Article 27.

Discipline.

**§ 115C-390: Repealed by Session Laws 2011-282, s. 1, effective June 23, 2011, and applicable beginning with the 2011-2012 school year.**

**§ 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 policies of the governing body of a public school unit.

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

(3) Destructive device. – An explosive, incendiary, or poison gas:
   a. Bomb.
   b. Grenade.
   c. Rocket having a propellant charge of more than four ounces.
   d. Missile having an explosive or incendiary charge of more than one-quarter ounce.
   e. Mine.
   f. Device similar to any of the devices listed in this subdivision.

(4) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any public school unit.

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

(6) Firearm. – Any of the following:
   a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.
   b. The frame or receiver of any such weapon.
   c. Any firearm muffler or firearm silencer.

   The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

(7) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of

the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

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

(9) Principal. – Includes the principal and the principal's designee, or if there is no designated principal, the staff member designated by the governing body of the public school unit with the highest decision-making authority at an individual school.

(10) School official. – A superintendent or any other central office administrator to whom the superintendent has delegated duties under this Article and any principal or assistant principal.

(11) School personnel. – Any of the following:

a. An employee of a governing body of a public school unit.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school unit to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

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

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

(14) Superintendent. – Includes the superintendent and the superintendent's designee, or if there is no superintendent, the staff member with the highest decision-making authority and that staff member's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations. (2011-270, s. 1; 2011-282, s. 16; 2011-282, s. 2; 2022-74, s. 7.7(a).)

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

(a) Governing bodies of public school units, in consultation with teachers, school-based administrators, parents, and local law enforcement agencies, shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies shall be consistent with this Article and the constitutions, statutes, regulations, and rules of the United States and the State of North Carolina. In adopting these policies, governing bodies of public school units shall consider any existing federal guidance for the discipline of students with disabilities as well as other guidance on school discipline practices issued by the United States Department of Education.

(b) Governing body policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials. The Code of Student Conduct shall prohibit discrimination based on an individual's protected classification under federal law, including antisemitism as defined in G.S. 12-3.2.

(b1) No later than September 1 of each year, each governing body of a public school unit shall provide the Department of Public Instruction with a copy of its most up-to-date student discipline policies and Code of Student Conduct.

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

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

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

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

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

(h) Governing body policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student. These procedures shall be consistent with this Article.

(i) Each governing body of a public school unit shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request. This information shall include the full range of responses to violations of disciplinary rules, including responses that do not remove a student from the classroom or school building. Governing bodies may require students and parents or guardians to sign an acknowledgement that they have received a copy of these policies, procedures, or rules.

(j) Repealed by Session Laws 2025-25, s. 36.1(a), effective June 26, 2025.

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

(*l*) Governing body policies shall state that absences under G.S. 130A-440 are not suspensions. A student subject to an absence under G.S. 130A-440 shall be provided the following:

(1) The opportunity to take textbooks and school-furnished digital devices home for the duration of the absence.

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

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

(m) Nothing in this Chapter regulates the discretion of a governing body of a public school unit to devise, impose, and enforce personal appearance codes. (2011-282, s. 2; 2015-222, s. 4.5; 2022-74, s. 7.7(b); 2025-25, s. 36.1(a); 2026-20, s. 2.5(b).)

**§ 115C-390.3. Reasonable force.**

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

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

(1) To correct students.

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

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

(4) For self-defense.

(5) For the protection of persons or property.

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

(c) Notwithstanding any other law, no officer, member, or employee of the State Board of Education, the Superintendent of Public Instruction, or of a governing body of a public school unit, individually or collectively, shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with governing body policies. Governing bodies of public school units shall adopt policies, pursuant to their authority under G.S. 115C-47(18), or as otherwise provided by law, which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students. (2011-282, s. 2; 2012-149, s. 10; 2016-126, 4th Ex. Sess., s. 23; 2022-74, s. 7.7(c).)

