

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 648
Education/Higher Education Committee Substitute Adopted 5/5/11

Short Title: Amend Law Re: School Discipline.

(Public)

Sponsors:

Referred to:

April 20, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING SCHOOL DISCIPLINE.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 115C-390 and G.S. 115C-391 are repealed.

5 SECTION 2. Article 27 of Chapter 115C of the General Statutes is amended by
6 adding the following new sections to read:

7 "**§ 115C-390.1. State policy and definitions.**

8 (a) In order to create and maintain a safe and orderly school environment conducive to
9 learning, school officials and teachers need adequate tools to maintain good discipline in
10 schools. However, the General Assembly also recognizes that removal of students from school,
11 while sometimes necessary, can exacerbate behavioral problems, diminish academic
12 achievement, and hasten school dropout. School discipline must balance these interests to
13 provide a safe and productive learning environment, to continually teach students to respect
14 themselves, others, and property, and to conduct themselves in a manner that fosters their own
15 learning and the learning of those around them.

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

17 (1) Alternative education services. – Part- or full-time programs, wherever
18 situated, providing direct or computer-based instruction that allow a student
19 to progress in one or more core academic courses. Alternative education
20 services include programs established by the local board of education in
21 conformity with G.S. 115C-105.47A and local board of education policies.

22 (2) Corporal punishment. – The intentional infliction of physical pain upon the
23 body of a student as a disciplinary measure.

24 (3) Destructive device. – An explosive, incendiary, or poison gas:

25 a. Bomb.

26 b. Grenade.

27 c. Rocket having a propellant charge of more than four ounces.

28 d. Missile having an explosive or incendiary charge of more than
29 one-quarter ounce.

30 e. Mine.

31 f. Device similar to any of the devices listed in this subdivision.

32 (4) Educational property. – Any school building or bus, school campus,
33 grounds, recreational area, athletic field, or other property under the control
34 of any local board of education or charter school.

35 (5) Expulsion. – The indefinite exclusion of a student from school enrollment
36 for disciplinary purposes.

37 (6) Firearm. – Any of the following:



- 1 a. A weapon, including a starter gun, which will or is designed to or
2 may readily be converted to expel a projectile by the action of an
3 explosive.
4 b. The frame or receiver of any such weapon.
5 c. Any firearm muffler or firearm silencer.
6 The term shall not include an inoperable antique firearm, a BB gun, stun
7 gun, air rifle, or air pistol.
8 (7) Long-term suspension. – The exclusion for more than 10 school days of a
9 student from school attendance for disciplinary purposes from the school to
10 which the student was assigned at the time of the disciplinary action. If the
11 offense leading to the long-term suspension occurs before the final quarter of
12 the school year, the exclusion shall be no longer than the remainder of the
13 school year in which the offense was committed. If the offense leading to the
14 long-term suspension occurs during the final quarter of the school year, the
15 exclusion may include a period up to the remainder of the school year in
16 which the offense was committed and the first semester of the following
17 school year.
18 (8) Parent. – Includes a parent, legal guardian, legal custodian, or other
19 caregiver adult who is acting in the place of a parent and is entitled to enroll
20 the student in school under Article 25 of this Chapter.
21 (9) Principal. – Includes the principal and the principal's designee.
22 (10) School official. – A superintendent or any other central office administrator
23 to whom the superintendent has delegated duties under this Article and any
24 principal or assistant principal.
25 (11) School personnel. – Any of the following:
26 a. An employee of a local board of education.
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 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 (12) Short-term suspension. – The exclusion of a student from school attendance
33 for disciplinary purposes for up to 10 school days from the school to which
34 the student was assigned at the time of the disciplinary action.
35 (13) Substantial evidence. – Such relevant evidence as a reasonable person might
36 accept as adequate to support a conclusion; it is more than a scintilla or
37 permissible inference.
38 (14) Superintendent. – Includes the superintendent and the superintendent's
39 designee.
40 (c) Notwithstanding the provisions of this Article, the policies and procedures for the
41 discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20
42 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et
43 seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other
44 federal laws and regulations.
45 **§ 115C-390.2. Discipline policies.**
46 (a) Local boards of education shall adopt policies to govern the conduct of students and
47 establish procedures to be followed by school officials in disciplining students. These policies
48 must be consistent with the provisions of this Article and the constitutions, statutes, and
49 regulations of the United States and the State of North Carolina.
50 (b) Board policies shall include or provide for the development of a Code of Student
51 Conduct that notifies students of the standards of behavior expected of them, conduct that may

