

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS55225-LE-103D (03/22)

Short Title: Amend Law Re: School Discipline.

(Public)

Sponsors: Senators Preston, Tillman, and Hartsell (Primary Sponsors).

Referred to:

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 G.S. 115C-390 and G.S. 115C-391 are repealed.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 the General Statutes is amended by adding the
6 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 administrators 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 section:

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
22 regulations.

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

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

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

31 (5) Firearm. – Any weapon (including a starter gun) which will or is designed to
32 or may readily be converted to expel a projectile by the action of an
33 explosive; the frame or receiver of any such weapon; or any firearm muffler



1 or firearm silencer. This shall not include an inoperable antique firearm, a
2 BB gun, stun gun, air rifle, or air pistol. 18 U.S.C. § 921(a)3.

3 (6) Long-term suspension. – The exclusion for more than 10 school days of a
4 student from school attendance for disciplinary purposes from the school to
5 which the student was assigned at the time of the disciplinary action. If the
6 offense leading to the long-term suspension occurs before the final quarter of
7 the school year, the exclusion may be no longer than the remainder of the
8 current school year. If the offense leading to the long-term suspension occurs
9 during the final quarter of the school year, the exclusion may include a
10 period up to the remainder of the current school year and the first semester
11 of the following school year.

12 (7) Parent. – Includes a parent, legal guardian, legal custodian, or other
13 caregiver adult who is acting in the place of a parent and is entitled to enroll
14 the student in school under Article 25 of this Chapter.

15 (8) Powerful explosive. – Any bomb, grenade, mine, dynamite cartridge, or
16 other similar device with significant explosive or incendiary capacity.

17 (9) Principal. – Includes the principal and the principal's designee.

18 (10) Short-term suspension. – The exclusion of a student from school attendance
19 for disciplinary purposes for up to 10 school days from the school to which
20 the student was assigned at the time of the disciplinary action.

21 (11) Substantial evidence – Such relevant evidence as a reasonable person might
22 accept as adequate to support a conclusion; it is more than a scintilla or
23 permissible inference.

24 (12) Superintendent – Includes the superintendent and the superintendent's
25 designee.

26 (c) Notwithstanding the provisions of this Article, the policies and procedures for the
27 discipline of students shall be consistent with the requirements of Gun Free Schools Act, 20
28 U.S.C. § 7151, Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq.,
29 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal
30 laws and regulations.

31 **§ 115C-390.2. Discipline policies.**

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

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

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

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

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

49 (f) Board policies shall minimize the use of long-term suspension and expulsion by
50 restricting the availability of long-term suspension or expulsion to those offenses deemed to be
51 serious violations of the board's Code of Student Conduct that either threaten the safety of

1 students, staff, or school visitors or threaten to substantially disrupt the educational
2 environment. Examples of conduct that would not be deemed to be a serious violation include
3 the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress
4 code violations, and minor physical altercations that do not involve weapons or injury. The
5 principal may, however, in his or her discretion, determine that aggravating circumstances
6 justify treating a minor offense as a serious violation.

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

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

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

17 (j) Local boards of education are encouraged to include in their Safe Schools Plans,
18 adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that
19 take positive approaches to improving student behaviors.

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

25 **"§ 115C-390.3. Reasonable force.**

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

28 (b) School personnel may use reasonable force to control behavior or to remove a
29 person from the scene in the following situations when necessary:

30 (1) To correct students.

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

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

34 (4) For self-defense.

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

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

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

43 **"§ 115C-390.4. Corporal Punishment.**

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

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

- 1 (1) Corporal punishment shall not be administered in a classroom with other
2 students present.
- 3 (2) Only a teacher, principal, or assistant principal may administer corporal
4 punishment and may do so only in the presence of a principal, assistant
5 principal, or teacher who shall be informed beforehand and in the student's
6 presence of the reason for the punishment.
- 7 (3) An appropriate school official shall provide the student's parent with
8 notification that corporal punishment has been administered, and the official
9 who administered the corporal punishment shall provide the student's parent
10 a written explanation of the reasons and the name of the second school
11 official who was present.
- 12 (4) The school shall maintain records of each administration of corporal
13 punishment and the reasons for its administration.
- 14 (5) In no event shall excessive force be used in the administration of corporal
15 punishment. Excessive force includes force that results in injury to the child
16 that requires medical attention beyond simple first aid.
- 17 (6) Corporal punishment shall not be administered on a student who is a child
18 with a disability as defined in G.S. 115C-106.3(1) or on a student with a
19 disability who is covered under section 504 of the federal Rehabilitation Act
20 of 1973, as amended, 29 U.S.C. § 794, whose parent has stated in writing
21 that corporal punishment shall not be administered on that student. In school
22 administrative units where corporal punishment is permitted, parents shall be
23 given a form to make such an election at the beginning of the school year or
24 when the student first enters the school during the year. If a parent has not
25 submitted in writing that corporal punishment shall not be used on the
26 student, then the form shall be presented to the parent at the first
27 individualized education program or section 504 plan meeting held during
28 the school year.

