

## **Policy ~~5500~~ 440 – Student Code of Conduct and Discipline**

Revised policy and repeal of Policy 5513 (Care of School Property), Policy 5514 (Use of Bicycles), Policy 5515 (Use of Motor Vehicles), Policy 5516 (Student Hazing), Policy 5600 (Student Discipline), Policy 5605 (Discipline for Special Education Students), Policy 5610 (Exclusion from Classroom or School Bus, Suspension, and Expulsion of Students), Policy 5610.02 (In-School Suspension), Policy 5610.03 (Emergency Removal of Students), Policy 5610.04 (Suspension of School Transportation Privileges and Exclusion from School Bus), Policy 5611 (Discipline – Student Due Process Rights), Policy 5630 (Corporal Punishment), Policy 5630.01 (Use of and Restraint and Seclusion with Students), and Policy 5771 (Search and Seizure) effective upon passage

*1<sup>st</sup> reading*      July 11, 2019

*2<sup>nd</sup> reading*

*3<sup>rd</sup> reading*

**Statutory authority**      West Virginia Code 18A-5-1 and 18A-5-1a, West Virginia Board of Education Policy 4373

### **Administrative Guidelines**

(none)

The purpose of this policy is to classify inappropriate student behavior and to identify appropriate and meaningful interventions and consequences for violations. School administrators are encouraged to provide appropriate school-based intervention strategies designed to keep students in school and engaged in instruction. Out-of-school suspension strategies should be used sparingly and shall never deny a student to instructional materials and information necessary to maintain academic progress. Out-of-school suspension is not a recommended consequence or intervention for level 1 behaviors, however, the determination of interventions and consequences is at the discretion of the school administrator for levels 1, 2 and 3. Any out-of-school suspension shall also result in a suspension in relation to extra-curricular activities for the duration of the out-of-school suspension, provided, however, additional consequences for violation of extra-curricular guidelines may be imposed if warranted.

~~When administering interventions and consequences, it is required to determine if a student warrants protection under the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), West Virginia Board of Education (WVBE) policy 2419, Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (Section 504) or Board Policy 5605 – Discipline for Special Education Students.~~

### *Student Code of Conduct*

~~Pursuant to State Board policy 4373,~~ The following behaviors have been identified and defined as those that will disrupt the educational process.

### **Level 1: Minimally Disruptive Behaviors – disrupt the educational process and the orderly operations of the school but do not pose direct danger to self or others**

- A. Cheating - A student will not plagiarize or copy the work of others or break rules to gain advantage in a competitive situation. Interventions for this inappropriate behavior may include academic sanctions in addition to other discipline.
- B. Deceit - A student will not deliberately conceal or misrepresent the truth, deceive another, or cause another to be deceived by false or misleading information.
- C. Disruptive/Disrespectful Conduct - A student will not exhibit behavior that violates classroom/school rules, results in distraction and obstruction of the educational process, or that is discourteous, impolite, bad

mannered, and/or rude. Behavior is considered disruptive and/or disrespectful if a teacher is prevented from starting an activity or lesson, or has to stop instruction to address the disruption.

- D. Failure to Serve Detention - A student will not fail to serve an assigned detention of which students and/or parents/guardians have been notified.
- E. Falsifying Identity - A student will not use another person's identification or give false identification to any school official with intent to deceive school personnel or falsely obtain money or property.
- F. Inappropriate Appearance - A student will not dress or groom in a manner that disrupts the educational process or is detrimental to the health, safety, or welfare of others. A student will not dress in a manner that is distracting or indecent, to the extent that it interferes with the teaching and learning process, including wearing any apparel that displays or promotes behavior and/or items prohibited by this policy.
- G. Inappropriate Display of Affection - Students will not engage in inappropriate displays of intimate affection, such as kissing or embracing.
- H. Inappropriate Language - A student will not orally, in writing, electronically, or with photographs or drawings, use profanity in general context (not directed toward any individual or group).
- I. Possession of Inappropriate Personal Property - A student will not possess personal property that is prohibited by school rules or that is disruptive to teaching and learning.
- J. Skipping Class\* - In accordance with WVBE policy 4110 - Attendance, a student will not fail to report to the school's assigned class or activity without prior permission, knowledge, or excuse by the school or by the parent/guardian.
- K. Tardiness\* - A student will not fail to be in his/her place of instruction at the assigned time without a valid excuse.
- L. Vehicle Parking Violation - A student will not engage in improper parking of a motor vehicle on school property.

**Level 2: Disruptive and Potentially Harmful Behaviors – disrupt the educational process and/or pose potential harm or danger to self and/or others. The behavior is committed willfully but not in a manner that is intended maliciously to cause harm or danger to self and/or others.**

- A. Gang Related Activity - A student will not, by use of violence, force, coercion, threat of violence or gang activity, cause disruption or obstruction to the educational process. Gangs are defined as organized groups of students and/or adults who engage in activities that threaten the safety of the general populace, compromise the general community order, and/or interfere with the County's educational mission. Gang activity includes:
  - 1. wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member of a gang, or otherwise symbolizes support of a gang;
  - 2. using any word, phrase, written symbol or gesture that intentionally identifies a student as a member of a gang, or otherwise symbolizes support of a gang;
  - 3. gathering of two (2) or more persons for purposes of engaging in activities or discussions promoting gangs;
  - 4. recruiting student(s) for gangs.
- B. Habitual Violation of School Rules or Policies - A student will not persistently, as defined by the County, refuse to obey the reasonable and proper orders or directions of school employees, school rules, or policies.
- C. Insubordination - A student will not ignore or refuse to comply with directions or instructions given by school authorities. Refusing to open a book, complete an assignment, work with another student, work in a group, take a test, or do any other class- or school-related activity not listed herein, refusing to leave a hallway when requested by a school staff member, or running away from school staff when told to stop, all constitute insubordination/unruly conduct.
- D. Leaving School without Permission - A student will not leave the school building, campus, or school activity for which the student is enrolled without permission from authorized school personnel.
- E. Physical Fight without Injury - A student will not engage in a physical altercation using blows in an attempt to harm or overpower another person(s).
- F. Possession of Imitation Weapon - A student will not possess any object fashioned to imitate or look like a weapon.

- G. Possession of Knife not Meeting Dangerous Weapon Definition (WV Code 61-7-2) - A student will not possess a knife or knife-like implement under three and one-half (3 1/2) inches in length. WV Code 61-7-2 clarifies that a pocket knife with a blade of three and one-half (3 1/2) inches or less in length, a hunting or fishing knife carried for sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined as a deadly weapon unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.
- H. Profane Language/Obscene Gesture/Indecent Act toward an Employee or a Student - A student will not direct profane language, obscene gestures, or indecent acts towards a school employee or a fellow student. This inappropriate behavior includes but is not limited to verbal, writing, electronic, and/or illustrative communications intended to offend and/or humiliate.
- I. Technology Misuse - A student will not violate the terms of WVBE policy 2460, Safety and Acceptable Use of the Internet by Students and Educators.

**Level 3: Imminently Dangerous, Illegal and/or Aggressive Behaviors – are willfully committed and are known to be illegal and/or harmful to people and/or property. The principal shall address these inappropriate behaviors in accordance with WV Code 18A-5-1a, subsections (b) through (h)**

- A. Battery Against a Student - A student will not unlawfully and intentionally injure another student.
- B. Defacing School Property/Vandalism - A student will not willfully cause defacement of or damage to property of the school or others. Actions such as writing in school textbooks or library books, writing on desks or walls, carving into woodwork, desks, or tables, and spray painting surfaces are acts of defacement. Examples of damage to school property include, but are not limited to, ruining bulletin boards, intentionally clogging the plumbing system, breaking light bulbs or fixtures, and damaging school equipment to the point where repair is necessary.
- C. False Fire Alarm - A student will not knowingly and willingly set off a fire alarm without cause.
- D. Fraud/Forgery - A student will not deceive another or cause another to be deceived by false or misleading information or sign the name of another person in order to obtain anything of value or defraud authorities.
- E. Gambling - A student will not engage in any game of chance or contest wherein money or other items of monetary value are awarded to the winner, except for those games and contests authorized as official school functions.
- F. Hazing - A student will not haze or conspire to engage in the hazing of another person. "Hazing" means to cause any action or situation which recklessly or intentionally endangers the mental or physical health or safety of another person(s) to destroy or remove public or private property for the purpose of initiation or admission into or affiliation with, or as a condition of continued membership in, any activity or organization, including both co-curricular and extra-curricular activities (see County Policy 5516).
- G. Improper or Negligent Operation of a Motor Vehicle - A student will not intentionally or recklessly operate a motor vehicle on the grounds of any educational facility, parking lot, or at any school-sponsored activity, so as to endanger the safety, health, or welfare of others.
- H. Larceny - A student will not, without permission, take another person's property or have another person's property in his/her possession. Property valued at \$1,000 or more will increase this behavior to a Level 4 because it is considered a felony in accordance with WV Code 61-3-13.
- I. Sexual Misconduct - A student will not publicly and indecently expose themselves, display or transmit any drawing or photograph of a sexual nature, or commit an indecent act of a sexual nature on school property, on a school bus or at a school sponsored event.
- J. Threat of Injury/Assault against an Employee or a Student - A student will not threaten (verbal or written) or attempt to injure another student, teacher, administrator, or other school personnel. (This includes assault on a school employee defined in WV Code 61-2-15.)
- K. Trespassing - A student will not enter upon the premises of the County school system property, other than to the location to which the student is assigned, without authorized from proper school authorities.

- L. Harassment/Bullying/Intimidation - A student will not bully/intimidate/harass another student. According to WV Code 18-2C-2, "harassment, intimidate, or bullying" means any intentional gesture, or any intentional electronic, writing, verbal, or physical act, communication, transmission, or threat that:
1. a reasonable person under the circumstances should know will have the effect of harming a student, damaging a student's property, placing a student in reasonable fear of harm to his/her person, and/or placing a student in reasonable fear of damage to his/her property;
  2. is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or emotionally abusive educational environment for a student; or
  3. disrupts or interferes with the orderly operation of the school.

An electronic act, communication, transmission, or threat includes but is not limited to one (1) which is administered via telephone, wireless phone, computer, pager, or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

Acts of harassment, intimidation, or bullying that are reasonably perceived as being motivated by any actual or perceived differentiating characteristic, or by association with a person who has or is perceived to have one (1) or more of these characteristics, shall be reported using the following list: race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity or expression, physical appearance, sexual orientation, mental/physical/developmental/sensory disability, or other characteristic (~~see County Policy 5517.01~~).