1 subject them to discipline, and the range of disciplinary measures that may be used by school
2 officials.

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

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

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

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

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

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

28 (i) Each local board shall publish all policies, administrative procedures, or school
29 rules mandated by this section and make them available to each student and his or her parent at
30 the beginning of each school year and upon request.

31 (j) Local boards of education are encouraged to include in their safe schools plans,
32 adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that
33 take positive approaches to improving student behaviors.

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

39 **"§ 115C-390.3. Reasonable force.**

40 (a) School personnel may use physical restraint only in accordance with
41 G.S. 115C-391.1.

42 (b) School personnel may use reasonable force to control behavior or to remove a
43 person from the scene in those situations when necessary for any of the following reasons:

44 (1) To correct students.

45 (2) To quell a disturbance threatening injury to others.

46 (3) To obtain possession of weapons or other dangerous objects on the person,
47 or within the control, of a student.

48 (4) For self-defense.

49 (5) For the protection of persons or property.

50 (6) To maintain order on educational property, in the classroom, or at a
51 school-related activity on or off educational property.

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

6 **"§ 115C-390.4. Corporal punishment.**

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

12 (b) To the extent that corporal punishment is permitted, the policies adopted for the
13 administration of corporal punishment shall include at a minimum the following:

14 (1) Corporal punishment shall not be administered in a classroom with other
15 students present.

16 (2) Only a teacher, principal, or assistant principal may administer corporal
17 punishment and may do so only in the presence of a principal, assistant
18 principal, or teacher who shall be informed beforehand and in the student's
19 presence of the reason for the punishment.

20 (3) A school official shall provide the student's parent with notification that
21 corporal punishment has been administered, and the person who
22 administered the corporal punishment shall provide the student's parent a
23 written explanation of the reasons and the name of the second person who
24 was present.

25 (4) The school shall maintain records of each administration of corporal
26 punishment and the reasons for its administration.

27 (5) In no event shall excessive force be used in the administration of corporal
28 punishment. Excessive force includes force that results in injury to the child
29 that requires medical attention beyond simple first aid.

30 (6) Corporal punishment shall not be administered on a student who is a child
31 with a disability as defined in G.S. 115C-106.3(1) or on a student with a
32 disability who is covered under section 504 of the federal Rehabilitation Act
33 of 1973, as amended, 29 U.S.C. § 704, whose parent has stated in writing
34 that corporal punishment shall not be administered on that student. In school
35 administrative units where corporal punishment is permitted, parents shall be
36 given a form to make such an election at the beginning of the school year or
37 when the student first enters the school during the year. If a parent has not
38 submitted in writing that corporal punishment shall not be used on the
39 student, then the form shall be presented to the parent at the first
40 individualized education program or section 504 plan meeting held during
41 the school year.

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

46 (1) The number of students who received corporal punishment.

47 (2) The number of students who received corporal punishment who were also
48 students with disabilities and were eligible to receive special education and
49 related services under the federal Individuals with Disabilities Education
50 Act, 20 U.S.C. § 1400, et seq.

51 (3) The grade level of the students who received corporal punishment.

1 (4) The race, gender, and ethnicity of the students who received corporal
2 punishment.

3 (5) The reason for the administration of the corporal punishment for each
4 student who received corporal punishment.

5 **"§ 115C-390.5. Short-term suspension.**

6 (a) The principal shall have authority to impose short-term suspension on a student who
7 willfully engages in conduct that violates a provision of the Code of Student Conduct
8 authorizing short-term suspension.

