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HOUSE BILL 736  
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Short Title: Amend Law Re: School Discipline.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REORGANIZE THE GENERAL STATUTES RELATING TO SCHOOL DISCIPLINE; PREVENT LITIGATION BY ADDING DEFINITIONS TO, AND CLARIFYING AMBIGUITIES IN, THE CURRENT LAW; CODIFY EXISTING CASE LAW; AND INCREASE LOCAL CONTROL AND FLEXIBILITY REGARDING DISCIPLINE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-390 and G.S. 115C-391 are repealed.

**SECTION 2.** Article 27 of chapter 115C of the General Statutes is amended by adding the following new sections:

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

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

(b) The following definitions apply in this Article:

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

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

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

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

(5) Firearm. – Any of the following:



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- 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           (6)    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          (7)    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          (8)    Destructive device. – An explosive, incendiary, or poison gas:  
22           a.     Bomb.  
23           b.     Grenade.  
24           c.     Rocket having a propellant charge of more than four ounces.  
25           d.     Missile having an explosive or incendiary charge of more than  
26           one-quarter ounce.  
27           e.     Mine.  
28           f.     Device similar to any of the devices listed in this subdivision.  
29          (9)    Principal. – Includes the principal and the principal's designee.  
30          (10)   School official. – A superintendent or any other central office administrator  
31          to whom the superintendent has delegated duties under this Article and any  
32          principal or assistant principal.  
33          (11)   School personnel. – Any of the following:  
34           a.     An employee of a local board of education.  
35           b.     Any person working on school grounds or at a school function under  
36           a contract or written agreement with the public school system to  
37           provide educational or related services to students.  
38           c.     Any person working on school grounds or at a school function for  
39           another agency providing educational or related services to students."  
40          (12)   Short-term suspension. – The exclusion of a student from school attendance  
41          for disciplinary purposes for up to 10 school days from the school to which  
42          the student was assigned at the time of the disciplinary action.  
43          (13)   Substantial evidence. – Such relevant evidence as a reasonable person might  
44          accept as adequate to support a conclusion; it is more than a scintilla or  
45          permissible inference.  
46          (14)   Superintendent. – Includes the superintendent and the superintendent's  
47          designee.  
48          (c)    Notwithstanding the provisions of this Article, the policies and procedures for the  
49          discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20  
50          U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et

1 seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other  
2 federal laws and regulations.

3 **"§ 115C-390.2. Discipline policies.**

4 (a) Local boards of education shall adopt policies to govern the conduct of students and  
5 establish procedures to be followed by school officials in disciplining students. These policies  
6 must be consistent with the provisions of this Article and the constitutions, statutes, and  
7 regulations of the United States and the State of North Carolina.

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

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

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

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

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

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

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

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

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

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

48 **"§ 115C-390.3. Reasonable force.**

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

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

3            (1) To correct students.

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

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

7            (4) For self-defense.

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

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

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

16 **"§ 115C-390.4. Corporal punishment.**

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

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

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

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

30            (3) A school person shall provide the student's parent with notification that  
31 corporal punishment has been administered, and the person who  
32 administered the corporal punishment shall provide the student's parent a  
33 written explanation of the reasons and the name of the second person who  
34 was present.

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

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

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

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

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

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

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

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

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

15 **"§ 115C-390.5. Short-term suspension.**

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

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

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

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

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

28           (3) The opportunity to take any quarterly, semester, or grading period  
29 examinations missed during the suspension period.

30 **"§ 115C-390.6. Short-term suspension procedures.**

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

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

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

49       (d) If English is the second language of the parent, the notice shall be provided in the  
50 parent's primary language, when the appropriate foreign language resources are readily

1 available, and in English, and both versions shall be in plain language and shall be easily  
2 understandable.

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. Further, such a decision is not  
5 subject to judicial review. Notwithstanding this subsection, the local board of education, in its  
6 discretion, may provide students an opportunity for a review or appeal of a short-term  
7 suspension to the superintendent or local board of education.

8 **"§ 115C-390.7. Long-term suspension.**

9 (a) A principal may recommend to the superintendent the long-term suspension of any  
10 student who willfully engages in conduct that violates a provision of the Code of Student  
11 Conduct that authorizes long-term suspension. Only the superintendent has the authority to  
12 long-term suspend a student.

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

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

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

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

29 **"§ 115C-390.8. Long-term suspension procedures.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32           (d) The formal hearing may be conducted by the local board of education, by the  
33 superintendent, or by a person or group of persons appointed by the local board or  
34 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  
38 determine the relevant facts and credibility of witnesses based on the evidence presented at the  
39 hearing. Following the hearing, the superintendent or local board shall make a final decision  
40 regarding the suspension. The superintendent or board shall adopt the hearing officer's or  
41 panel's factual determinations unless they are not supported by substantial evidence in the  
42 record.

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

46           (1) The right to be represented at the hearing by counsel or, in the discretion of  
47 the local board, a non-attorney advocate.