When harassment, intimidation, or bullying are of a racial, sexual, and/or religious/ethnic nature, the above definition applies to all cases regardless of whether they involve students, staff, or the public. Detailed definitions related to inappropriate behavior of this nature are as follows:

1. Sexual harassment consists of sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:
  - a. submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
  - b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or
  - c. creating an intimidating, hostile, or offensive employment or educational environment.
2. Amorous relationships between ~~County~~ Board employees and students are prohibited.
3. Sexual harassment may include but is not limited to:
  - a. verbal harassment of a sexual nature or abuse;
  - b. pressure for sexual activity;
  - c. inappropriate or unwelcome patting, pinching, or physical contact;
  - d. sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status;
  - e. behavior, verbal, or written words or symbols directed at an individual because of gender; or
  - f. the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate/culture, or opportunities.
4. Racial harassment consists of physical, verbal, or written conduct relating to an individual's race when the conduct:
  - a. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
  - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

- c. otherwise adversely affects individual's employment or academic opportunities.
- 5. Religious/Ethnic harassment consists of physical, verbal, or written conduct which is related to an individual's religion or ethnic background when the conduct:
  - a. has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
  - b. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
  - c. otherwise adversely affects an individual's employment or academic opportunities.
- 6. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:
  - a. touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;
  - b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
  - c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another;
  - d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another; or
  - e. threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- 7. Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
- 8. Religious/Ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.
- M. Imitation Drugs: Possession, Use, Distribution, or Sale - A student will not possess, use, distribute, or sell any substance that is expressly represented or implied to be a controlled substance or simulate the effect and/or the appearance (color, shape, size, and markings) of a controlled substance.
- N. Inhalant Abuse - A student will not deliberately inhale or sniff common products found in homes, schools, and communities with the purpose of "getting high". The action may be referred to as huffing, sniffing, dusting, and/or bagging.
- O. Possession/Use of Substance Containing Tobacco and/or Nicotine - A student will not unlawfully possess, use, or be under the influence of any substance containing tobacco and/or nicotine or any paraphernalia intended for the manufacture, sale, and/or use of tobacco/nicotine products in any building/area under the control of a County school system, including all activities or events sponsored by the County.

Special considerations according to WV Code 16-9A-4:

- 1. No person (student, staff member, or public guest) shall at any time use or distribute any tobacco or nicotine containing product on school property or during school sponsored events.
- 2. Individuals supervising students off school grounds are prohibited from distributing or using tobacco or nicotine containing products in the presence of students.
- 3. An exception shall be made to allow possession/use of approved nicotine replacement product for tobacco cessation. WVBE policy 2422.8 - Medication Administration must be followed in order for students to use such products on school property or at school sponsored events.

**LEVEL 4: Safe Schools Act Behaviors - are consistent with those addressed in WV Code 18A-5-1a(a) and (b). The following Level 4 behavior definitions are aligned with WV Code 61-6-17, 61-6-24, and 18A-5-1, and in the Gun-Free Schools Act of 1994. These laws require that the principal, Superintendent and County Board address Level 4 behaviors in a specific manner as outlined in WV Code 18A-5-1a and paraphrased in Chapter 3, Sections 4 and 5 of this manual.**

- A. Battery Against a School Employee - A student will not commit a battery by unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee as outlined in WV Code 61-2-15(b).
- B. Felony - A student will not commit an act or engage in conduct that would constitute a felony under the laws of this State if committed by an adult as outlined in WV Code 18A-5-1a(b)(i). Such acts that would constitute a felony include, but are not limited to, arson (WV Code 61-3-1), malicious wounding and unlawful wounding (WV Code 61-2-9), bomb threat (WV Code 61-6-17), sexual assault (WV Code 61-8B-3), terrorist act or false information about a terrorist act, hoax terrorist act (WV Code 61-6-24), and grand larceny (WV Code 61-3-13).
- C. Illegal Substance Related Behaviors - A student will not unlawfully possess, use, be under the influence of, distribute, or sell any substance containing alcohol, over-the-counter drugs, prescription drugs, marijuana, narcotics, any other substance included in the Uniform Controlled Substances Act as described in WV Code 60A-1-101, et seq., or any paraphernalia intended for the manufacture, sale, and/or use of illegal substances in any building/area under the control of a County school system, including all activities or events sponsored by the County. This includes violations of WVBE policy 2422.8 - Medication Administration and instances of prescription drug abuse.
- D. Possession and/or Use of Dangerous Weapon - According to WV Code 18A-5-1a(a), a student will not possess a firearm or deadly weapon as defined in WV Code 61-7-2, on any school bus, on school property, or at any school-sponsored function as defined in WV Code 61-7-11a.

As defined in WV Code 61-7-2, a "dangerous weapon" means any device intended to cause injury or bodily harm, any device used in a threatening manner that could cause injury or bodily harm, or any device that is primarily used for self-protection. Dangerous weapons include, but are not limited to, blackjack, gravity knife, knife, knife-like implement, switchblade knife, nunchaku, metallic or false knuckles, pistol, or revolver. A dangerous weapon may also include the use of a legitimate tool, instrument, or equipment as a weapon include, but not limited to, pens, pencils, compasses, or combs, with the intent to harm another.

Students may be subject to discipline for violation of the Student Code of Conduct even if that conduct occurs on property not owned or controlled by the Board but which is connected to activities sanctioned or managed by the Board or its personnel or incidents that have occurred on property owned or controlled by the Board. Such discipline shall be consistent in all respects with the form and procedure for disciplining students set forth in ~~Policy 5600 – Student Discipline and State Board policy 4373, referenced above~~ this policy.

~~Student conduct shall be governed by the rules and provisions of the Student Code of Conduct. The County shall review this policy pursuant to the requirements of State Board policy for compliance with Federal and State law. The County shall assess the effectiveness of this policy annually. This review shall include:~~

- ~~A. summary data for incidents of inappropriate behavior and intervention responses to incidents;~~
- ~~B. required LSIC reports;~~
- ~~C. trend analysis from school climate/culture survey tools (as available);~~
- ~~D. impact data related to school climate/culture improvement strategies within County and school strategic plans; and impact data from training and staff development offered by the County, RESA and/or WVDE.~~

~~State Board policy 4373~~

### ~~*Student Discipline Consequences*~~

~~The Board of Education recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment that is conducive to learning. The Board believes further, that schools should undertake proactive, preventive approaches to ensure a positive school climate/culture that fosters learning and personal-social development. Schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational~~

~~environment requires a comprehensive plan supported by everyone in the school organization, as well as parents/guardians and the community.~~

~~This policy sets forth unacceptable behaviors that undermine a school's efforts to create a positive school climate/culture. These unacceptable behaviors are prohibited on all school property and school sponsored events. The school system must respond quickly and consistently, in accordance with these regulations, to incidents of these prohibited behaviors in a manner that effectively deters future incidents and affirms respect for individuals.~~

~~All school employees are responsible for providing a safe and supportive school climate/culture. When incidents of inappropriate behavior are witnessed by or reported to school staff and substantiated, the behavior shall be addressed consistently in accordance with the Interventions and Consequences outlined in this policy and with the school implementation plan.~~

The expectations outlined in this policy apply during any education-sponsored event, whether in a classroom, elsewhere on school premises, on a school bus or other vehicle used for a school related event, or at a school-sponsored activity or event, whether or not it is held on school premises, in a building or other property used or operated by the Board, Regional Education Service Agency (RESA), West Virginia Department of Education (WVDE), or in another facility or upon any other property being used by any of these agencies.

These expectations apply to students, staff and public guests respectively as noted within the policy. The consequences of violating these expectations are as follows:

- A. Students will be subject to the interventions and consequences in this policy.
- B. School staff will be subject to disciplinary and/or licensure action in accordance with WV Code 18A-2-8, 18A-3-2a, 18A-3-3 and 18A-3-6 and in Board Policy 3139—Staff Discipline and Policy 4130—Staff Discipline 540.
- C. Public guests in the schools will be subject to removal from school property/events and appropriate notification of local authorities as warranted.
- D. This policy does not supersede any rights granted to special education students by Federal or State law or other West Virginia State Board of Education policies.

Students, parents and spectators will be informed by public address systems that this policy remains in force on evenings, weekends and any other time that school is not in session.

~~For definitions of behaviors see Board Policy 5500—Student Code of Conduct.~~

#### ~~Behaviors/ Interventions and Consequences~~

~~This policy classifies inappropriate student behavior in four (4) levels as specified in State Board policy 4373.~~

School administrators and staff are encouraged to exhaust all available school and community resources to provide appropriate school-based intervention strategies designed to keep students in school and engaged in instruction.

~~Out-of-school suspension strategies should be used sparingly and shall never deny a student access to instructional material and information necessary to maintain their academic progress. Out-of-school suspension is not a recommended consequence or intervention for Level 1 behaviors. However, the determination of interventions and consequences is at the discretion of the school administrator for offenses that are classified as levels 1, 2 and 3 behaviors. It is critical that level 3 and 4 behaviors are to be referred directly to the appropriate administrator because of the serious and/or unlawful nature of the misconduct.~~

~~In order to create consistency among all schools in the application of out-of-school suspension and expulsion as they relate to inter-scholastic extra-curricular activities, any student suspended or expelled from school is also suspended from extra-curricular activities for the duration of the out-of-school suspension or expulsion.~~

~~When administering interventions and consequences, it is required to determine if a student warrants protection under the Individuals with Disabilities in Education Act of 1997 Amendments (IDEA), State Board policy 2419 and/or Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (Section 504), and Board Policy 5605 – Discipline for Special Education Students.~~

~~The following are the offenses as delineated in State Board policy 4373, and the Board shall train staff regarding the following behaviors & appropriate interventions and consequences. The Board determines the following consequences appropriate for behavior at each level as defined above. Any or all of the items listed in each level may be used as appropriate upon finding a student guilty of such behavior.~~

**LEVEL 1: Minimally Disruptive Behaviors** – ~~disrupt the educational process and the orderly operations of the school but do not pose direct danger to self or others~~

~~A. Behaviors~~

~~The following list of behaviors may include any or all of the interventions and consequences listed in item B.~~

- ~~1. Cheating~~
- ~~2. Deceit~~
- ~~3. Disruptive/Disrespectful Conduct~~
- ~~4. Failure to Serve Detention~~
- ~~5. Falsifying Identity~~
- ~~6. Inappropriate Appearance~~
- ~~7. Inappropriate Display of Affection~~
- ~~8. Inappropriate Language~~
- ~~9. Possession of Inappropriate Personal Property~~
- ~~10. Skipping Class\*~~
- ~~11. Tardiness\*~~
- ~~12. Vehicle Parking Violation~~

~~B. Interventions and Consequences~~

~~Any or all of the items listed below may be used for any of the listed behaviors listed in item A.~~

1. Administrator/Student conference or reprimand.
2. Administrator and teacher-parent/guardian conference.
3. Academic sanctions may be used to deny credit for work resulting from cheating; however, previously earned grades/credits may not be reduced.
4. Counseling referrals and conference to support staff or agencies.
5. Daily/Weekly progress reports.
6. Behavioral contracts.
7. Change in the student's class schedule.
8. School service assignment.
9. Confiscation of inappropriate item.
10. Revocation of privileges.
11. Restitution/Restoration.
12. Detention (lunch, before, and/or after school).
13. Denial of participation in class and/or school activities.
14. Immediate exclusion by teacher from the classroom with a recommended duration of one (1) period/subject of the school day for the first exclusion (WV Code 18A-5-1). (see Board Policy 5610)
15. Voluntary weekend detention (State Superintendent's Interpretation of May 12, 2006).