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

- 33 (1) The number of students who received corporal punishment.
- 34 (2) The number of students who received corporal punishment who were also
35 students with disabilities and were eligible to receive special education and
36 related services under the federal Individuals with Disabilities Education
37 Act, 20 U.S.C. § 1400, et seq.
- 38 (3) The grade level of the students who received corporal punishment.
- 39 (4) The race, gender, and ethnicity of the students who received corporal
40 punishment.
- 41 (5) The reason for the administration of the corporal punishment for each
42 student who received corporal punishment.

43 **§ 115C-390.5. Short-term suspension.**

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

47 (b) If a student's short-term suspensions accumulate to more than 10 days in a semester,
48 to the extent the principal has not already done so, he or she shall invoke the mechanisms
49 provided for in the applicable Safe Schools Plan adopted pursuant to G.S. 115C-105.47(b)(5)
50 and (b)(6).

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

- 1 (1) The opportunity to take textbooks home for the duration of the suspension.
2 (2) Upon request, the right to receive all missed assignments and, to the extent
3 practicable, the materials distributed to students in connection with the
4 assignment.
5 (3) The opportunity to take any quarterly, semester, or grading period
6 examinations missed during the suspension period.

7 **"§ 115C-390.6. Short-term suspension procedures.**

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

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

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

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

30 (e) A student is not entitled to appeal the principal's decision to impose a short-term
31 suspension to the superintendent or the local board of education. Further, such a decision is not
32 subject to judicial review.

33 **"§ 115C-390.7. Long-term suspension.**

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

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

40 (c) If the student recommended for long-term suspension declines the opportunity for a
41 hearing, the superintendent shall review the circumstances of the recommended long-term
42 suspension. Following such review, the superintendent may impose the suspension if it is
43 consistent with board policies and appropriate under the circumstances, may impose another
44 appropriate penalty authorized by board policy, or may decline to impose any penalty.

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

48 (e) Disciplinary reassignment of a student to a full-time educational program that meets
49 the academic requirements of the Standard Course of Study as provided in G.S. 115C-81 and
50 provides the student with the opportunity to make timely progress towards graduation and

1 grade promotion is not a long-term suspension requiring the due process procedures described
2 in G.S. 115C-390.8.

3 **"§ 115C-390.8. Long-term suspension procedures.**

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

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

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

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

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

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

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

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

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

27 (b) Written notice may be provided by certified mail, fax, e-mail, or any other written
28 method reasonably designed to achieve actual notice of the recommendation for long-term
29 suspension.

30 (1) All notices described in this section shall be written in plain English, and
31 shall include the following information translated into the dominant
32 non-English language used by residents within the local school
33 administrative unit:

34 a. The nature of the document, i.e., that it is a long-term suspension
35 notice.

36 b. The process by which the parent may request a hearing to contest the
37 long-term suspension.

38 c. The identity and phone number of a school employee that the parent
39 may call to obtain assistance in understanding the English language
40 information included in the document.

41 (2) When school personnel are aware that English is not the primary language of
42 the parent or guardian, the notice shall be written in both English and in the
43 primary language of the parent or guardian when the appropriate foreign
44 language resources are readily available.

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

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

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

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

9 (d) The formal hearing may be conducted by the local board of education, by the
10 superintendent, or by a person or group of persons appointed by the local board or
11 superintendent to serve as a hearing officer or hearing panel. Neither the board nor the
12 superintendent may appoint any individual to serve as a hearing officer or on a hearing panel
13 who is under the direct supervision of the principal recommending suspension. If the hearing is
14 conducted by an appointed hearing officer or hearing panel, such officer or panel shall
15 determine the relevant facts and credibility of witnesses based on the evidence presented at the
16 hearing. Following the hearing, the superintendent or local board shall make a final decision
17 regarding the suspension. The superintendent or board must adopt the hearing officer's or
18 panel's factual determinations unless they are not supported by substantial evidence in the
19 record.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **"§ 115C-390.9. Alternative education services.**

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

21 (1) The student exhibits violent behavior.

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

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

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

26 (5) Educationally appropriate alternative education services are not available in
27 the district due to limited resources.

