacity of drug to inflict serious injury or death**
 - 5. **Reportable nature of the offense**
- c. **Harm Caused**
 - 1. **Physically injured**
 - 2. **Property damage**
 - 3. **Awareness of drug on campus by students, parents, staff, etc.**
 - 4. **Reputation of the school**

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- d. ~~Four~~ **Three** violations resulting in suspension for remainder of the year:
The violation of certain board policies shall result in the suspension of the student from the Haywood County Schools for the remainder of the school year if any of the following circumstances apply:
 - 1. Violation of Board Policy SA-1, Code 1: Disruption of School, when the disruption is caused by threat, fear, intimidation, force, or violence.
 - 2. Violation of Board Policy SA-1, Code 4: Assault, Injury, when the assault involves the use of a weapon or other object that could reasonably be considered a weapon pursuant to Board Policy, Code 9.
 - 3. Violation of Board Policy SA-1, Code 4: Assault, Injury, when the student causes or attempts to cause physical injury to a school employee.
 - 4. ~~The second violation of Board Policy SA-1, Code 10: Narcotics, Alcoholic Beverages and Stimulant Drugs shall result in the suspension of the student from the Haywood County Public Schools for the remainder of the school year.~~

Section IV. Due Process for Disciplinary Action – pages 12 - 15

The Board of Education of the Haywood County Public Schools assumes its responsibility to assure every student's right to an equal education opportunity. The Board further assumes its responsibility to assure an atmosphere conducive to learning and the expression of individual responsibility while protecting the individual rights of all students in accordance with standards of due process required by law and accepted standards of fairness. These procedures include a notification of discipline and an opportunity for students to explain their version of what happened. When discipline involves long-term suspension or expulsion, students may also request a formal hearing.

This procedure is not designed to deal with ordinary classroom discipline. The law requires that all teachers "maintain good order and discipline" and the Board joins with parents and students in supporting every reasonable effort of teachers to meet this obligation.

Legal Reference: G.S. 115C-47, -288, -307, -391

A. Due Process for Long Term Suspension

1. In the event the student or parent desires a hearing on the alleged misconduct or penalty, he **or** she shall give written notice to the principal within 48 hours (or by the next school day, whichever is later). ~~of receipt of the notice from the Principal.~~ The procedures described herein do not affect the principal's authority to invoke a short-term suspension or other sanction after his/her **an** investigation and ~~prior to the long-term suspension.~~
2. If a hearing is not requested within the time prescribed above, the principal shall promptly notify the superintendent and request ~~written~~ approval of the recommended long-term suspension. The superintendent shall provide a prompt ~~written~~ response to the request. Upon receipt of the superintendent's ~~written~~ approval, the principal may impose a long-term suspension.
3. **Hearing Request Procedures**
 - a. When a parent requests a review of a long-term suspension the principal shall immediately notify the person designated as a review officer ~~at the Central Office~~ that a review is requested.
 - b. The principal shall provide the review officer with copies of written statements previously mailed **or hand delivered** to the parents or guardians and the student's cumulative record.
 - c. Upon notification from the principal, the review officer will schedule a review committee ~~meeting~~ **hearing** within 5 days (or as promptly as possible) ~~of the request for review from the parents.~~ **Meetings The hearing** will be held at a mutually agreed time by both parties.
 - d. The review officer shall notify the student and parents or guardian of the time and place for the hearing, in writing, by certified mail, and by telephone, if possible, and shall give at least 2 days notice of the hearing.
 - e. The student and his or her parents or guardians may be present at the hearing and may be represented by counsel. If the student is represented by counsel, the superintendent or the review officer must be notified of such representation at least 2 days prior to the hearing.
4. **Hearing Conduct Rules** ~~The following rules will apply to the conduct of the hearing:~~
 - a. The hearing shall be informal and shall be conducted in private.
 - b. The review committee shall consist of three members to be designated by the review officer. One member of the committee shall be a representative of the central office. The student's school will not be represented on the committee. All reviews shall be conducted at the Central Office or at the Education Center.
 - c. Witnesses should be present only when they are giving information. The hearing may be attended by the review officer, the principal ~~and~~ **or** his administrative assistants, the student, his parents or guardian, and, if desired, his representative, and such other persons as the review officer deems necessary.