16. In-school suspension.
17. WV Code 18A-5-1(d) prohibits the use of suspension solely for not attending class.
18. While out-of-school suspension is not recommended for Level 1 Inappropriate Behavior, if used at the discretion of the school administrator, it should be limited to a maximum of three ~~(3)~~ days.
19. Law enforcement notification if warranted. Absent a real and immediate threat to school or public safety, incidents involving public order offenses shall be considered school discipline issues to be handled by school officials rather than criminal law issues warranting formal law enforcement intervention.

**LEVEL 2: Disruptive and Potentially Harmful Behaviors** ~~—disrupt the educational process and/or pose potential harm or danger to self and/or others. The behavior is committed willfully but not in a manner that is intended maliciously to cause harm or danger to self and/or others.~~

~~A. Behaviors~~

~~The following list of behaviors may include any or all of the interventions and consequences listed in item B.~~

- ~~1. Gang Related Activity~~
- ~~2. Habitual Violation of School Rules or Policies~~
- ~~3. Insubordination~~
- ~~4. Leaving School Without Permission~~
- ~~5. Physical Fight Without Injury~~
- ~~6. Possession of Imitation Weapon~~
- ~~7. Possession of Knife not Meeting Dangerous Weapon Definition (WV Code 61-7-2)~~
- ~~8. Profane Language/Obscene Gesture/Indecent Act Toward an Employee or a Student~~
- ~~9. Technology Misuse~~

~~B. Interventions and Consequences~~

~~Any or all of the items listed below may be used for any of the listed behaviors listed in item A.~~

1. Administrator/Student conference or reprimand.
2. Administrator and teacher-parent/guardian conference.
3. Referral to support staff or agencies for counseling or other therapeutic services.
4. Daily/Weekly progress reports.
5. Behavioral contracts.
6. Change in the student's class schedule.
7. School service assignment.
8. Confiscation of inappropriate item.
9. Revocation of privileges.
10. Restitution/Restoration.
11. Before and/or after-school detention.
12. Denial of participation in class and/or school activities.
13. Immediate exclusion by teacher from the classroom with a recommended duration of one (1) period/subject of the school day for the first exclusion (WV Code 18A-5-1). ~~(see Board Policy 5610)~~
14. Voluntary weekend detention (State Superintendent's Interpretation of May 12, 2006).
15. In-school suspension.
16. Out-of-school suspension with a recommended maximum of five ~~(5)~~ days ~~(see Board Policy 5610)~~.
17. WV Code 18A-5-1(d) prohibits the use of suspension solely for not attending class.
18. The principal and/or Superintendent may recommended placement in an alternative education program.
19. Expulsion.

20. Law enforcement notification if warranted. Absent a real and immediate threat to school or public safety, incidents involving public order offenses shall be considered school discipline issues to be handled by school officials rather than criminal law issues warranting formal law enforcement intervention.

**LEVEL 3: Imminently Dangerous, Illegal and/or Aggressive Behaviors** —~~are willfully committed and are known to be illegal and/or harmful to people and/or property. The principal shall address these inappropriate behaviors in accordance with WV Code 18A-5-1a, subsection (b) through (h)~~

~~A. Behavior~~

- ~~1. Battery Against a Student~~
- ~~2. Defacing School Property/Vandalism~~
- ~~3. False Fire Alarm~~
- ~~4. Fraud/Forgery~~
- ~~5. Gambling~~
- ~~6. Hazing~~
- ~~7. Improper or Negligent Operation of a Motor Vehicle~~
- ~~8. Larceny~~
- ~~9. Sexual Misconduct~~
- ~~10. Threats of Injury/Assault Against an Employee or a Student~~
- ~~11. Trespassing~~

~~Intervention and Consequences~~

Level 3 behaviors are criminal offenses and therefore warrant formal law enforcement intervention that may result in issuance of a criminal citation, ticket, or summons, filing a delinquency petition, referral to a probation officer, or actual arrest.

In collaboration with law enforcement, the school shall also implement intervention strategies and meaningful consequences that promote and support appropriate behavioral changes. These strategies include but are not limited to:

1. Administrator/Student conference or reprimand.
2. Administrator and teacher-parent/guardian conference.
3. Referral to support staff or agencies for counseling or other therapeutic services.
4. Notification ~~of appropriate~~ to the Department of Health and Human Resources as appropriate.
5. Daily/Weekly progress reports.
6. Behavioral contracts.
7. Change in the student's class schedule.
8. School service assignment.
9. Confiscation of inappropriate item(s).
10. Revocation of privileges.
11. Restitution/Restoration.
12. Before and/or after-school detention.
13. Denial of participation in class and/or school activities.
14. Immediate exclusion by teacher from the classroom with a recommended duration of one (1) period/subject of the school day for the first exclusion (WV Code 18A-5-1).
15. Voluntary weekend detention (State Superintendent's Interpretation of May 12, 2006).
16. In-school suspension.
17. Out-of-school suspension for up to ten (10) days.
18. The principal and/or Superintendent may recommend placement in an alternative education program.
19. Expulsion.

~~B. Behavior~~

~~1. Harassment/Bullying/Intimidation~~

~~Intervention and Consequences~~

Upon receipt of a complaint of racial, sexual and/or religious/ethnic harassment, or violence that has been substantiated through investigation, the appropriate school official shall take action appropriate to the status of the offender (student, staff, or public guest). Such action for students may include all options listed above. Actions for staff may include but not be limited to, warning, suspension, termination, revocation of licensure, and/or notification of law enforcement and/or human services. Actions for public guests may include but not be limited to removal from school property and school-sponsored functions, and/or notification of law enforcement and/or human services.

~~C. Behavior~~

~~1. Imitation Drugs: Possession, Use, Distribution, or Sale~~

~~2. Inhalant Abuse~~

~~3. Possession/Use of Substance Containing Tobacco and/or Nicotine~~

~~Intervention and Consequences~~

The selection of appropriate interventions and consequences for substance abuse must be considered very carefully depending upon the severity of the behavior and potential safety concern for others in the school. The first action must be to conference with the parent/guardian and appropriate law enforcement representatives in an effort to direct the student to appropriate addiction services. Referral to tobacco cessation services/treatment and substance abuse treatment services shall be a priority intervention strategy for these behaviors.

**LEVEL 4: Safe Schools Act Behaviors** ~~–are consistent with those addressed in WV Code 18A-5-1a(a) and (b). The following Level 4 behavior definitions are aligned with WV Code 61-6-17, 61-6-24, and 18A-5-1, and in the Gun-Free Schools Act of 1993. These laws require that the principal, superintendent and County Board address Level 4 behaviors in a specific manner as outlined in WV Code 18A-5-1a.~~

~~A. Behavior~~

~~1. Battery Against a School Employee~~

~~Interventions and Consequences~~

If a student has been suspended for battery on a school employee pursuant to WV Code 18A-5-1a, the principal or designee shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled. Upon such request of the Superintendent by a principal or designee, the Superintendent shall recommend to the Board that the student be expelled. Upon such recommendation to the Board by the Superintendent, the Board shall conduct a hearing in accordance with WV Code 18A-5-1a subsections (e), (f), and (g), to determine if the student committed the alleged violation. If the Board finds that the student did commit the alleged violation, the Board shall expel the student.

~~B. Behavior~~

~~1. Felony~~

~~Interventions and Consequences~~

Pursuant to WV Code 18A-5-1a(b), if a student has been suspended for committing an act or engaging in conduct that would constitute a felony under the laws of this State if committed by an adult on the premises of an educational facility, at a school-sponsored function, or on a school bus, the principal or designee may request that the Superintendent recommend to the Board that the student be expelled. Upon such recommendation by the Superintendent, the Board may hold a hearing in accordance with WV Code 18A-5-1a subsections (e), (f), and (g) to

determine if the student committed the alleged violation. If the Board finds that the student did commit the alleged violation, the Board may expel the student.

~~C.—Behavior~~

~~1.—Possession and/or Use of Dangerous Weapon~~

~~Interventions and Consequences~~

If a student has been suspended for possession of a firearm or deadly weapon pursuant to WV Code 18A-5-1a, the principal or designee shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled. Upon such request of the Superintendent by a principal or designee, the Superintendent shall recommend to the Board that the student be expelled. Upon such recommendation to the Board by the Superintendent, the Board shall conduct a hearing in accordance with WV Code 18A-5-1a subsections (e), (f), (g) to determine if the student committed the alleged violation. If the Board finds that the student did commit the alleged violation, the Board shall expel the student.

~~D.—Behavior~~

~~Illegal Substance Related Behaviors~~

~~Interventions and Consequences~~

A student will not unlawfully possess, use, be under the influence of, distribute, or sell any substance containing alcohol and over-the-counter drugs. Pursuant to State Board policy 4373, illegal substance related behaviors include violations of State Board policy 2422.8 - Medication Administration and instances of prescription drug abuse.