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

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

36 **"§ 115C-390.10. 365-day suspension for gun possession.**

37 (a) All local boards of education shall develop and implement written policies and
38 procedures, as required by the federal Gun Free Schools Act, requiring suspension for 365
39 calendar days of any student who is determined to have brought or been in possession of a
40 firearm or powerful explosive on educational property, or to a school-sponsored event off of
41 educational property. A principal shall recommend to the superintendent the 365-day
42 suspension of any student believed to have violated board policies regarding weapons. The
43 superintendent has the authority to suspend for 365 days a student who has been recommended
44 for such suspension by the principal when such recommendation is consistent with board
45 policies. Notwithstanding the foregoing, the superintendent may modify, in writing, the
46 required 365-day suspension for an individual student on a case-by-case basis. The
47 superintendent shall not impose a 365-day suspension if the superintendent determines that the
48 student took or received the firearm or powerful explosive from another person at school or
49 found the firearm or powerful explosive at school, provided that the student delivered or
50 reported the firearm or powerful explosive as soon as practicable to a law enforcement officer

1 or a school employee and had no intent to use such firearm or powerful explosive in a harmful
2 or threatening way.

3 (b) The principal must report all incidents of firearms or powerful explosive on
4 educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State
5 Board of Education policy.

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

9 (d) At the time the student and parent receive notice that the student is suspended for
10 365 days under this subsection, the superintendent shall provide notice to the student and the
11 student's parent of the right to petition the local board of education for readmission pursuant to
12 G.S. 115C-390.12.

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

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

18 **"§ 115C-390.11. Expulsion.**

19 (a) Upon recommendation of the superintendent, a local board of education may expel
20 any student 14 years of age or older whose continued presence in school constitutes a clear
21 threat to the safety of other students or school staff. Prior to the expulsion of any student, the
22 local board must conduct a hearing to determine whether the student's continued presence in
23 school constitutes a clear threat to the safety of other students or school staff. The student must
24 be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and
25 (b), as well as reasonable notice of the time and place of the scheduled hearing.

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

31 (2) A local board of education may expel any student subject to G.S. 14-208.18
32 in accordance with the procedures of this section. Prior to ordering the
33 expulsion of a student, the local board of education shall consider whether
34 there are alternative education services that may be offered to the student. As
35 provided by G.S. 14-208.18(f), if the local board of education determines
36 that the student shall be provided educational services on school property,
37 the student must be under the supervision of school personnel at all times.

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

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

46 **"§ 115C-390.12. Request for readmission.**

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

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

- 2 a. At the local board's discretion, either the superintendent or the local
3 board itself shall consider and decide on petitions for readmission. If
4 the decision maker is the superintendent, the superintendent shall
5 offer the student an opportunity for an in-person meeting. If the
6 decision maker is the local board of education, the board may offer
7 the student an in-person meeting or may make a determination based
8 on the records submitted by the student and the superintendent.
9 b. The student shall be readmitted if the student demonstrates to the
10 satisfaction of the board or superintendent that the student's presence
11 in school no longer constitutes a threat to the safety of other students
12 or staff.
13 c. A superintendent's decision not to readmit the student may be
14 appealed to the local board of education pursuant to G.S. 115C-45(c).
15 The superintendent shall notify the parents of the right to appeal.
16 d. There is no right to judicial review of the board's decision not to
17 readmit a 365-day suspended student.
18 e. A decision on readmission under this subsection must be issued
19 within 30 days of the petition.

20 (2) The process for expelled students. –

- 21 a. The board of education shall consider all petitions for readmission of
22 expelled students, together with the recommendation of the
23 superintendent on the matter, and shall rule on the request for
24 readmission. The board shall consider the petition based on the
25 records submitted by the student and the response by the
26 administration and shall allow the parties to be heard in the same
27 manner as provided by G.S. 115C-45(c).
28 b. The student shall be readmitted if the student demonstrates to the
29 satisfaction of the board or superintendent that his or her presence in
30 a school no longer constitutes a clear threat to the safety of other
31 students or staff.
32 c. A decision by a board of education to deny readmission of an
33 expelled student is not subject to judicial review.
34 d. An expelled student may subsequently request readmission not more
35 often than every six months. The local board of education is not
36 required to consider subsequent readmission petitions filed sooner
37 than six months after the previous petition was filed.
38 e. A decision on readmission under this subsection must be issued
39 within 30 days of the petition.