9 (b) If a student's short-term suspensions accumulate to more than 10 days in a semester,
10 to the extent the principal has not already done so, he or she shall invoke the mechanisms
11 provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5)
12 and (b)(6).

13 (c) A student subject to short-term suspension shall be provided the following:

14 (1) The opportunity to take textbooks home for the duration of the suspension.

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 suspension period.

20 **"§ 115C-390.6. Short-term suspension procedures.**

21 (a) Except as authorized in this section, no short-term suspension shall be imposed
22 upon a student without first providing the student an opportunity for an informal hearing with
23 the principal. The notice to the student of the charges may be oral or written, and the hearing
24 may be held immediately after the notice is given. The student has the right to be present, to be
25 informed of the charges and the basis for the accusations, and to make statements in defense or
26 mitigation of the charges.

27 (b) The principal may impose a short-term suspension without providing the student an
28 opportunity for a hearing if the presence of the student creates a direct and immediate threat to
29 the safety of other students or staff, or substantially disrupts or interferes with the education of
30 other students or the maintenance of discipline at the school. In such cases, the notice of the
31 charges and informal hearing described in subsection (a) of this section shall occur as soon as
32 practicable.

33 (c) The principal shall provide notice to the student's parent of any short-term
34 suspension, including the reason for the suspension and a description of the alleged student
35 conduct upon which the suspension is based. The notice shall be given by the end of the
36 workday during which the suspension is imposed when reasonably possible, but in no event
37 more than two days after the suspension is imposed. The notice shall be given by certified mail,
38 telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

39 (d) If English is the second language of the parent, the notice shall be provided in the
40 parent's primary language, when the appropriate foreign language resources are readily
41 available, and in English and both versions shall be in plain language and shall be easily
42 understandable.

43 (e) A student is not entitled to appeal the principal's decision to impose a short-term
44 suspension to the superintendent or local board of education. Further, such a decision is not
45 subject to judicial review. Notwithstanding this subsection, the local board of education, in its
46 discretion, may provide students an opportunity for a review or appeal of a short-term
47 suspension to the superintendent or local board of education.

48 **"§ 115C-390.7. Long-term suspension.**

49 (a) A principal may recommend to the superintendent the long-term suspension of any
50 student who willfully engages in conduct that violates a provision of the Code of Student

1 Conduct that authorizes long-term suspension. Only the superintendent has the authority to
2 long-term suspend a student.

3 (b) Before the superintendent's imposition of a long-term suspension, the student must
4 be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

5 (c) If the student recommended for long-term suspension declines the opportunity for a
6 hearing, the superintendent shall review the circumstances of the recommended long-term
7 suspension. Following such review, the superintendent (i) may impose the suspension if it is
8 consistent with board policies and appropriate under the circumstances, (ii) may impose
9 another appropriate penalty authorized by board policy, or (iii) may decline to impose any
10 penalty.

11 (d) If a teacher is assaulted or injured by a student and as a result the student is
12 long-term suspended or reassigned to alternative education services, the student shall not be
13 returned to that teacher's classroom unless the teacher consents.

14 (e) Disciplinary reassignment of a student to a full-time educational program that meets
15 the academic requirements of the standard course of study established by the State Board of
16 Education as provided in G.S. 115C-12 and provides the student with the opportunity to make
17 timely progress towards graduation and grade promotion is not a long-term suspension
18 requiring the due process procedures described in G.S. 115C-390.8.

19 **"§ 115C-390.8. Long-term suspension procedures.**

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

25 (1) A description of the incident and the student's conduct that led to the
26 long-term suspension recommendation.

27 (2) A reference to the provisions of the Code of Student Conduct that the
28 student is alleged to have violated.

29 (3) The specific process by which the parent may request a hearing to contest
30 the decision, including the number of days within which the hearing must be
31 requested.

32 (4) The process by which a hearing will be held, including, at a minimum, the
33 procedures described in subsection (e) of this section.