~~1.—Alcohol—~~

A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing, possessed alcohol in an educational facility, on school grounds, a school bus, or at any school-sponsored function pursuant to WV Code 18A-5-1a(c). If a student has been suspended pursuant to WV Code 18A-5-1a(c), the principal may request that the Superintendent recommend to the Board that the student be expelled. Upon such recommendation by the Superintendent, the Board may hold a hearing in accordance with WV Code 18A-5-1a subsections (e), (f), and (g) to determine if the student committed the alleged violation. If the Board finds that the student did commit the alleged violation, the Board may expel the student.

~~2.—Possession of a Controlled Substance~~

Pursuant to WV Code 18A-5-1a(b), if a student has been suspended for unlawfully possessing a controlled substance governed by the Uniform Controlled Substances Act as described in WV Code 60A-1-101 et seq., the principal or designee may request that the Superintendent recommend to the Board that the student be expelled.

~~3.—Sale of a Narcotic Drug~~

If a student has been suspended for the sale of a narcotic drug pursuant to WV Code 18A-5-1a, the principal or designee shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled. Upon such request of the Superintendent by a principal or designee, the Superintendent shall recommend to the Board that the student be expelled. Upon such recommendation to the Board by the Superintendent, the Board shall conduct a hearing in accordance with WV Code 18A-5-1a subsections (e), (f), and (g) to determine if the student committed the alleged violation. If the Board finds that the student did commit the alleged violation, the Board shall expel the student.

~~Nothing in this Student Code of Conduct may be construed to be in conflict with the Federal provisions of the IDEA (Public Law 105-17), or with WV Code 126CSR16, West Virginia Board of Education policy 2419, Regulations for the Education of Exceptional Students.~~

## Procedures for Reporting Complaints of Inappropriate Behavior

All school employees are responsible for assuring a safe and supportive school climate/culture. When incidents of inappropriate behavior are witnessed or known by school staff, the behavior shall be addressed consistently in accordance with West Virginia Board of Education Policy 4373 and this policy.

Students shall report any observed violation of ~~Policy 5500, Student Code of Conduct~~, this policy to a school employee.

All violations of ~~the Student Code of Conduct~~ this policy observed by school employees or reported to them by students or others shall be reported to the principal or designee. Appropriate action shall be taken as specified in this policy by the principal or designee.

Employee failure to report a violation or responding in a manner that does not promote understanding and respect shall be addressed in their evaluation and may subject them to disciplinary action.

All inappropriate behaviors observed by public guests must be reported to a school employee.

Any person who believes s/he has been the victim of a Student Code of Conduct violation or any person with knowledge or belief of conduct which may constitute a violation of the Student Code of Conduct shall report the alleged acts immediately to a teacher, bus operator or principal or designee as appropriate. Nothing in this policy shall prevent any person from reporting violations directly to the County Superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency, or initiating civil action or seeking redress under the State criminal statutes and/or Federal law.

Any student who falsely reports violations of this policy will be subject to Level 3 disciplinary action.

Any administrator or other school personnel who falsely reports violations of this policy will be subject to disciplinary action, up to and including dismissal.

## Procedures for Investigating Allegations of Inappropriate Behavior

The individual(s) designated by the school to investigate, shall upon receipt of a report or complaint immediately undertake or authorize an investigation. The investigation may be conducted by school/school system officials, or by a third party designated by the school system, in accordance with this policy and procedures.

The investigation must, at a minimum, consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator.

When any student is to be interviewed in connection with an investigation pursuant to a level 3 or level 4 violation, a reasonable effort shall be made to contact the student's parent, custodian, or guardian and invite them to be present during such interview, provided such parental notification does not compromise overall school/student safety. Parental notification is encouraged at level 2 and discretionary at level 1.

The principal shall immediately take such reasonable steps as necessary, to protect the complainant, students, teachers, administrators or other personnel pending completion of an investigation of an alleged policy violation.

The investigation shall be completed as soon as practicable but no later than ten (10) school days following the reported violation. The investigator shall make a report to the principal upon completion of the investigation. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the principal or his/her designee.

Upon completion of the investigation, the principal shall determine whether the alleged conduct constitutes a violation of this policy, State West Virginia Board of Education Policy 4373 or WV Code 18A-5-1a.

In determining the appropriate response and/or punishment for a level 1 offense, level 2 offense, level 3 offense or an alcohol or over-the-counter violation pursuant to level 4, the principal, Superintendent or Board should consider the surrounding circumstances, the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

Confidentiality of the filing of complaints, the identity of subjects and witnesses of any complaint and of any action taken as a result of such complaint is essential to the effectiveness of this policy. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. Therefore, the right of confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

#### County Board of Education Action and Reporting

It is essential that schools accurately track incidents of inappropriate behavior in order to utilize data for school climate/culture improvement efforts and to create documentation to support actions taken to intervene in inappropriate behavior patterns.

Upon receipt of a report substantiated by staff observation or by the investigation, the principal, Superintendent or Board will take appropriate action against those found to have violated the Student Code of Conduct. (see Policy 5500 - Student Code of Conduct)

In addition to registering informational incidents of inappropriate behavior at the classroom level on the West Virginia Education Information System (WVEIS), these reports, including the action taken against the violators of the Student Code of Conduct, shall be filed in:

- A. a separate file (paper or electronic) maintained for each student investigation housed at the school.
- B. an "investigations" file (paper or electronic) maintained by the principal.

The principal or Superintendent shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding, in accordance with ~~the Student Code of Conduct~~ this policy. (~~see Policy 5500 - Student Code of Conduct~~)

The principal and/or other authorized staff shall promptly enter all teacher level documentation as well as additional entry for administrative disciplinary actions into WVEIS. The teacher level documentation shall include inappropriate behavior leading to interventions, consequences and/or referrals to the principal. The Superintendent and/or other authorized staff shall promptly enter the data of the Board's action resulting from expulsion hearings WVEIS.

#### Reprisal

Any student who retaliates against any person who reports alleged violations or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such violations shall be in violation of the Student Code of Conduct and a level 3 offense as classified by the Board. An employee who retaliates against any person named above will be subject to disciplinary action up to and including dismissal. Reprisal includes, but is not limited to, any form of intimidation, retaliation or harassment.

#### Right to Alternative Complaint Procedures

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action or seeking redress under the state criminal statutes and/or Federal law.

#### Appeals Procedures

If someone believes the Board has violated the procedural rights set forth in this policy, they may avail themselves of the appeal procedures outlined in ~~WVBE policy 7211—Appeals Procedures for Citizens and Local Board Policy 9135~~ 730. ~~The procedures set forth in policy 7211 are not deemed to be a precondition to seeking relief in some other forum.~~

#### County Partnership Development

The Board may establish county agency and organization partnerships with the purpose of providing the County's schools with additional supports and resources to shape behaviors in safe and supportive schools. These partnerships may be both formal and informal as described in State West Virginia Board of Education Policy 4373. At the County Board level, memoranda of understanding and/or contracts are necessary whenever partner organization representatives interact with students on school property, during the school day or on behalf of the school system. These formal agreements should clearly articulate the types of student interaction that may occur, the roles and responsibilities of all parties involved, procedural operations and resource sharing (i.e., funding, space, staff, and data).

#### County Policy Dissemination and Training

The Board shall develop and implement an ongoing awareness campaign to provide that all students, staff, and parents/guardians understand this Board policy and State West Virginia Board of Education Policy 4373.

The Board shall require that all schools provide appropriate policy training.

This policy shall be made readily available to the public in written and/or electronic format.

The school bus operator shall display the major concepts of State West Virginia Board of Education Policy 4373 as per State West Virginia Board of Education Policy 4336 his/her school bus.

#### County Implementation Plan

The Board shall address within the Student Support Goal of their strategic plan objectives for policy implementation that ensures each school incorporates the following:

- A. Use of pro-active strategies to develop and support positive behavior in students.
- B. Application of data-driven continuous school climate/culture improvement activities that reflect the particular needs of students and staff members to study, learn and work in positive school climate/culture.
- C. Application of appropriate and consistent interventions for all forms of inappropriate behaviors.

To the maximum extent possible, the implementation plan shall be developed collaboratively with input from all stakeholders including, but not limited to parents, business leaders, community organizations and State and local agencies. The plan should articulate and incorporate the partnership supports and resources that are available to schools through the County's formal and informal partnership agreements.

#### County Evaluation of Effectiveness

The County shall review this policy in compliance with Federal and State law and State West Virginia Board of Education Policy 4373 and other applicable State Board policies.

To assess the effectiveness of this policy annually with a review of the following data will be conducted:

- A. summary data for incidents of inappropriate behavior and intervention responses to incidents
- ~~B. require LSIC reports~~
- C. trend analysis from school climate/culture survey tools (as available)

- D. impact data related to school climate/culture improvement strategies within county and school strategic plans, and
- E. impact data from training and staff development offered by the county, ~~RESA~~ and/or WVDE

#### School Partnership Development

Each school will establish community agency and organization partnerships that serve to provide the school with a variety of supports and resources to develop appropriate behaviors in safe and supportive schools. These partnerships may be both formal and informal as described in State West Virginia Board of Education Policy 4373. Formal partnerships between community service agencies must be approved by the Board.

#### School Policy Dissemination and Training

~~To ensure understanding of this policy and the school implementation plan, each school shall develop and implement an ongoing awareness campaign for all students, staff and parents/guardians.~~

~~This policy shall appear in the student and staff handbooks and if no handbook is available, a copy will be distributed to all students, parents, faculty, and staff.~~

~~The County and/or school shall develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.~~

#### School Implementation Plan

Plans for the implementation of State West Virginia Board of Education Policy 4373 and this policy should be included within individual school strategic plans. The implementation plan shall reflect the particular needs of students and staff to study, learn, and work in a positive school climate/culture. To the maximum extent possible, the plan should be developed collaboratively with input from all stakeholders including, but not limited to parents, business leaders, community organizations and State and local agencies. The plan should articulate and incorporate the partnership supports and resources that are available to the school through the County's formal and informal partnership agreements as well as through additional school level partnerships.