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

(a) Each governing body of a public school unit shall determine whether corporal punishment will be permitted in its public school unit. Notwithstanding a governing body's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

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

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

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

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

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

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

(6) Corporal punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. The form shall advise the parent or guardian that the student may be subject to suspension, among other possible punishments, for offenses that would otherwise not require suspension if corporal punishment were available. If the parent or guardian does not return the form, corporal punishment may be administered on the student.

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

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

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

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

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

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment. (2011-282, s. 2; 2022-74, s. 7.7(d).)

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

(a) The principal may impose short-term suspension on a student who willfully engages in conduct that violates the Code of Student Conduct authorizing short-term suspension.

(b) Repealed by Session Laws 2025-25, s. 36.1(b), effective June 26, 2025.

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

(1) The opportunity to take textbooks home for the duration of the suspension.
(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.
(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period. (2011-282, s. 2; 2025-25, s. 36.1(b).)

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

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

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

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

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

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or governing body of the public school unit. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the governing body, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or governing body. (2011-282, s. 2; 2022-74, s. 7.7(e); 2025-25, s. 29(1).)

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

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

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

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it

consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

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

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8. (2011-282, s. 2.)

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

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

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

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

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

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

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

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

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

(8) A reference to the governing body policy on the expungement of discipline records as required by G.S. 115C-402.

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

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

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

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

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

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

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

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

(d) The formal hearing may be conducted by the governing body of the public school unit, by the superintendent, or by a person or group of persons appointed by the governing body or superintendent to serve as a hearing officer or hearing panel. Neither the governing body nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or governing body shall make a final decision regarding the suspension. The superintendent or governing body shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the governing body of the public school unit. Such policies shall offer the student procedural due process including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) A decision of the governing body of the public school unit to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the governing body's decision. A person seeking judicial review shall file a petition in the superior court of the county where the governing body made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record. (2011-282, s. 2; 2022-74, s. 7.7(f); 2025-25, s. 29(1).)

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

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

(1) The student exhibits violent behavior.

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

(3) The student substantially disrupts the learning process.

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

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

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

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the governing body of the public school unit as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the governing body, in advance of the governing body's review, a written explanation for the denial of services together with any documents or other information supporting the decision. (2011-282, s. 2; 2022-74, s. 7.7(g).)

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

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

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

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the governing body of the public school unit, provided that the governing body has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the governing body of the public school unit for readmission pursuant to G.S. 115C-390.12.

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

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9. (2011-282, s. 2; 2022-74, s. 7.7(h).)

**§ 115C-390.11. Expulsion.**

(a) Upon recommendation of the superintendent, a governing body of a public school unit may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the governing body shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be

given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing. [The following provisions apply:]

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

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

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

(b) During the expulsion, the student is not entitled to be present on any property of the public school unit and is not considered a student of the governing body of the public school unit. Nothing in this section shall prevent a governing body from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff. (2011-282, s. 2; 2022-74, s. 7.7(i).)

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

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

(1) The process for 365-day suspended students:

a. At the governing body's discretion, either the superintendent or the governing body itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the governing body of the public school unit, the governing body may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

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

c. A superintendent's decision not to readmit the student may be appealed to the governing body of the public school unit pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.
e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students:
a. The governing body of the public school unit shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The governing body shall consider the petition based on the records submitted by the student and the response by the administration and shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).
b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.
c. A decision by a governing body of a public school unit to deny readmission of an expelled student is not subject to judicial review.
d. An expelled student may subsequently request readmission not more often than every six months. The governing body of the public school unit is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.
e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the governing body and the superintendent have the right to assign the student to any program within the public school unit and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents. (2011-282, s. 2; 2022-74, s. 7.7(j).)