34 (5) Notice that the parent is permitted to retain an attorney to represent the
35 student in the hearing process.

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

39 (7) Notice that the parent has the right to review and obtain copies of the
40 student's educational records before the hearing.

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

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

51 (1) The nature of the document, i.e., that it is a long-term suspension notice.

1 (2) The process by which the parent may request a hearing to contest the
2 long-term suspension.

3 (3) The identity and phone number of a school employee that the parent may
4 call to obtain assistance in understanding the English language information
5 included in the document.

6 (c) No long-term suspension shall be imposed on a student until an opportunity for a
7 formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a
8 decision issued before a long-term suspension is imposed, except as otherwise provided in this
9 subsection. The student and parent shall be given reasonable notice of the time and place of the
10 hearing.

11 (1) If no hearing is timely requested, the superintendent shall follow the
12 procedures described in G.S. 115C-390.7(c).

13 (2) If the student or parent requests a postponement of the hearing, or if the
14 hearing is requested beyond the time set for such request, the hearing shall
15 be scheduled, but the student shall not have the right to return to school
16 pending the hearing.

17 (3) If neither the student nor parent appears for the scheduled hearing, after
18 having been given reasonable notice of the time and place of the hearing, the
19 parent and student are deemed to have waived the right to a hearing and the
20 superintendent shall conduct the review required by G.S. 115C-390.7(c).

21 (d) The formal hearing may be conducted by the local board of education, by the
22 superintendent, or by a person or group of persons appointed by the local board or
23 superintendent to serve as a hearing officer or hearing panel. Neither the board nor the
24 superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel
25 who is under the direct supervision of the principal recommending suspension. If the hearing is
26 conducted by an appointed hearing officer or hearing panel, such officer or panel shall
27 determine the relevant facts and credibility of witnesses based on the evidence presented at the
28 hearing. Following the hearing, the superintendent or local board shall make a final decision
29 regarding the suspension. The superintendent or board shall adopt the hearing officer's or
30 panel's factual determinations unless they are not supported by substantial evidence in the
31 record.

32 (e) Long-term suspension hearings shall be conducted in accordance with policies
33 adopted by the board of education. Such policies shall offer the student procedural due process
34 including, but not limited to, the following:

35 (1) The right to be represented at the hearing by counsel or, in the discretion of
36 the local board, a nonattorney advocate.

37 (2) The right to be present at the hearing, accompanied by his or her parents.

38 (3) The right of the student, parent, and the student's representative to review
39 before the hearing any audio or video recordings of the incident and,
40 consistent with federal and State student records laws and regulations, the
41 information supporting the suspension that may be presented as evidence at
42 the hearing, including statements made by witnesses related to the charges
43 consistent with subsection (h) of this section.

44 (4) The right of the student, parent, or the student's representative to question
45 witnesses appearing at the hearing.

46 (5) The right to present evidence on his or her own behalf, which may include
47 written statements or oral testimony, relating to the incident leading to the
48 suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

49 (6) The right to have a record made of the hearing.

50 (7) The right to make his or her own audio recording of the hearing.

1 (8) The right to a written decision, based on substantial evidence presented at
2 the hearing, either upholding, modifying, or rejecting the principal's
3 recommendation of suspension and containing at least the following
4 information:

- 5 a. The basis for the decision, including a reference to any policy or rule
6 that the student is determined to have violated.
7 b. Notice of what information will be included in the student's official
8 record pursuant to G.S. 115C-402.
9 c. The student's right to appeal the decision and notice of the
10 procedures for such appeal.

11 (f) Following the issuance of the decision, the superintendent shall implement the
12 decision by authorizing the student's return to school or by imposing the suspension reflected in
13 the decision.

14 (g) Unless the decision was made by the local board, the student may appeal the
15 decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the
16 board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a
17 decision upholding a long-term suspension shall be heard and a final written decision issued in
18 not more than 30 calendar days following the request for such appeal.