At a minimum, schools shall:

- A. establish a leadership team (may be an existing team) to manage the design, monitoring and improvement of school climate/culture;
- B. establish a process to gain school-wide input and commitment to school climate/culture improvement from students, staff, parents and community;
- C. develop school-wide priorities for State West Virginia Board of Education Policy 4373;
- D. analyze school climate/culture data annually;
- E. make data driven improvement decisions based on analysis of consistently tracked student behaviors;
- F. implement school-wide plans that provide appropriate interventions to support and reinforce expected behaviors;
- G. implement programs/practices that promote youth asset development to support expected student behaviors, positive education and health outcomes;
- H. implement comprehensive and effective intervention programs/practices that target identified behaviors that are disruptive to the educational process and that place students at higher risk of poor education and health outcomes;
- I. develop appropriate and reliable referral procedures for intensive intervention that enlist school and community partnerships; and
- J. evaluate school climate/culture improvement processes and revise as needed.

#### School Evaluation of Effectiveness



The school will review data annually to determine the effectiveness of their implementation plan. This data review may include but not be limited to the following outcome and process data sets:

- A. progress toward implementation plan goals and objectives
- B. evidence of school climate/culture improvement efforts
- ~~C. required LSIC reports (WV Code 18-5A-2)~~
- D. trend analysis from school climate/culture survey tools (as available)
- E. summary data for incidents of inappropriate behavior and intervention responses to incidents, and
- F. evaluation data from training and staff development provided by the County, RESA and or WVDE

~~This policy shall be submitted to the State Superintendent of Schools by July 1, 2012. Thereafter, any revision must be submitted to the State Superintendent of Schools.~~

~~State Board policy 4150 and policy 4373~~

### *Care of School Property*

The Board of Education believes that the schools should help students learn to respect property and develop feelings of pride in community institutions.

The Board charges each student with responsibility for the proper care of school property and the school supplies and equipment entrusted to his/her use.

Students who cause damage to school property shall be subject to disciplinary measures, and their parents shall be financially liable for such damage to the extent of the law, except that students eighteen (18)-years of age or older shall also be liable for damage they cause.

The Board authorizes the principal of each school to demand full payment from those responsible for the loss, damage or destruction of school equipment, apparatus, musical instruments, library material, textbooks, and for damage to school buildings. If payment is not forthcoming as demanded, the principal is authorized to seek judicial assistance in obtaining payment.

The Board may report to the appropriate juvenile authorities any student whose damage of school property has been serious or chronic in nature.

~~The Superintendent shall develop administrative guidelines to implement this policy.~~

~~West Virginia Department of Education Policy 1224.1~~

### *Use of Bicycles*

~~The Board of Education regards the use of bicycles for travel to and from school by students as an assumption of responsibility on the part of those students – a responsibility in the care of property, in the observation of safety rules, and in the display of courtesy and consideration toward others.~~

~~The Board will permit the use of bicycles by students in any school approved by the principal in accordance with the administrative guidelines of the Superintendent.~~

~~The Board will not be responsible for bicycles which are lost, stolen, or damaged.~~

### *Use of or Motor Vehicles by Students*

The Board of Education regards the use of motor vehicles or bicycles for travel to and from school by students as an assumption of responsibility on the part of those students - a responsibility in the care of property, in the observation of safety rules, and in the display of courtesy and consideration toward others and an assumption of liability on the part of those students and their parent(s).

The Superintendent shall develop administrative guidelines for the operation and parking of motor vehicles and bicycles by students which shall include the requirement that students are licensed drivers and have adequate liability insurance in the case of motor vehicles and/or do not park improperly on school property in either case.

The Board shall not be responsible for motor vehicles or bicycles which are lost, stolen, or damaged while on school property.

~~West Virginia Department of Education Policy 4373~~

### *Student Hazing*

The Board of Education believes that hazing activities of any type are inconsistent with the educational process and prohibits all such activities at any time in school facilities, on school property, and/or at school functions off school property. No administrator, faculty member, or other Board employee shall encourage, permit, condone, or tolerate any hazing activities. No student shall plan, encourage, or engage, in any hazing.

Hazing shall be defined for purposes of this policy as performing any act or coercing or encouraging another, including the victim, to perform any act of initiation into any class, team, or organization which act, coercion or encouragement recklessly or intentionally endangers the mental or physical health or safety of another person or persons or which causes or creates a substantial risk of destruction or removal of public or private property. Permission, consent, or assumption of risk by an individual subjected to hazing shall not lessen the prohibitions contained in this policy.

Administrators, faculty members, and other employees of the Board shall be alert to possible situations, circumstances, or events which might include hazing. If hazing or planned hazing is discovered, the students involved shall be informed by the discoverer of the prohibitions contained in this policy and shall be ordered to end all hazing activities or planned activities immediately. All hazing incidents shall be reported immediately to the Superintendent. Students, administrators, faculty members, and other employees who fail to abide by this policy may be subject to disciplinary action and may be held personally liable for civil and criminal penalties in accordance with law.

The Superintendent shall distribute this policy to all students and Board employees, and shall incorporate it into building, staff, and student handbooks. It shall also be the subject of discussion at employee staff meetings or staff development programs.

~~West Virginia Department of Education Policy 4373.~~

### *Exclusion from Classroom or School Bus, Suspension, and Expulsion of Students*

The Board of Education recognizes that exclusion from the educational program of the schools, whether by exclusion from a classroom or school bus, out-of-school suspension or expulsion, is the most severe sanction that can be imposed on a student in this County, and one that cannot be imposed without due process. The Board takes very seriously its role in providing a safe, nurturing and orderly learning environment for its students, free from drugs, violence, harassment, and other disruptive and/or inappropriate behavior. Therefore, the provisions of this policy shall be enforced strictly.

No student is to be excluded from a classroom or school bus, suspended out-of-school, or expelled unless his/her behavior represents misconduct as specified in West Virginia State Board of Education policy 4373, and/or the Student Code of Conduct approved by the local Board this policy, and/or the West Virginia Safe Schools Act. ~~The Student Code of Conduct shall specify the procedures to be followed by school officials when implementing student discipline. In addition to the procedural safeguards and definitions set forth in this policy and the student/parent handbook, additional procedures and considerations shall apply to students identified as disabled under the IDEA, ADA, and/or Section 504 of the Rehabilitation Act of 1973. (See Policy 5605—Discipline for Special Education Students)~~

Students may be subject to discipline for violations of West Virginia State Board of Education policy 4373, and/or the Student Code of Conduct approved by the local Board this policy, and/or the West Virginia Safe Schools Act even if that conduct occurs on property not owned or controlled by the Board but where such conduct is materially connected to

activities or incidents that have occurred on property owned or controlled by the Board, or conduct that, regardless of where it occurs, is directed at a Board official or employee, or the property of such official or employee.

For purposes of this policy ~~and the Student Code of Conduct~~, the following shall apply:

#### *Exclusion*

~~A. "Excluded"~~ "Exclusion" shall be the exclusion by a teacher from the classroom or the exclusion by the bus operator from the bus of a student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee.

Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher or bus operator that the student may be readmitted and specifies the specific type of disciplinary action, if any, which was taken. If the principal finds that disciplinary action is warranted, s/he shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus, two ~~(2)~~ times in one ~~(1)~~ semester, and after exhausting all reasonable methods of classroom discipline or bus discipline provided in the school discipline plan or bus discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher or bus operator and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher or bus operator and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior in class persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. If a student has been disciplined two ~~(2)~~ times in one ~~(1)~~ semester by a school bus operator, a conference to discuss the student's disruptive behavior patterns shall be conducted. During the conference, the parent/guardian shall be present with the school bus operator and the principal/designee. If the inappropriate behavior persists, the student may have his/her rights to transportation services suspended for the remainder of the year, to the extent feasible.

#### *Suspension*

~~B. "Suspension"~~ shall be the temporary exclusion of a student by the principal, assistant principal, or designee of the principal from the Board's instructional program and property for a period not to exceed ten ~~(10)~~ school days. Suspension may extend beyond the current school year, if at the time a suspension is imposed, fewer than ten ~~(10)~~ days remain in the school year. The principal, assistant principal, or the principal's designee may apply any or all of the period of suspension to the following year. The procedures for suspension are set forth in ~~the Student Code of Conduct and Board Policy 5611—Discipline—below under~~ Student Due Process Rights. A suspension of more than ten ~~(10)~~ days requires a formal hearing before the ~~County Board of Education. Procedures the school and County must follow when processing suspensions of more than ten (10) days are~~ as outlined in WV Code 18A-5-1 and WV Code 18A-5-1a.

A student may not participate in any school-sponsored activities, or be permitted on school grounds during the period of suspension without the written permission of school officials.

The following offenses require the mandatory suspension of the student by the principal or designee, from school, or from transportation to or from the school on any school bus, after an informal hearing pursuant to subsection (d) of the WV Code 18A-5-1a.

##### 1. Felony

Committing an act or engaging in conduct that would constitute a felony under the laws of this State if committed by an adult; on the premises of an educational facility, at a school-sponsored function, or on a school bus. Such acts that would constitute a felony include, but are not limited to, arson, malicious wounding and unlawful wounding, bomb threat, sexual assault, terrorist act or false information about a terrorist act, hoax terrorist act, burglary, robbery and

grand larceny. The principal or designee may request that the Superintendent recommend to the Board that the student be expelled.

## 2. Possession of Controlled Substance

Unlawfully possessing a controlled substance governed by the Uniform Controlled Substances Act as described in WV Code 60A-1-101 et seq. The principal or designee may request that the Superintendent recommend to the Board that the student be expelled.

## 3. Battery

Battery on a school employee. The principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

## 4. Possession of a Firearm or Deadly Weapon

Possession of a firearm or deadly weapon pursuant to WV Code 18A-5-1a, the principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

## 5. Sale of a Narcotic Drug

Sale of a narcotic drug pursuant to WV Code 18A-5-1a, the principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

## *Expulsion*

~~€~~ "Expulsion" shall be the exclusion of a student from the schools of this County for one ~~(1)~~ school year, meaning two ~~(2)~~ semesters, or a calendar year, meaning twelve ~~(12)~~ consecutive months. Only the Board may expel a student. The procedures for expulsion are set forth in ~~WV Code 18A-5-1, the Student Code of Conduct and Board Policy 5611—Discipline—below under~~ Student Due Process Rights.