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

49           (3) The right of the student, parent, and the student's representative to review  
50 before the hearing any audio or video recordings of the incident and,  
51 consistent with federal and State student records laws and regulations, the

1 information supporting the suspension that may be presented as evidence at  
2 the hearing, including statements made by witnesses related to the charges  
3 consistent with subsection (h) of this section.

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

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

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

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

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

15 a. The basis for the decision, including a reference to any policy or rule  
16 that the student is determined to have violated.

17 b. Notice of what information will be included in the student's official  
18 record pursuant to G.S. 115C-402.

19 c. The student's right to appeal the decision and notice of the  
20 procedures for such appeal.

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

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

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

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

39 **"§ 115C-390.9. Alternative education services.**

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

44 (1) The student exhibits violent behavior.

45 (2) The student poses a threat to staff or other students.

46 (3) The student substantially disrupts the learning process.

47 (4) The student otherwise engaged in serious misconduct that makes the  
48 provision of alternative educational services not feasible.

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



1           (6) The student failed to comply with reasonable conditions for admittance into  
2           an alternative education program.

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

9           **"§ 115C-390.10. 365-day suspension for gun possession.**

10          (a) All local boards of education shall develop and implement written policies and  
11          procedures, as required by the federal Gun Free Schools Act, 20 U.S.C. § 7151, requiring  
12          suspension for 365 calendar days of any student who is determined to have brought or been in  
13          possession of a firearm or destructive device on educational property, or to a school-sponsored  
14          event off of educational property. A principal shall recommend to the superintendent the  
15          365-day suspension of any student believed to have violated board policies regarding weapons.  
16          The superintendent has the authority to suspend for 365 days a student who has been  
17          recommended for such suspension by the principal when such recommendation is consistent  
18          with board policies. Notwithstanding the foregoing, the superintendent may modify, in writing,  
19          the required 365-day suspension for an individual student on a case-by-case basis. The  
20          superintendent shall not impose a 365-day suspension if the superintendent determines that the  
21          student took or received the firearm or destructive device from another person at school or  
22          found the firearm or destructive device at school, provided that the student delivered or  
23          reported the firearm or destructive device as soon as practicable to a law enforcement officer or  
24          a school employee and had no intent to use such firearm or destructive device in a harmful or  
25          threatening way.

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

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

32          (d) At the time the student and parent receive notice that the student is suspended for  
33          365 days under this section, the superintendent shall provide notice to the student and the  
34          student's parent of the right to petition the local board of education for readmission pursuant to  
35          G.S. 115C-390.12.

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

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

41          **"§ 115C-390.11. Expulsion.**

42          (a) Upon recommendation of the superintendent, a local board of education may expel  
43          any student 14 years of age or older whose continued presence in school constitutes a clear  
44          threat to the safety of other students or school staff. Prior to the expulsion of any student, the  
45          local board shall conduct a hearing to determine whether the student's continued presence in  
46          school constitutes a clear threat to the safety of other students or school staff. The student shall  
47          be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and  
48          (b), as well as reasonable notice of the time and place of the scheduled hearing.

49                 (1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students  
50                 facing expulsion pursuant to this section, except that the decision to expel a  
51                 student by the local board of education shall be based on clear and

1 convincing evidence that the student's continued presence in school  
2 constitutes a clear threat to the safety of other students and school staff.

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

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

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

18 **§ 115C-390.12. Request for readmission.**

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

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

25 a. At the local board's discretion, either the superintendent or the local  
26 board itself shall consider and decide on petitions for readmission. If  
27 the decision maker is the superintendent, the superintendent shall  
28 offer the student an opportunity for an in-person meeting. If the  
29 decision maker is the local board of education, the board may offer  
30 the student an in-person meeting or may make a determination based  
31 on the records submitted by the student and the superintendent.

32 b. The student shall be readmitted if the student demonstrates to the  
33 satisfaction of the board or superintendent that the student's presence  
34 in school no longer constitutes a threat to the safety of other students  
35 or staff.

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

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

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

43 (2) The process for expelled students.

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

- 1           **b.**     The student shall be readmitted if the student demonstrates to the  
 2                    satisfaction of the board or superintendent that his or her presence in  
 3                    a school no longer constitutes a clear threat to the safety of other  
 4                    students or staff.
- 5           **c.**     A decision by a board of education to deny readmission of an  
 6                    expelled student is not subject to judicial review.
- 7           **d.**     An expelled student may subsequently request readmission not more  
 8                    often than every six months. The local board of education is not  
 9                    required to consider subsequent readmission petitions filed sooner  
 10                  than six months after the previous petition was filed.
- 11          **e.**     A decision on readmission under this section shall be issued within  
 12                  30 days of the petition.

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

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

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

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

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

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

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

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

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

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

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

48          "(13) Direction to school improvement teams within the local school  
 49          administrative unit to consider the special conditions at their schools and to  
 50          incorporate into their school improvement plans the appropriate components  
 51          of the local plan for:

- 1 a. maintaining safe and orderly schools; and  
2 b. addressing the needs of students who are at risk of academic failure  
3 or who are disruptive or ~~both, both, and including the components of~~  
4 any positive behavior management or positive behavior support  
5 programs that have been adopted."