- d. The review officer may consider the school records of the student as well as the testimony of any witnesses. Formal rules of evidence shall not apply and the review officer may rely on evidence that reasonably prudent people would consider in the conduct of serious affairs.
 - e. In presenting evidence, the principal or other representatives of the school have the burden of proof and shall present first the **any** witnesses and/or documentary evidence ~~against the student~~. Next, the student or his representative may present evidence, including any documents and witnesses.
 - f. Both the principal (or school representative) and the student (or his representative) may examine the witnesses presented by the other side. The review officer has the power to limit questioning by any person, if such questioning is unproductive, unnecessarily lengthy, repetitive, or irrelevant.
 - g. The review officer shall provide for making **an audio** record of the hearing.
 - h. After the evidence has been presented, all parties shall leave the hearing room, and the disciplinary review committee shall deliberate. The committee shall consider **the following:** ~~only the evidence presented and shall determine whether the student is guilty of the alleged misconduct (if contested) and, except in cases covered by Sanction G: Mandatory Suspensions, develop a recommendation as to the severity of the penalty proposed (which may not be more severe than that proposed by the principal). The committee also may recommend to the Superintendent that further investigation is warranted before a decision is reached.~~
 - 1. If the student is guilty of the alleged policy violation (if contested)**
 - 2. If the school reasonably considered mitigating and aggravating factors**
 - 3. If the school issued discipline within the scope of school board policy and public school law**
 - i. **The committee shall develop a recommendation to the superintendent. The recommendation to the superintendent may not be more severe than the discipline proposed by the principal. The recommendation must be within the scope of discipline described in school board policy and public school law. The committee may also recommend that further investigation is warranted before a decision is reached.**
- 5. The review officer must advise the superintendent of the discipline review committee's findings and a final decision must be made by the superintendent within three (3) days of the hearing. The superintendent may review the sanction (except in cases covered by Mandatory Suspensions, Board Policy SA-1, Regulation 4) as well as the evidence of the violation.
 - 6. The superintendent shall promptly inform the principal **and parents** in writing of the decision regarding the long-term suspension. ~~A copy of the Superintendent's decision shall be sent to the student and parents or guardian. Upon receipt of the Superintendent's written approval~~ **decision**, the principal may impose a long-term suspension. ~~The principal shall follow record keeping requirements in Board Policy SA-1 Regulation and inform the attendance counselor of any long-term suspensions.~~
 - 7. The long-term suspension of a student may be appealed to the Board. Any student ~~aggrieved by the final suspension decision of the Superintendent~~ may appeal to the Board of Education in writing within three (3) days of receiving the superintendent's decision. The superintendent will inform the Board chairperson of the request for an appeal and arrange in a timely manner a hearing before the Board. The suspension awarded by the superintendent need not be postponed pending the outcome of the appeal. Such an appeal shall be on the superintendent's decision and on the record

made in ~~of~~ the hearing. Any new evidence will be admitted only to avoid a substantial threat of unfairness.

8. The Board or panel of the Board generally will uphold the decision if there was a reasonable basis for the sanction such as: ~~(1) the penalty was not excessive, (2) there was sufficient evidence to justify punishment, and (3) the proper procedures were followed.~~
 - a. **The student was guilty of the alleged policy violation**
 - b. **The school reasonably considered mitigating and aggravating factors**
 - c. **The school issued discipline within the scope of school board policy and public school law**
9. ~~An adverse decision by the Haywood County Board of Education may be appealed by the student to a court of law, in certain circumstances, as provided by statute.~~

B. Due Process Procedures of 365 Day Suspension

1. The principal, ~~upon having completed~~ **completion of** a thorough investigation, will recommend to the superintendent ~~a long-term suspension and a 365 day suspension~~ for any student who the principal believes to have brought any firearm or powerful explosive to school. If the student is 14 years of age or older, the principal ~~also~~ may recommend expulsion in accordance with Sanction H. Expulsion. A student with disabilities will receive all protections required by law.
2. The notice and hearing procedures in Section IV, A., on Long Term Suspensions ~~(page 45)~~ will be followed. A determination will be made by the superintendent ~~or designee~~ as to whether the evidence supports (1) long-term suspension, (2) a 365 day suspension and/or (3) an expulsion.
3. The Superintendent ~~designee~~ will notify the principal if a long-term suspension is approved and the principal may immediately impose a long-term suspension. The long-term suspension may be appealed to the board.
4. If the superintendent ~~designee~~ also determines that a 365 day suspension and/or expulsion is appropriate, the superintendent ~~designee~~ will determine whether to also recommend to the board any modification in the suspension, including the provision of alternative education services or reduction in the suspension. The superintendent ~~designee~~ will notify in writing the parents or guardian and the student of the recommendation and the basis for the recommendation. The superintendent also will notify the parents in writing on any recommendation for expulsion and the basis for the recommendation.
5. **In the event the student or parent desires a board hearing on the 365 day suspension, he or she shall give written notice to the superintendent within 48 hours (or by the next school day, whichever is later).**
6. 5. A hearing on the superintendent's recommendation for a 365-day suspension and/or expulsion will be scheduled with the Board within five (5) days ~~of the Superintendent's decision~~ **(or as promptly as possible). The hearing will be held at a mutually agreed time by both parties.** Any appeal of a long-term suspension imposed for the same conduct will be addressed in the same hearing. Hearing procedures for long-term suspensions will be followed, except the board may review the record from the administrative hearing in addition to or instead of presentations of evidence by individuals other than the superintendent ~~designee~~ or the parent, student or student's counsel. The Board will accept new evidence only as is necessary to avoid a substantial threat of unfairness.
- 7.6. If the parents/guardians and student do not want to be present at the Board hearing, the parents/guardians or student will **shall** give notice within two (2) days of the scheduled hearing. The superintendent may ~~then~~ provide evidence to support the recommendation in writing to the Board, ~~provided that the Board may elect to request a hearing or request additional records and documents.~~

- 8.7. ~~If the Superintendent/designee has recommended a 365-day suspension,~~ The board will make a written determination of **their decision including** ~~whether the evidence that~~ supports a 365 days suspension and ~~/or whether it accepts any modification recommended by the Superintendent~~ **to the suspension.**
- 9.8. The superintendent will keep all records required by state or federal law on all suspensions made pursuant to this policy.

Legal Reference: G.S. 115C-391, Gun Free Schools Act of 1994, G.S. 115C-45, -47, -276, -391