Upon the recommendation of the principal, the Superintendent may recommend to the Board that a student be expelled for one ~~(1)~~ school year if the student:

1. threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel;
2. willfully disobeyed a teacher;
3. possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function;
4. used profane language directed at a school employee or student; intentionally defaced any school property;
5. participated in any physical altercation with another person while under the authority of school personnel;
6. committed an act or engaged in conduct that would constitute a felony under the laws of West Virginia if committed by an adult, such acts that would constitute a felony include, but are not limited to, arson, malicious wounding and unlawful wounding, bomb threat, sexual assault, terrorist act or false information about a terrorist act, hoax terrorist act burglary, robbery, and grand larceny;
7. unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances act as described in WV Code 60A-1-101 et seq.; or
8. habitually violated school rules or policies.

The following offenses require the mandatory recommendation for expulsion of the student by the Superintendent, and if after the Board hearing, the mandatory twelve ~~(12)~~ month calendar month expulsion by the Board if the Board finds that the student did commit the alleged violation:

1. battery of school employee
2. possession of a firearm or deadly weapon
3. sale of a narcotic drug

The Superintendent may lessen the mandatory one ~~(1)~~ year period of expulsion for those offenses above if the circumstances of the student's case demonstrably warrant such a reduction. Upon the reduction of the period of expulsion, the Superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrants the reduction of the period of expulsion. The Superintendent shall submit the statement to the Board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The Superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve ~~(12)~~ month expulsion:

- A. the extent of the student's malicious intent;
- B. the outcome of the student's misconduct;
- C. the student's past behavior history;
- D. the likelihood of the student's repeated misconduct; and
- E. if applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court.

#### *Expulsion of a Dangerous Student*

A "dangerous student" means a student who is substantially likely to cause serious bodily injury to himself/herself or another individual within that student's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the student, and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense. The Board may attempt to establish the student as a "dangerous student" at a hearing to determine the expulsion of the student. In a notice to the parent/guardian, the Board shall state clearly whether the Board will attempt to establish the student as a "dangerous student" and will include any evidence to support its claim in this notice of the hearing date and time.

If the Board did not intend prior to a hearing to assert a dangerous student claim, did not notify the student prior to the hearing that such a determination, would be considered and, if the Board determines through the course of the hearing that the student may be a dangerous student, it shall schedule a second hearing within ten (10) days to decide the issue. The hearing may be postponed for good cause shown by the student, but s/he remains under suspension until after the hearing.

If the Board expels a student, and finds that the student is a dangerous student, it may refuse to provide alternative education. When the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three ~~(3)~~ months after the refusal by the Board to provide alternative education to re-examine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. A hearing for the purpose of re-examining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three (3) months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the Board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearing that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

The Board shall provide for an alternative education for a student that has been expelled from school, except it may refuse an alternative education for a "dangerous" student.

The Superintendent shall initiate expulsion proceedings against a student who has committed an act that warrants expulsion under Board policy even if the student withdraws from school prior to the hearing or decision to impose the expulsion. The expulsion must be imposed for the same duration it would have been had the student remained enrolled.

A student's application for enrollment may be denied if the student is, at the time of application, expelled from any public or private school in another state or county in West Virginia. This does not apply to a student domiciled in the County.

Nothing in this policy shall be interpreted to violate the Individuals with Disabilities Education Act, The Americans with Disabilities Education Act, or West Virginia State Board of Education policy 2419.

~~West Virginia State Board of Education policy 2419, policy 4336, and policy 4373~~

~~WV Code 18A-1-1, 18A-5-1a~~

~~18 U.S.C. Section 921~~

~~20 U.S.C. 3351, 7151, 8921~~

#### *Suspension of School Transportation Privileges and Exclusion from School Bus*

Students riding on a school bus or other vehicles approved by the Board of Education are under the authority of and directly responsible to the school bus/school vehicle operator ("operator"). The operator has the authority to enforce the established regulations for school bus/vehicle conduct and the duty to report student violations of ~~the Student Code of Conduct~~ this policy. Each operator shall immediately notify the school principal when any transported student has violated State West Virginia Board of Education Policy 4373. Written notification to the principal shall be completed by the operator as soon as possible. If the principal finds that disciplinary action is warranted, s/he shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s).

A student may be disciplined for any violation of established rules/regulations for proper school bus conduct and/or for violations of ~~the Expected Behavior in Safe and Supportive Schools (State West Virginia Board of Education Policy 4373)~~ occurring on the school bus/vehicle. Discipline for such misconduct shall be consistent with the provisions of ~~the Student Code of Conduct~~ this policy. A student's school bus/vehicle riding privileges may be suspended by the principal.

#### *Exclusion from bus by bus operator*

An operator may exclude from the school bus/vehicle any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee.

Once a student is excluded from the school bus/school vehicle, the student shall be placed under the control of the principal of the school or a designee. The principal or designee shall take appropriate disciplinary action and notify the parent/guardian of the student in writing of the disciplinary action taken.

The student to be excluded from the bus shall be notified by the operator. The parents/guardians of the student shall be notified by the school principal/designee.

All students shall be transported until the parent/guardian has been properly notified about the exclusion.

An excluded student shall be readmitted to the school bus only after the principal/designee provides a written certification to the operator that the student may be readmitted and specifies the type of disciplinary action, if any, that was taken. The length of the student's exclusion from the school bus shall be determined by the principal/designee in his/her sole and exclusive judgment. Parents/Guardians will also be notified by the school principal/designee when their son/daughter may resume riding the school bus.

When a student is excluded from a school bus two (2) times in one (1) semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the school bus only after the principal, the operator and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the operator and the principal agree on a course

of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the operator's request, the principal may, to the extent feasible, transfer the student to another bus.

Each operator shall display the following in his/her school bus:

- A. All students enrolled in West Virginia public schools shall behave in a manner that promotes a school environment that is nurturing, orderly, safe and conducive to learning and personal-social development.
- B. Students shall help create an atmosphere free from bullying, intimidation and harassment.
- C. Students shall demonstrate honesty and trustworthiness.
- D. Students shall treat others with respect, deal peacefully with anger, use good manners and be considerate of the feelings of others.
- E. Students shall demonstrate responsibility, use self-control and be self-disciplined.
- F. Students shall demonstrate fairness, play by the rules, and will not take advantage of others.
- G. Students shall demonstrate compassion and caring.
- H. Students shall demonstrate good citizenship by obeying laws and rules, respecting authority, and by cooperating with others.

~~State Board policy 4336 and policy 4373~~

~~WV Code 18A-5-1~~

#### *In-School Suspension*

~~It is the purpose of this policy to allow for an alternative to out-of-school suspension in response to student misconduct.~~  
The availability of an in-school suspension program is dependent upon the financial ability of the Board of Education to support such a program.

In-school suspension will only be offered at the discretion of the principal for offenses found in the ~~Roane County Schools~~ this Student Code of Conduct.

The Superintendent ~~is to establish~~ shall develop administrative guidelines for the proper operation of an in-school suspension program. As long as the in-school suspension alternatives are served entirely within the school setting, they will not require any notice, hearing or appeal rights for the student and/or his/her parents/guardians beyond any notice, hearing, or appeal rights provided under any disciplinary action.

~~West Virginia State Board of Education Policy 4373~~

#### *Emergency Removal of Students*

If a student's presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process taking place either in a classroom or elsewhere on school premises, then the Superintendent, principal or assistant principal may remove the student from curricular activities or from the school premises. A teacher may remove the student from curricular activities under the teacher's supervision, but not from the premises. If a teacher makes an emergency removal, the teacher will notify a building administrator of the circumstances surrounding the removal in writing, as soon as practicable. The principal may suspend the student and/or recommend expulsion pursuant to the provisions of this policy. ~~A hearing shall be heard as soon as practicable after the suspension.~~

~~Telephonic notice, if possible, of the informal hearing and the reason for the removal will be given to the student and his/her parent(s) guardian(s) or custodian(s) as soon as practicable prior to the hearing. At the commencement of the informal hearing, the principal shall inquire of the student as to whether s/he admits or denies the charges. If the student does not admit the charges, s/he shall be given an explanation of the evidence possessed by the principal and an opportunity to present his/her version of the occurrence. At the conclusion of the hearing or upon the failure of the~~

noticed student to appear, the principal may suspend the student for a maximum of ten (10) school days, including the time prior to the hearing for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the County Superintendent and to the faculty senate of the school at the next meeting after the suspension. If the student is recommended for expulsion by the principal, the County Board shall initiate expulsion proceedings pursuant to this policy, cause a written notice which states the charges and the recommended disposition to be served upon the student and his/her parent(s), guardian(s) or custodian(s). The notice shall state clearly whether the Board will attempt at hearing to establish the student as a dangerous student. A "dangerous student" means a student who is substantially likely to cause serious bodily injury to himself/herself or another individual within that student's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the student, and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense. The notice also shall include any evidence upon which the Board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, the right to be represented by counsel, the right to call his/her own witnesses to verify his/her version of the incident and that the student may confront and cross-examine witnesses supporting the charge against him/her. The date shall be within the ten (10) day period of suspension imposed by the principal.

The County Board shall hold the scheduled hearing to determine if the student should be reinstated or should be expelled from school. If the County Board determines that the student should or must be expelled from school, it may also determine whether the student is a dangerous student. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause by the student but s/he shall remain under suspension until after the hearing. At the conclusion of the hearing the County Board shall either:

- A. \_\_\_\_\_ order the student reinstated immediately or at the end of his/her initial suspension;
- B. \_\_\_\_\_ suspend the student for a further designated number of days; or
- C. \_\_\_\_\_ expel the student from the public schools of the County.

If the Board did not intend prior to a hearing to assert a dangerous student claim, did not notify the student prior to the hearing that such a determination, would be considered and, if the Board determines through the course of the hearing that the student may be a dangerous student, it shall schedule a second hearing within ten (10) days to decide the issue. The hearing may be postponed for good cause shown by the student, but s/he remains under suspension until after the hearing.