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

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

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

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

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

1 "(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions,
2 and Alternative Placements. – The State Board shall report ~~by March 15 of~~
3 ~~each year~~annually to the Joint Legislative Education Oversight Committee
4 and the Commission on Improving the Academic Achievement of Minority
5 and At-Risk Students on the numbers of students who have dropped out of
6 school, been subjected to corporal punishment, been suspended, been
7 expelled, been reassigned for disciplinary purposes, or been placed in
8 ~~an~~provided alternative ~~program~~education services. The data shall be
9 reported in a disaggregated manner ~~and~~ reflecting the school administrative
10 unit, race, gender, grade level, ethnicity, and disability status of each
11 affected student. Such data shall be readily available to the public. The State
12 Board shall not include students that have been expelled from school when
13 calculating the dropout rate. The Board shall maintain a separate record of
14 the number of students who are expelled from school and the reasons for the
15 expulsion."

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

17 "(1) The discipline of a student under ~~G.S. 115C-391(e), (d), (d1), (d2), (d3), or~~
18 ~~(d4);~~ G.S. 115C-390.1 through G.S. 115C-390.12;"

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

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

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

27 "(13) Direction to school improvement teams within the local school
28 administrative unit to consider the special conditions at their schools and to
29 incorporate into their school improvement plans the appropriate components
30 of the local plan for:

- 31 a. maintaining safe and orderly schools; and
- 32 b. addressing the needs of students who are at risk of academic failure
33 or who are disruptive or ~~both,~~ both and including the components of
34 any positive behavior management or positive behavior support
35 programs that have been adopted."

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

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

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

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

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

50 "(r) To Maintain Student Discipline. – The superintendent shall maintain student
51 discipline in accordance with Article 27 of this Chapter and shall keep data on each student to

1 whom corporal punishment was administered, who was suspended for more than 10 days,
 2 who was reassigned for disciplinary reasons, or who was expelled. This data shall include the
 3 race, gender, age, grade level, ethnicity, and age disability status of each student, the duration of
 4 suspension for each student, whether ~~an~~ alternative education ~~was considered or~~ services were
 5 provided for each student, and whether a student had multiple ~~suspensions.~~ suspensions in that
 6 academic year."

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

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

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

18 **"§ 115C-366. Assignment of student to a particular school.**

19 ...
 20 (a5) Notwithstanding any other law, a local board may deny admission to or place
 21 reasonable conditions on the admission of a student who has been suspended from a school
 22 under G.S. ~~115C-391~~ 115C-390.5 through G.S. 115C-390.10 or who has been suspended from
 23 a school for conduct that could have led to a suspension from a school within the local school
 24 administrative unit where the student is seeking admission until the period of suspension has
 25 expired. Also, a local board may deny admission to or place reasonable conditions on the
 26 admission of a student who has been expelled from a school under G.S. ~~115C-391~~ 115C-390.11
 27 or who has been expelled from a school for behavior that indicated the student's continued
 28 presence in school constituted a clear threat to the safety of other students or ~~employees~~ staff as
 29 found by clear and convincing evidence or who has been convicted of a felony in this or any
 30 other state. If the local board denies admission to a student who has been expelled or convicted
 31 of a felony, the student may request the local board to reconsider that decision in accordance
 32 with G.S. ~~115C-391(d).~~ 115C-390.12. When a student who has been identified as eligible to
 33 receive special education and related services under the Individuals with Disabilities Education
 34 ~~Improvement~~ Act, 20 U.S.C. § 1400, et seq., (2004), is denied admission under this subsection,
 35 the local board shall provide educational services to the student to the same extent it would if
 36 the student were enrolled in the local school administrative unit at the time of the suspension or
 37 expulsion, as required by G.S. 115C-107.1(a)(3).

38 ...
 39 (h) The following definitions apply in this section:

40 ...
 41 (3) Educational decisions. – Decisions or actions recommended or required by
 42 the school concerning the student's academic course of study, extracurricular
 43 activities, and conduct. These decisions or actions include enrolling the
 44 student, receiving and responding to notices of discipline under
 45 G.S. ~~115C-391,~~ 115C-390.5 through G.S. 115C-390.12, attending
 46 conferences with school personnel, granting permission for school-related
 47 activities, granting permission for emergency medical care, receiving and
 48 taking appropriate action in connection with student records, and any other
 49 decisions or actions recommended or required by the school in connection to
 50 that student.

51"

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

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

11 (1) One of the following persons makes a request for expungement:

12 a. The student's parent, legal guardian, or custodian.

13 b. The student, if the student is at least 16 years old or is emancipated.

14 (2) The student either graduates from high school or is not expelled or
15 suspended again during the two-year period commencing on the date of the
16 student's return to school after the expulsion or suspension.

17 (3) The superintendent or the superintendent's designee determines that the
18 maintenance of the record is no longer needed to maintain safe and orderly
19 schools.

20 (4) The superintendent or the superintendent's designee determines that the
21 maintenance of the record is no longer needed to adequately serve the child."

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

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

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

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

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