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

7 "(11) The procedures by which students can be excluded from the charter school  
8 and returned to a public school. Notwithstanding any law to the contrary,  
9 any local board may refuse to admit any student who is suspended or  
10 expelled from a charter school due to actions that would lead to suspension  
11 or expulsion from a public school under ~~G.S. 115C-391~~ G.S. 115C-390.5  
12 through G.S. 115C-390.11 until the period of suspension or expulsion has  
13 expired."

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

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

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

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

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

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

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

39 **"§ 115C-366. Assignment of student to a particular school.**

40 ...

41 (a5) Notwithstanding any other law, a local board may deny admission to or place  
42 reasonable conditions on the admission of a student who has been suspended from a school  
43 under ~~G.S. 115C-391~~ 115C-390.5 through G.S. 115C-390.10 or who has been suspended from  
44 a school for conduct that could have led to a suspension from a school within the local school  
45 administrative unit where the student is seeking admission until the period of suspension has  
46 expired. Also, a local board may deny admission to or place reasonable conditions on the  
47 admission of a student who has been expelled from a school under ~~G.S. 115C-391~~ 115C-390.11  
48 or who has been expelled from a school for behavior that indicated the student's continued  
49 presence in school constituted a clear threat to the safety of other students or ~~employees~~ staff as  
50 found by clear and convincing evidence, or who has been convicted of a felony in this or any  
51 other state. If the local board denies admission to a student who has been expelled or convicted

1 of a felony, the student may request the local board to reconsider that decision in accordance  
 2 with G.S. ~~415C-391(d)~~-115C-390.12. When a student who has been identified as eligible to  
 3 receive special education and related services under the Individuals with Disabilities Education  
 4 ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the  
 5 local board shall provide educational services to the student to the same extent it would if the  
 6 student were enrolled in the local school administrative unit at the time of the suspension or  
 7 expulsion, as required by G.S. 115C-107.1(a)(3).

8 ...  
 9 (h) The following definitions apply in this section:

- 10 ...  
 11 (3) Educational decisions. – Decisions or actions recommended or required by  
 12 the school concerning the student's academic course of study, extracurricular  
 13 activities, and conduct. These decisions or actions include enrolling the  
 14 student, receiving and responding to notices of discipline under  
 15 G.S. ~~415C-391~~,—115C-390.5 through G.S. 115C-390.12, attending  
 16 conferences with school personnel, granting permission for school-related  
 17 activities, granting permission for emergency medical care, receiving and  
 18 taking appropriate action in connection with student records, and any other  
 19 decisions or actions recommended or required by the school in connection to  
 20 that student.

21 ...."

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

23 "(b) The official record shall contain, as a minimum, adequate identification data  
 24 including date of birth, attendance data, grading and promotion data, and such other factual  
 25 information as may be deemed appropriate by the local board of education having jurisdiction  
 26 over the school wherein the record is maintained. Each student's official record also shall  
 27 include notice of any long-term suspension for a period of more than 10 days or of any  
 28 expulsion under imposed pursuant to G.S. ~~415C-391~~-115C-390.7 through G.S. 115C-390.11  
 29 and the conduct for which the student was suspended or expelled. The superintendent or the  
 30 superintendent's designee shall expunge from the record the notice of suspension or expulsion  
 31 if the following criteria are met:

- 32 (1) One of the following persons makes a request for expungement:  
 33 a. The student's parent, legal guardian, or custodian.  
 34 b. The student, if the student is at least 16 years old or is emancipated.  
 35 (2) The student either graduates from high school or is not expelled or  
 36 suspended again during the two-year period commencing on the date of the  
 37 student's return to school after the expulsion or suspension.  
 38 (3) The superintendent or the superintendent's designee determines that the  
 39 maintenance of the record is no longer needed to maintain safe and orderly  
 40 schools.  
 41 (4) The superintendent or the superintendent's designee determines that the  
 42 maintenance of the record is no longer needed to adequately serve the child."

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

44 "(f) A person subject to subsection (a) of this section who is eligible under  
 45 G.S. 115C-378 to attend public school may be present on school property if permitted by the  
 46 local board of education pursuant to G.S. ~~415C-391(d)(2)~~-115C-390.11(a)(2)."

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

- 48 "2. The bringing, possession, or use on school property of a  
 49 weapon or firearm that resulted in disciplinary action under  
 50 G.S. ~~415C-391(d1)~~-115C-390.10 or that could have resulted

1 in that disciplinary action if the conduct had occurred in a  
2 public school."

3 **SECTION 16.** If House Bill 200, 2011 Regular Session, becomes law, then  
4 Sections 6 and 7 of this act are deleted.

5 **SECTION 17.** This act is effective when it becomes law and applies beginning  
6 with the 2011-2012 school year.