19 (h) Nothing in this section shall compel school officials to release names or other
20 information that could allow the student or his or her representative to identify witnesses when
21 such identification could create a safety risk for the witness.

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

29 **"§ 115C-390.9. Alternative education services.**

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

- 34 (1) The student exhibits violent behavior.
35 (2) The student poses a threat to staff or other students.
36 (3) The student substantially disrupts the learning process.
37 (4) The student otherwise engaged in serious misconduct that makes the
38 provision of alternative educational services not feasible.
39 (5) Educationally appropriate alternative education services are not available in
40 the local school administrative unit due to limited resources.
41 (6) The student failed to comply with reasonable conditions for admittance into
42 an alternative education program.

43 (b) If the superintendent declines to provide alternative education services to the
44 suspended student, the student may seek review of such decision by the local board of
45 education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the
46 superintendent shall provide to the student and the local board, in advance of the board's
47 review, a written explanation for the denial of services together with any documents or other
48 information supporting the decision.

49 **"§ 115C-390.10. 365-day suspension for gun possession.**

50 (a) All local boards of education shall develop and implement written policies and
51 procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring

1 suspension for 365 calendar days of any student who is determined to have brought or been in
2 possession of a firearm or destructive device on educational property, or to a school-sponsored
3 event off of educational property. A principal shall recommend to the superintendent the
4 365-day suspension of any student believed to have violated board policies regarding weapons.
5 The superintendent has the authority to suspend for 365 days a student who has been
6 recommended for such suspension by the principal when such recommendation is consistent
7 with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing,
8 the required 365-day suspension for an individual student on a case-by-case basis. The
9 superintendent shall not impose a 365-day suspension if the superintendent determines that the
10 student took or received the firearm or destructive device from another person at school or
11 found the firearm or destructive device at school, provided that the student delivered or
12 reported the firearm or destructive device as soon as practicable to a law enforcement officer or
13 school personnel and had no intent to use such firearm or destructive device in a harmful or
14 threatening way.

15 (b) The principal shall report all incidents of firearms or destructive devices on
16 educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State
17 Board of Education policy.

18 (c) Nothing in this provision shall apply to a firearm that was brought onto educational
19 property for activities approved and authorized by the local board of education, provided that
20 the local board of education has adopted appropriate safeguards to protect student safety.

21 (d) At the time the student and parent receive notice that the student is suspended for
22 365 days under this section, the superintendent shall provide notice to the student and the
23 student's parent of the right to petition the local board of education for readmission pursuant to
24 G.S. 115C-390.12.

25 (e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day
26 suspension pursuant to this section.

27 (f) Students who are suspended for 365 days pursuant to this section shall be
28 considered for alternative educational services consistent with the provisions of
29 G.S. 115C-390.9.

30 **"§ 115C-390.11. Expulsion.**

31 (a) Upon recommendation of the superintendent, a local board of education may expel
32 any student 14 years of age or older whose continued presence in school constitutes a clear
33 threat to the safety of other students or school personnel. Prior to the expulsion of any student,
34 the local board shall conduct a hearing to determine whether the student's continued presence in
35 school constitutes a clear threat to the safety of other students or school personnel. The student
36 shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a)
37 and (b), as well as reasonable notice of the time and place of the scheduled hearing.

38 (1) The procedures described in G.S. 115C-390.8(e)(1) through (8) apply to
39 students facing expulsion pursuant to this section, except that the decision to
40 expel a student by the local board of education shall be based on clear and
41 convincing evidence that the student's continued presence in school
42 constitutes a clear threat to the safety of other students and school personnel.

43 (2) A local board of education may expel any student subject to G.S. 14-208.18
44 in accordance with the procedures of this section. Prior to ordering the
45 expulsion of a student, the local board of education shall consider whether
46 there are alternative education services that may be offered to the student. As
47 provided by G.S. 14-208.18(f), if the local board of education determines
48 that the student shall be provided educational services on school property,
49 the student shall be under the supervision of school personnel at all times.