If the Board expels a student, and finds that the student is a dangerous student, it may refuse to provide alternative education. When the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three (3) months after the refusal by the Board to provide alternative education to re-examine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. A hearing for the purpose of re-examining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three (3) months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the Board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearing that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

The Superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his/her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a County Board. Upon the written request of any other party, the Superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a County Board. If



~~the authority to subpoena is granted, the Superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of WV Code (29A-5-1).~~

~~Any hearing conducted pursuant to this subsection may be postponed:~~

- ~~A. ——— for good cause shown by the student;~~
- ~~B. ——— when proceedings to compel a subpoenaed witness to appear must be instituted; or~~
- ~~C. ——— when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness.~~

~~A student remains under suspension until after the hearing in any case where a postponement occurs.~~

~~Students may be expelled for a period not to exceed one (1) school year; except that if a student is determined to have committed a battery against a school employee including a student teacher, possessed any firearm or a deadly weapon on school property or at any school sponsored function, or sold a narcotic drug the student shall be expelled for a period of not less than twelve (12) consecutive months. The County Superintendent may lessen the mandatory period of twelve (12) consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant. Upon the reduction of the period of expulsion, the County Superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The County Superintendent shall submit the statement to the County Board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The County Superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve (12) month expulsion the:~~

- ~~A. ——— extent of the student's malicious intent;~~
- ~~B. ——— outcome of the student's misconduct;~~
- ~~C. ——— student's past behavior history; and~~
- ~~D. ——— likelihood the student's repeated misconduct.~~

~~Nothing in this policy may be construed to be in conflict with the Federal provisions of the Individuals with Disabilities Education Act of 1990 (P.L. 101-476).~~

~~In an emergency removal, a student can be kept from class until the matter of the misconduct is disposed of either by reinstatement, suspension or expulsion.~~

~~18A-1-1, §18A-5-1, §18A-5-1a, Code of West Virginia~~

~~WV State Board of Education Policy 4373~~

### *Discipline for Special Education Students*

~~According to W. Va. Code 18A-5-1, county boards of education are required to incorporate and implement a preventive discipline program. This may include the Responsible Students through School-Wide Positive Behavior Support Program (RS-SWPBS). If a student's behavior, regardless of the student's disability, impedes his/her learning or the learning of others, the IEP Team shall consider the use of strategies, including positive behavioral supports and interventions, to address the behavior. If the IEP Team determines that such services or supports are needed, they shall be included in the IEP and be implemented.~~

~~Students with disabilities who are subject to disciplinary actions by the County are entitled to all of the due process rights afforded students without disabilities under W. Va. Code 18A-5-1a. In addition to these rights, IDEA 2004 provides added procedure and safeguards to a student with a disability whom the County is considering removing from his/her current educational placement for disciplinary reasons. When determining whether a change of placement is~~

appropriate, the County shall consider any unique circumstances on a case-by-case basis. These procedures do not prevent County personnel from maintaining a safe environment conducive to learning that is critical for all students.

#### Disciplinary Change of Placement

A disciplinary change of placement is a removal from the student's current educational placement for more than ten ~~(10)~~ consecutive school days or series of removals that constitute a pattern. A pattern is established because the series of removals total more than ten ~~(10)~~ cumulative school days in a school year, that student's behavior is substantially similar to his/her behavior in the previous incident that resulted in the series of removals, and additional factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another are present. Whether a pattern of removals constitutes a change of placement will be determined on a case-by-case basis by school personnel. These determinations are subject to due process and judicial review.

In determining the number of cumulative days a student has been removed, consideration must be given to days of removal due to in-school suspension, partial day suspensions or bus suspensions. An in-school suspension is not considered as a day of suspension for purposes of this policy as long as the student is afforded the opportunity to continue to participate in the general curriculum, continue to receive services specified on the student's IEP and continue to participate with students without disabilities to the extent they would have in their current placement. Portions of a school day that a student has been suspended may be considered as removal in regard to determining whether there is a pattern of removals as defined in the preceding paragraph.

Whether a bus suspension counts as a day of suspension depends on whether the bus transportation is a part of the student's IEP. If bus transportation is a part of the student's IEP, a bus suspension must be treated as a suspension under this policy unless the County provides the bus service in some other way, because transportation is necessary for the student to obtain access to the location where services will be delivered. If bus transportation is not a part of the student's IEP, a bus suspension is not a suspension under this policy. In these cases, the student and the student's parent have the same obligation to get the student to and from school as a student without disabilities who has been suspended from the bus. However, the County should consider whether the behavior on the bus is similar to behavior in a classroom that is addressed in an IEP and whether the student's behavior on the bus should be addressed in the IEP or a behavior intervention plan.

The following sections delineate the actions a County shall take when the removal is or is not a change of placement.

#### Section 1 – County Actions When Removals Are Not a Change of Placement

School personnel may remove any student, including a student with a disability, for up to ten (10) consecutive school days in a school year if the student violates the County's code of student conduct. During the initial ten (10) cumulative days of removal, services need not be provided to a student with a disability unless services are provided to students without disabilities. These removals must be applied to the same extent as they are applied to students without disabilities.

School personnel may remove a student with a disability for up to ten ~~(10)~~ consecutive school days per incident for separate acts of misconduct in a school year as long as the removals do not constitute a pattern resulting in a change of placement.

For each subsequent removal beyond ten ~~(10)~~ cumulative school days in a year that is not a change in placement, school personnel in consultation with at least one ~~(1)~~ of the student's teachers must determine the extent to which services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

#### County Actions When Considering a Disciplinary Change of Placement

A manifestation determination is required if the County is considering removing a student with a disability from his/her educational placement for disciplinary reasons beyond ten ~~(10)~~ consecutive school days or more than ten ~~(10)~~

cumulative school days when the County deems that a pattern exists. A manifestation determination is defined as a review of the relationship between the student's disability and the behavior subject to disciplinary action. Whenever considering disciplinary action that will result in a change of placement, the County shall:

- A. provide same day written notice of the removal and the procedural safeguards notice to the parent/adult student of the disciplinary action to be taken; and
- B. within ten ~~(10)~~ school days of any decision to change placement, meet with the parent and relevant members of the IEP Team (as determined by the parent and County) to conduct a manifestation determination by reviewing all pertinent information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:
  - 1. if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or
  - 2. if the conduct in question was the direct result of the County's failure to implement the IEP.

If the County, the parent and relevant members of the IEP Team determine that either of the conditions described in 1. and 2. were met, the conduct must be determined to be a manifestation of the student's disability, and the County shall take immediate steps to remedy those deficiencies.

#### County Actions When Conduct is Determined to Be a Manifestation of the Student's Disability

The IEP Team shall:

- A. conduct a FBA and develop a BIP if one has not been completed; or
- B. review the existing BIP and revise as needed to address the current behavior(s); and
- C. return the student to the placement from which the student was removed unless the parent and the County agree to a change of placement as part of the modification of the BIP as determined by the IEP Team.

#### County Actions When Conduct is Determined Not to Be a Manifestation of the Student's Disability

- A. determine appropriate disciplinary action, which may include relevant disciplinary procedures applicable to students without disabilities;
- B. convene IEP Team to develop an IEP that specifies the educational services to be provided to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and
- C. provide, as appropriate, a functional behavioral assessment and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

#### District Actions When a Behavior Violation Involves Weapons, Illegal Drugs or Serious Bodily Injury

Regardless of whether the behavior is a manifestation of the student's disability, the County may remove a student to an interim alternative educational setting (IAES) for not more than forty-five (45) school days, if the student:

- A. carries or possesses a weapon at school, on school premises or at a school function; or
- B. knowingly possesses, carries, or uses illegal drugs or sells or solicits the sale of a controlled substance, while on school premises or at a school function; or
- C. inflicts serious bodily harm to another person at school, on school premises, or at a school function.

The County shall use the following definitions when removing students because of the above special circumstances:

- A. **Weapon** – a weapon, device, instrument, material or substance animate, or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such a term does NOT include a pocket knife with a blade of less than two and one-half (2 1/2) inches in length (18 U.S.C. Section 930 (g)(s)).
- B. **Illegal drug** – a controlled substance, a drug or other substance identified under schedules I, II, III, IV or V in Section 202(c) of the Controlled Substance Act (21 U.S.C. 812 (c)).

An illegal drug does not include a controlled substance that is legally possessed or used under the supervision of a licensed health care professional or used under any other authority under that Act or under any other provision of Federal law.

C. Serious bodily harm – a bodily injury that involves:

1. substantial risk of death;
2. extreme physical pain;
3. protracted and obvious disfigurement; or
4. protracted loss or impairment of the function of the bodily member, organ or mental faculty.

The IAES must enable the student to receive educational services and participate in the general education curriculum, (although in another setting) and to progress toward meeting the goals set out in the student's IEP. As appropriate, the setting must include a functional behavioral assessment and behavioral intervention services and modifications to address the behavior violation so that it does not recur.

#### Hearing Officer Actions Resulting in a Change of Placement

Through an expedited due process hearing, County administrators may ask a WVDE hearing officer to remove a student with a disability to an appropriate IAES if the County believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others. The hearing officer may order a change of placement to an appropriate IAES for not more than forty-five (45) school days. This procedure may be repeated if the County believes the student would be dangerous if returned to the original placement.

#### FAPE Requirements in an Interim Alternate Educational Setting (IAES)

If the student's placement will change to an IAES, the IEP Team shall create/select an IAES that enables the student to:

- A. continue to receive education services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in his/her IEP; and
- B. receive, as appropriate, an FBA and behavioral intervention services to address the behavior violation so that it does not recur.

#### Additional Disciplinary Considerations

A. Requesting an Expedited Hearing

An expedited hearing is a hearing conducted by a WVDE special education due process hearing officer, that occurs within twenty (20) school days of the request with a decision rendered within ten (10) school days of the hearing.

An expedited due process hearing may be requested if:

1. the parent/adult student disagrees with:
  - a. the manifestation determination decision; or
  - b. any decisions of the IEP Team regarding a change of placement during a disciplinary proceeding; or
  - c. the decision regarding the student's placement in an IAES.
2. the County believes that maintaining the current placement is substantially likely to result in injury to the student or to others.

A decision of a hearing officer in an expedited hearing may be appealed to Federal or State District court.

When a request for an expedited hearing has been made, the student shall remain in the IAES pending the decision of the hearing officer or until the expiration of the disciplinary removal, whichever occurs first unless the parent and the State Education Agency (SEA) or County agree otherwise.

~~See Chapter 11 of the West Virginia Board of Education Policy 2419 for an explanation of regular and expedited due process hearing rights and procedures.~~

B. Parent/Adult Student Request for Evaluation of a Disciplined Student

If a request for an evaluation of a student who is not currently eligible for special education is made during the period in which the student is subject to disciplinary measures, the evaluation must be conducted in an expedited manner. Pending the results of the evaluation, the student remains in the educational placement determined by County officials, which can include suspension or expulsion without educational services if services cease for students without disabilities.

