

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 736

Short Title: Amend Law Re: School Discipline. (Public)

Sponsors: Representatives Langdon, Luebke, Daughtry, and Lucas (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Education.

April 7, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-390 and 115C-391 are repealed.

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

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

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school administrators 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 drop-out. 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 section:

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

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

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

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



- 1           (5) Firearm. – Any weapon (including a starter gun) which will or is designed to  
2 or may readily be converted to expel a projectile by the action of an  
3 explosive; the frame or receiver of any such weapon; or any firearm muffler  
4 or firearm silencer. This shall not include an inoperable antique firearm, a  
5 BB gun, stun gun, air rifle, or air pistol. 18 U.S.C. § 921(a)3.
- 6           (6) Long-term suspension. – The exclusion for more than ten school days of a  
7 student from school attendance for disciplinary purposes from the school to  
8 which the student was assigned at the time of the disciplinary action. If the  
9 offense leading to the long-term suspension occurs before the final quarter of  
10 the school year, the exclusion may be no longer than the remainder of the  
11 current school year. If the offense leading to the long-term suspension occurs  
12 during the final quarter of the school year, the exclusion may include a  
13 period up to the remainder of the current school year and the first semester  
14 of the following school year.
- 15           (7) Parent. – Includes a parent, legal guardian, legal custodian, or other  
16 caregiver adult who is acting in the place of a parent and is entitled to enroll  
17 the student in school under Article 25 of this Chapter.
- 18           (8) Powerful explosive. – Any bomb, grenade, mine, dynamite cartridge, or  
19 other similar device with significant explosive or incendiary capacity.
- 20           (9) Principal. – Includes the principal and the principal's designee.
- 21           (10) Short-term suspension. – The exclusion of a student from school attendance  
22 for disciplinary purposes for up to ten school days from the school to which  
23 the student was assigned at the time of the disciplinary action.
- 24           (11) Substantial evidence. – Such relevant evidence as a reasonable person might  
25 accept as adequate to support a conclusion; it is more than a scintilla or  
26 permissible inference.
- 27           (12) Superintendent. – Includes the superintendent and the superintendent's  
28 designee.

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

34 **"§ 115C-390.2. Discipline policies.**

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

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

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

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

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

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

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

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

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

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

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

28 **"§ 115C-390.3. Reasonable force.**

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

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

33           (1) to correct students;

34           (2) to quell a disturbance threatening injury to others;

35           (3) to obtain possession of weapons or other dangerous objects on the person, or  
36 within the control, of a student;

37           (4) for self-defense;

38           (5) for the protection of persons or property; or

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

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

46 **"§ 115C-390.4. Corporal Punishment.**

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

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

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

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

9           **(3)** An appropriate school official shall provide the student's parent with  
10 notification that corporal punishment has been administered, and the official  
11 who administered the corporal punishment shall provide the student's parent  
12 a written explanation of the reasons and the name of the second school  
13 official who was present.

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

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

19           **(6)** Corporal punishment shall not be administered on a student who is a child  
20 with a disability as defined in G.S. 115C-106.3(1) or on a student with a  
21 disability who is covered under section 504 of the federal Rehabilitation Act  
22 of 1973, as amended, 29 U.S.C. § 794, whose parent has stated in writing  
23 that corporal punishment shall not be administered on that student. In school  
24 administrative units where corporal punishment is permitted, parents shall be  
25 given a form to make such an election at the beginning of the school year or  
26 when the student first enters the school during the year. If a parent has not  
27 submitted in writing that corporal punishment shall not be used on the  
28 student, then the form shall be presented to the parent at the first  
29 individualized education program or section 504 plan meeting held during  
30 the school year.

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

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

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

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

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

43           **(5)** The reason for the administration of the corporal punishment for each  
44 student who received corporal punishment.

45 **§ 115C-390.5. Short-term suspension.**

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

49       **(b)** If a student's short-term suspensions accumulate to more than ten days in a semester,  
50 to the extent the principal has not already done so, he or she shall invoke the mechanisms

1 provided for in the applicable Safe Schools Plan adopted pursuant to G.S. 115C-105.47(b)(5)  
2 and (b)(6).

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

4 (1) the opportunity to take textbooks home for the duration of the suspension;

5 (2) upon request, the right to receive all missed assignments and, to the extent  
6 practicable, the materials distributed to students in connection with the  
7 assignment; and

8 (3) the opportunity to take any quarterly, semester, or grading period  
9 examinations missed during the suspension period.

10 **"§ 115C-390.6. Short-term suspension procedures.**

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

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

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

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

34 **"§ 115C-390.7. Long-term suspension.**

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

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

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

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

49 (e) Disciplinary reassignment of a student to a full-time educational program that meets  
50 the academic requirements of the Standard Course of Study as provided in G.S. 115C-81 and  
51 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 student  
12 is alleged to have violated;
- 13 (3) the specific process by which the parent may request a hearing to contest the  
14 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; and
- 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; and
  - 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 non-attorney 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) below.

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; and

47           c. the student's right to appeal the decision and notice of the procedures  
48 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)-(8) apply to students  
27 facing expulsion pursuant to this section, except that the decision to expel a  
28 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, may 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: in that academic  
 6 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 ~~pursuant to G.S. 115C-390.5~~ and may suspend ~~or dismiss pupils~~  
 14 under students G.S. 115C-391, G.S. 115C-390.5. The principal shall assign duties to teachers  
 15 with regard to the general well-being and the medical care of students under G.S. 115C-307  
 16 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 115C-390.10 or who has been suspended from a  
 23 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 115C-390.12, attending conferences  
 46 with school personnel, granting permission for school-related activities,  
 47 granting permission for emergency medical care, receiving and taking  
 48 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.** 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 115C-390.11 and the  
8 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.