1 (3) At the time a student is expelled under this section, the student shall be
2 provided notice of the right to petition for readmission pursuant to
3 G.S. 115C-390.12.

4 (b) During the expulsion, the student is not entitled to be present on any property of the
5 local school administrative unit and is not considered a student of the local board of education.
6 Nothing in this section shall prevent a local board of education from offering access to some
7 type of alternative educational services that can be provided to the student in a manner that
8 does not create safety risks to other students and school personnel.

9 "**§ 115C-390.12. Request for readmission.**"

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

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

16 a. At the local board's discretion, either the superintendent or the local
17 board itself shall consider and decide on petitions for readmission. If
18 the decision maker is the superintendent, the superintendent shall
19 offer the student an opportunity for an in-person meeting. If the
20 decision maker is the local board of education, the board may offer
21 the student an in-person meeting or may make a determination based
22 on the records submitted by the student and the superintendent.

23 b. The student shall be readmitted if the student demonstrates to the
24 satisfaction of the board or superintendent that the student's presence
25 in school no longer constitutes a threat to the safety of other students
26 or school personnel.

27 c. A superintendent's decision not to readmit the student may be
28 appealed to the local board of education pursuant to G.S. 115C-45(c).
29 The superintendent shall notify the parents of the right to appeal.

30 d. There is no right to judicial review of the board's decision not to
31 readmit a 365-day suspended student.

32 e. A decision on readmission under this subsection shall be issued
33 within 30 days of the petition.

34 (2) The process for expelled students. –

35 a. The board of education shall consider all petitions for readmission of
36 expelled students, together with the recommendation of the
37 superintendent on the matter, and shall rule on the request for
38 readmission. The board shall consider the petition based on the
39 records submitted by the student and the response by the
40 administration and shall allow the parties to be heard in the same
41 manner as provided by G.S. 115C-45(c).

42 b. The student shall be readmitted if the student demonstrates to the
43 satisfaction of the board or superintendent that his or her presence in
44 a school no longer constitutes a clear threat to the safety of other
45 students or school personnel.

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

48 d. An expelled student may subsequently request readmission not more
49 often than every six months. The local board of education is not
50 required to consider subsequent readmission petitions filed sooner
51 than six months after the previous petition was filed.

1 e. A decision on readmission under this section shall be issued within
2 30 days of the petition.

3 (b) If a student is readmitted under this section, the board and the superintendent have
4 the right to assign the student to any program within the school system and to place reasonable
5 conditions on the readmission.

6 (c) If a teacher was assaulted or injured by a student, and as a result the student was
7 expelled, the student shall not be returned to that teacher's classroom following readmission
8 unless the teacher consents."

9 **SECTION 3.** G.S. 115C-391.1(i) reads as rewritten:

10 (i) Nothing in this section modifies the rights of school personnel to use reasonable
11 force as permitted under ~~G.S. 115C-390~~ G.S. 115C-390.3 or modifies the rules and procedures
12 governing discipline under ~~G.S. 115C-391(a)~~ G.S. 115C-390.1 through G.S. 115C-390.12."

13 **SECTION 4.** G.S. 115C-12(27) reads as rewritten:

14 (27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions,
15 and Alternative Placements. – The State Board shall report by March 15 of
16 each year to the Joint Legislative Education Oversight Committee on the
17 numbers of students who have dropped out of school, been subjected to
18 corporal punishment, been suspended, been expelled, been reassigned for
19 disciplinary purposes, or been placed in an provided alternative
20 program education services. The data shall be reported in a disaggregated
21 manner and reflecting the local school administrative unit, race, gender,
22 grade level, ethnicity, and disability status of each affected student. Such
23 data shall be readily available to the public. The State Board shall not
24 include students that have been expelled from school when calculating the
25 dropout rate. The Board shall maintain a separate record of the number of
26 students who are expelled from school and the reasons for the expulsion."

