

## School Discipline Law in North Carolina

*N.C. General Statutes 115C-390.1 – 115C-390.12 (as amended June 23, 2011)*

What the law **requires**:

- Each school district must publish a **Code of Student Conduct** that describes:
  - What conduct is required of students
  - What conduct is forbidden
  - What are the potential consequences for violating the Code of Student Conduct.
- Students must be offered **notice & a fair hearing** *before* a suspension is imposed.
  - Before a short-term suspension (up to 10 days), the student must be told of the charges against him or her and allowed to speak on his or her own behalf to answer the charges.
  - Before a long-term suspension or expulsion, the student must have written notice of the charges and the opportunity for a formal hearing.
    - Before the hearing, the student has a right to see the evidence that may be used against him or her.
    - At the formal hearing, the student must be allowed to be accompanied by his or her parents, represented by an attorney, testify on his own behalf, produce witnesses and other evidence to help him or her, question witnesses testifying against him or her, and make a record of the hearing.
    - After the hearing, the student is entitled to a written decision that states the reasons for the decision and is entitled to appeal to the school board and then to court.
  - **Written notice must be provided in the parent's primary language** when school personnel know that English is not the parent's primary language and foreign language services are readily available. All long-term suspension notices must contain a brief statement about the suspension in the dominant local non-English language.
- **Alternative education services** must be offered during suspensions, unless there is a significant reason to decline to provide them.
  - During short-term suspensions, students may take home books, get assignments, and take important tests.
  - During long-term suspensions, students must be offered some type programming that allows the student to progress academically except when:
    - The superintendent decides the student is too violent or disruptive
    - The district does not have the resources to provide appropriate alternative services
    - The student fails to meet conditions for admittance.
- Students suspended for 365 days or expelled must be allowed to **petition for readmission** to show that the student is no longer dangerous. Students may petition once every 6 months.

What the law **forbids**:

- **Zero tolerance** policies that specify a predetermined penalty for a particular offense
  - Except when a student brings or possesses on campus (or to a school related event) a firearm or destructive device. In that case, a 365-day suspension is required. But even then, the superintendent can look at the circumstances and make an exception on a case-by-case basis.
- **Long-term suspension and expulsion *unless*** the student threatened the safety of others or substantially disrupted the educational environment. A student may not be long-term suspended for truancy, dress code violations, inappropriate language, minor fighting without injury or weapons, or noncompliance, unless there are serious aggravating circumstances.
- **Suspension for off-campus conduct *unless*** the student's conduct has or is reasonably expected to have a direct and immediate impact on the orderly operation of the school or the safety of individuals in the school environment.
- **Corporal punishment** if the parent has signed a form prohibiting its use .

What the law **allows**:

- **Suspension (long and short-term) and permanent expulsion** for violations of the Code of Student Conduct.
  - Long-term suspensions can be until the end of the school year if the offense occurred in the first three quarters of the year; they can extend into the first half of the next school year if the offense occurs in the final quarter of the school year.
- **Reasonable force** to restrain students when necessary for safety, order, and protection of property.
- **Alternative hearing procedures**, so long as the student gets basic due process. The hearing may be conducted by the board of education itself, the superintendent, or a person or group of persons appointed by the board or superintendent.
- **Questioning of students** without their parents' presence.
- **Disciplinary reassignment** to a full-time educational program without a hearing.

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