**§ 115C-391: Repealed by Session Laws 2011-282, s. 1, effective June 23, 2011, and applicable beginning with the 2011-2012 school year.**

**§ 115C-391.1. Permissible use of seclusion and restraint.**

(a) It is the policy of the State of North Carolina to:
(1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.
(2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.
(3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.
(4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

(1) "Assistive technology device" means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(2) "Aversive procedure" means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

a. Significant physical harm, such as tissue damage, physical illness, or death.

b. Serious, foreseeable long-term psychological impairment.

c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.

(3) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(4) "IEP" means a student's Individualized Education Plan.

(5) "Isolation" means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

(6) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.

(7) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(8) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.

(9) "School personnel" means:

a. Employees of a governing body of a public school unit.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school unit to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(10) "Seclusion" means the confinement of a student alone in an enclosed space from which the student is:

a. Physically prevented from leaving by locking hardware or other means.

b. Not capable of leaving due to physical or intellectual incapacity.

(11) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(c) Physical Restraint:

(1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.

e. As reasonably needed to escort a student safely from one area to another.

f. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.

g. As reasonably needed to prevent imminent destruction to school or another person's property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.

b. When using seat belts or other safety restraints to secure students during transportation.

c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

d. As reasonably needed for self-defense.

e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.

(2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:
    a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.
    b. As reasonably needed to maintain order or prevent or break up a fight.
    c. As reasonably needed for self-defense.
    d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.
    e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and
        1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.
        2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.
        3. The space in which the student is confined has been approved for such use by the local education agency.
        4. The space is appropriately lighted.
        5. The space is appropriately ventilated and heated or cooled.
        6. The space is free of objects that unreasonably expose the student or others to harm.

(2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(f) Isolation. – Isolation is permitted as a behavior management technique provided that:

(1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.

(2) The duration of the isolation is reasonable in light of the purpose of the isolation.

(3) The student is reasonably monitored while in isolation.

(4) The isolation space is free of objects that unreasonably expose the student or others to harm.

(g) Time-Out. – Nothing in this section is intended to prohibit or regulate the use of time-out as defined in this section.

(h) Aversive Procedures. – The use of aversive procedures as defined in this section is prohibited in public schools.

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

(j) Notice, Reporting, and Documentation. –

(1) Notice of procedures. – Each governing body of a public school unit shall provide copies of this section and all governing body policies developed to

implement this section to school personnel and parents or guardians at the beginning of each school year.

(2) Notice of specified incidents:

a. School personnel shall promptly notify the principal or principal's designee of:

1. Any use of aversive procedures.
2. Any prohibited use of mechanical restraint.
3. Any use of physical restraint resulting in observable physical injury to a student.
4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.

b. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(3) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.

(4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

a. The date, time of day, location, duration, and description of the incident and interventions.
b. The events or events that led up to the incident.
c. The nature and extent of any injury to the student.
d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No governing body of a public school unit or employee of a governing body shall discharge, threaten, or otherwise retaliate against another employee of the governing body regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any governing body of a public school unit, its agents or employees, or any educator preparation programs or their agents or employees or to create a criminal offense. (2005-205, s. 2; 2006-264, s. 58; 2011-282, s. 3; 2022-74, s. 7.7(k).)

**§ 115C-391.2. Searches of students.**

(a) Policies adopted by governing bodies of public school units governing searches of a student's person or property shall be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina. All

searches performed by school officials in accordance with the policies shall be executed using methods that are narrowly tailored to be minimally intrusive while investigating the suspected activity.

(b) Each policy adopted by a governing body of a public school unit in accordance with subsection (a) of this section shall require that searches of a student's person are conducted in private by one school official and one adult witness, both of whom shall be the same sex as the student. The policy may provide an exception to this requirement for searches conducted using a walk-through metal detector, handheld wand, or other similar minimally intrusive device designed to detect weapons and regularly used for security scanning. (2023-134, s. 7.76.)

**§ 115C-392. Appeal of disciplinary measures.**

Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c). (1981, c. 423, s. 1.)

**§§ 115C-393 through 115C-397. Reserved for future codification purposes.**