27 **SECTION 5.** G.S. 115C-45(c)(1) reads as rewritten:

28 (1) The discipline of a student under ~~G.S. 115C-391(e), (d), (d1), (d2), (d3), or~~
29 ~~(d4);~~ G.S. 115C-390.7, 115C-390.10, or 115C-390.11;".

30 **SECTION 6.** G.S. 115C-105.47(b)(6) reads as rewritten:

31 (6) Mechanisms for assessing the needs of disruptive and disorderly students
32 and students who are at risk of academic failure, and providing them with
33 services to assist them in achieving academically and in modifying their
34 ~~behavior, behavior, including any positive behavior management or positive~~
35 behavior support programs that have been adopted, and removing them from
36 the classroom when necessary."

37 **SECTION 7.** G.S. 115C-105.47(b)(13)b. reads as rewritten:

38 (13) Direction to school improvement teams within the local school
39 administrative unit to consider the special conditions at their schools and to
40 incorporate into their school improvement plans the appropriate components
41 of the local plan for:

42 a. maintaining safe and orderly schools; and

43 b. addressing the needs of students who are at risk of academic failure
44 or who are disruptive or ~~both, both, and including the components of~~
45 any positive behavior management or positive behavior support
46 programs that have been adopted."

47 **SECTION 8.** G.S. 115C-238.29B(b)(11) reads as rewritten:

48 (11) The procedures by which students can be excluded from the charter school
49 and returned to a public school. Notwithstanding any law to the contrary,
50 any local board may refuse to admit any student who is suspended or
51 expelled from a charter school due to actions that would lead to suspension

1 or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5
 2 through G.S. 115C-390.11 until the period of suspension or expulsion has
 3 expired."

4 **SECTION 9.** G.S. 115C-238.29F(g)(7) reads as rewritten:

5 "(7) Notwithstanding any law to the contrary, a charter school may refuse
 6 admission to any student who has been expelled or suspended from a public
 7 school under ~~G.S. 115C-391~~ G.S. 115C-390.5 through G.S. 115C-390.11
 8 until the period of suspension or expulsion has expired."

9 **SECTION 10.** G.S. 115C-276(r) reads as rewritten:

10 "(r) To Maintain Student Discipline. – The superintendent shall maintain student
 11 discipline in accordance with Article 27 of this Chapter and shall keep data on each student to
 12 whom corporal punishment was administered, who was suspended for more than 10-days~~days,~~
 13 who was reassigned for disciplinary reasons, or who was expelled. This data shall include the
 14 race, gender, age, grade level, ethnicity, and age~~disability status~~ of each student, the duration of
 15 suspension for each student, whether ~~an~~ alternative education ~~was considered or~~ services were
 16 provided for each student, and whether a student had multiple ~~suspensions~~ suspensions in that
 17 academic year."

18 **SECTION 11.** G.S. 115C-288(e) reads as rewritten:

19 "(e) To Discipline Students and to Assign Duties to Teachers with Regard to the
 20 Discipline, General Well-being, and Medical Care of Students. – The principal shall have
 21 authority to exercise discipline over the pupils of the school under policies adopted by the local
 22 board of education ~~as prescribed by G.S. 115C-391(a).~~ in accordance with G.S. 115C-390.1
 23 through G.S. 115C-390.12. The principal ~~shall~~ may use reasonable force ~~to discipline students~~
 24 ~~under G.S. 115C-390~~ pursuant to G.S. 115C-390.3 and may suspend ~~or dismiss pupils~~
 25 ~~under students~~ G.S. 115C-391. pursuant to G.S. 115C-390.5. The principal shall assign duties to
 26 teachers with regard to the general well-being and the medical care of students under
 27 G.S. 115C-307 and Article 26A of this Chapter."

28 **SECTION 12.** G.S. 115C-366 reads as rewritten:

29 "**§ 115C-366. Assignment of student to a particular school.**

30 ...

31 (a5) Notwithstanding any other law, a local board may deny admission to or place
 32 reasonable conditions on the admission of a student who has been suspended from a school
 33 under ~~G.S. 115C-391~~ 115C-390.5 through G.S. 115C-390.10 or who has been suspended from
 34 a school for conduct that could have led to a suspension from a school within the local school
 35 administrative unit where the student is seeking admission until the period of suspension has
 36 expired. Also, a local board may deny admission to or place reasonable conditions on the
 37 admission of a student who has been expelled from a school under ~~G.S. 115C-391~~ 115C-390.11
 38 or who has been expelled from a school for behavior that indicated the student's continued
 39 presence in school constituted a clear threat to the safety of other students or ~~employees~~ staff as
 40 found by clear and convincing evidence, or who has been convicted of a felony in this or any
 41 other state. If the local board denies admission to a student who has been expelled or convicted
 42 of a felony, the student may request the local board to reconsider that decision in accordance
 43 with ~~G.S. 115C-391(d).~~ 115C-390.12. When a student who has been identified as eligible to
 44 receive special education and related services under the Individuals with Disabilities Education
 45 ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the
 46 local board shall provide educational services to the student to the same extent it would if the
 47 student were enrolled in the local school administrative unit at the time of the suspension or
 48 expulsion, as required by G.S. 115C-107.1(a)(3).

49 ...

50 (h) The following definitions apply in this section:

51 ...

- 1 (3) Educational decisions. – Decisions or actions recommended or required by
2 the school concerning the student's academic course of study, extracurricular
3 activities, and conduct. These decisions or actions include enrolling the
4 student, receiving and responding to notices of discipline under
5 G.S. ~~115C-391~~, ~~115C-390.5~~ through G.S. 115C-390.12, attending
6 conferences with school personnel, granting permission for school-related
7 activities, granting permission for emergency medical care, receiving and
8 taking appropriate action in connection with student records, and any other
9 decisions or actions recommended or required by the school in connection to
10 that student.

11"

12 **SECTION 13.** G.S. 115C-402(b) reads as rewritten:

13 "(b) The official record shall contain, as a minimum, adequate identification data
14 including date of birth, attendance data, grading and promotion data, and such other factual
15 information as may be deemed appropriate by the local board of education having jurisdiction
16 over the school wherein the record is maintained. Each student's official record also shall
17 include notice of any long-term suspension for a period of more than 10 days or of any
18 expulsion under imposed pursuant to G.S. ~~115C-391-115C-390.7~~ through G.S. 115C-390.11
19 and the conduct for which the student was suspended or expelled. The superintendent or the
20 superintendent's designee shall expunge from the record the notice of suspension or expulsion
21 if the following criteria are met:

- 22 (1) One of the following persons makes a request for expungement:
23 a. The student's parent, legal guardian, or custodian.
24 b. The student, if the student is at least 16 years old or is emancipated.
25 (2) The student either graduates from high school or is not expelled or
26 suspended again during the two-year period commencing on the date of the
27 student's return to school after the expulsion or suspension.
28 (3) The superintendent or the superintendent's designee determines that the
29 maintenance of the record is no longer needed to maintain safe and orderly
30 schools.
31 (4) The superintendent or the superintendent's designee determines that the
32 maintenance of the record is no longer needed to adequately serve the child."

33 **SECTION 14.** G.S. 14-208.18(f) reads as rewritten:

34 "(f) A person subject to subsection (a) of this section who is eligible under
35 G.S. 115C-378 to attend public school may be present on school property if permitted by the
36 local board of education pursuant to G.S. ~~115C-391(d)(2)-115C-390.11(a)(2)~~."

37 **SECTION 15.** G.S. 20-11(n1)d.2. reads as rewritten:

- 38 "2. The bringing, possession, or use on school property of a
39 weapon or firearm that resulted in disciplinary action under
40 G.S. ~~115C-391(d1)-115C-390.10~~ or that could have resulted
41 in that disciplinary action if the conduct had occurred in a
42 public school."

43 **SECTION 16.** This act is effective when it becomes law and applies beginning
44 with the 2011-2012 school year.