1. If the student is subsequently determined eligible for special education, the County will immediately:
  - a. convene an IEP Team meeting to develop an IEP.
  - b. conduct a manifestation determination.
    - 1) If the behavior was caused by or had a direct and substantial relationship to the student's disability, the disciplinary action shall be set aside, and the student shall be provided appropriate educational services in the LRE.
    - 2) If the behavior was not caused by or did not have a direct and substantial relationship to the student's disability, the student is subject to the disciplinary action as determined by school personnel, but s/he is still entitled to receive FAPE, which must be defined by the IEP Team. Educational services cannot cease for more than ten (10) school days in a school year. Educational services shall be provided to the extent necessary to allow the student with a disability access to the general education curriculum and the opportunity to advance toward achieving the goals set out in his/her IEP.
2. If the evaluation team determines that the student is not a student with a disability and is not eligible for special education, s/he will be subject to the same disciplinary actions as all other students without disabilities who engage in comparable behaviors.

C. Protections for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and related services and who has violated any rule or code of conduct of the County may assert the protections of the IDEA 2004 if the County had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

1. Basis of knowledge

With limited exceptions, which are described in item 2. Of this section, the County will be deemed to have knowledge that an individual is a student with a disability if one or more of the following is true:

- a. The parent/adult student has expressed concern to County professional personnel that results in written documentation that the student may need special education and related services.
- b. The parent/adult student has requested in writing that the student be evaluated for special education.
- c. The student's teacher or other County personnel have expressed concern about a pattern of behavior demonstrated by the student directly to the director of special education or to other County supervisory personnel in accordance with the County's established child find system and referral process.

2. No basis of knowledge

The County will be deemed not to have knowledge that an individual is a student with a disability if one or more of the following is true:

- a. An evaluation was conducted and a determination was made that the student did not have a disability
- b. The parent/adult student did not give written consent for an evaluation; or
- c. The parent/adult student refused special education services.

If the County did not have a basis of knowledge that a student was a student with a disability prior to taking disciplinary measures, the student is subjected to the same disciplinary measures applied to all other students who engage in comparable behaviors.

#### D. Referrals to and Action by Law Enforcement and Judicial Authorities

The County may report a crime committed by a student with a disability to appropriate authorities. The IDEA 2004 does not prevent State law enforcement or judicial authorities from exercising their responsibilities, with regard to the application of Federal and State law, for crimes committed by a student with a disability.

If a student brings a firearm to school, law enforcement must be contacted pursuant to the Gun-Free Schools Act.

If the County reports a crime, it will ensure that copies of the special education and disciplinary records of the student are provided to the appropriate law enforcement authorities for their consideration, to the extent the release of records is permitted by the FERPA and WV Board of Education Policy 4350. Generally, the release of records requires parent or adult student consent.

#### E. Transfer of Discipline Records

W. Va. Code 18A-5-1a requires that whenever a student transfers to a new school in West Virginia, the principal of the school from which the student transfers shall provide written record of any disciplinary action taken against the student to the principal of the school to which the student transfers. ~~WV Board of Education Policy 4350 describes the procedures and record requirements for transfer of records between WV schools.~~

#### *Corporal Punishment*

While recognizing that students may require disciplinary action in various forms, the Board of Education cannot condone the use of unreasonable force and fear as an appropriate procedure in student discipline.

~~Professional staff should not find it necessary to resort to physical force or violence to compel obedience. If all other means fail, staff members may always resort to removal of the student from the classroom or school through suspension or expulsion procedures.~~

No physical punishment of any kind can be inflicted upon a student. This includes:

- A. hitting or striking a student on their physical person;
- B. requiring physical activity as a punishment (this does not apply to physical activity within the structure and context of extracurricular activities);
- C. use of noxious stimuli (e.g. pepper spray), denial of food or water or other negative physical actions to control behavior; and
- D. seclusion – a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior. (See Policy 5630.01 – Seclusion and Restraint for appropriate methods of seclusion.)

Professional staff as well as service personnel staff, within the scope of their employment, may use and apply reasonable force and restraint to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon or within the control of the student, in self-defense, or for the protection of persons or property. Staff shall be trained to utilize restraint methods.

Corporal punishment shall not be permitted. If any employee threatens to inflict, inflicts, or causes to be inflicted unnecessary, unreasonable, irrational, or inappropriate force upon a student, s/he may be subject to discipline by this Board and possibly charges of child abuse as well. This prohibition applies as well to volunteers and those with whom the County contracts for services.

~~The Board shall adopt policies providing for the training of school personnel in alternatives to corporal punishment and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. The Board shall provide for the incorporation and implementation in the schools of a preventive discipline program which may include the responsible student program and a student involvement program which may include the peer mediation program. The Board shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The Board may also establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision-making for students and any other program related to preventive discipline.~~

~~The Superintendent shall provide administrative guidelines which shall include a list of alternatives to corporal punishment.~~

~~State Board policy 4373~~

~~WV Code 18A-5-1(e)~~

#### *Use of ~~and~~ Restraint and Seclusion with Students*

Definitions:

Restraint - the use of physical force to significantly restrict the free movement of all or a portion of a student's body.

Seclusion - a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.

Emergency - a situation in which a student's behavior poses a threat of imminent, serious physical harm to the student or others or serious property destruction.

It is the policy of the Board of Education to allow reasonable force to be used to restrain a student from hurting himself/herself or any other person or property. All students, including students with disabilities, must be treated with dignity and respect. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the students and others. When the use of physical restraint is necessary, a school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations:

- A. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited.
- B. Restraint shall be discontinued at the point at which the emergency no longer exists.
- C. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
- D. Restraint shall not deprive the student of basic human necessities.

#### *Use of Physical or Mechanical Restraints*

Appropriate (intended use) utilization of mechanical restraints such as seat belts or feeding tables when applied for their intended purpose is not prohibited; however, the application of mechanical restraint is prohibited as an intervention or consequence for inappropriate behavior.

#### *Mandatory Training for Staff*

School employees and/or independent contractors who, as determined by the principal, may need to use restraint shall be provided training according to the following requirements:

- A. A core team of personnel in each school must be trained annually in the use of a nationally recognized restraint process. The team must include an administrator or designee and any general or special education personnel likely to use restraint.
- B. Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within thirty (30) days following the use of restraint if the principal determines that there is a reasonable likelihood that the situation leading to the use of restraint will reoccur.
- C. Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
- D. All trained personnel shall also receive instruction in current professionally accepted practices and standards regarding behavior interventions and supports.

#### Documentation and Reporting

Comprehensive documentation and immediate notification on use of restraint is required. In a case in which restraint is used, school employees, volunteers and/or independent contractors shall implement the following documentation requirements:

- A. ~~Time Requirement:~~ Immediately following the use of restraint (within one (1) hour),  
~~Documentation/Notification:~~ The principal or designee must be provided verbal and written notification that restraint was used on a given student with a description of the restraint process used.
- B. ~~Time Requirement:~~ On the same day that the restraint occurred,  
~~Documentation/Notification:~~ a good faith effort shall be made to verbally notify the parents/guardians regarding the use of restraint.
- C. ~~Time Requirement:~~ Within one ~~(1)~~ school day,  
~~Documentation/Notification:~~ written notification of the use of restraint must be placed in the mail or otherwise provided to the parent/guardian.
- D. ~~Time Requirement:~~ Within one ~~(1)~~ school day,  
~~Documentation/Notification:~~ written documentation regarding the use of restraint must be placed in the student's official school record. The information must be available to determine the relationship of a student's behavior as it impacts the student's learning and/or the creation or revision of a behavior intervention plan.

Written notification to the parents/guardian and documentation to the student official school record shall include the following:

- A. name of the student
- B. name of the staff member(s) administering the restraint
- C. date of the restraint and the time of the restraint began and ended
- D. location of the restraint
- E. narrative that describes antecedents, triggers, problem behavior(s), rationale for application of the restraint and the efforts made to de-escalate the situation and alternatives to restraint that were attempted, and
- F. documentation of all parental contact and notification efforts

#### Disciplinary Action for a Violation of This Policy

In addition to any penalty prescribed by law, the Superintendent is directed by this policy to see that a Board employee who intentionally, knowingly or recklessly violates this policy is subject to disciplinary action up to and including



dismissal. A Board employee engages in conduct "intentionally" if, when s/he engages in the conduct, it is his/her conscious objective to do so. A Board employee engages in conduct "knowingly" if, when s/he engages in the conduct, s/he is aware of a high probability of a violation of this policy. A Board employee engages in conduct "recklessly" if s/he engages in conduct in violation of this policy in a plain, conscious, and unjustifiable disregard of harm that might result to a student and the disregard involves a substantial deviation from acceptable standards of conduct established by this policy.

#### Retaliation for Fully Implementing or Reporting Violations

No Board employee shall be permitted to retaliate against a person for reporting or objecting to actions in violation of this policy or providing information regarding a violation of this policy.

#### ~~Retaliation for Fully Implementing or Reporting Violations~~

~~No Board employee shall be permitted to retaliate against a person for reporting violation of this policy or providing information regarding a violation of this policy.~~

~~State Board policy 4373~~

~~WV Code 61-2-14g~~

#### ~~Discipline — Student Due Process Rights~~

The Board of Education recognizes that students have certain Due Process rights, regarding the administration of discipline while students are at school, on school grounds, or at school-affiliated functions.

Accordingly, the Board established the following procedures:

##### A. Students Subject to Suspension:

When a student is being considered for an out-of-school suspension by the principal, or other administrator:

1. A student is entitled to an informal hearing when faced with a suspension of ten (10) days or less. At this hearing, the principal must explain why the student is being suspended. If the student does not admit the charges, s/he shall be given an explanation of the evidence possessed by the principal. If the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the student shall be suspended immediately and an informal hearing shall be held as soon as practicable after the suspension.
2. The student and his/her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the charges made against the student which constitute the grounds for the proposed suspension of the student.
3. At this informal hearing, the principal shall explain the charges against the student. If the student does not admit the charges, the principal will provide the student with an explanation of the evidence possessed by the principal. Thereafter, the student must be given an opportunity to explain his/her version of the occurrence and the reasons why he/she should not be suspended.
4. At the conclusion of the informal hearing, or upon the failure of the noticed student to appear for the informal hearing, the principal may suspend the student for a maximum of ten (10) school days, including any days prior to the hearing, if any, for which the student has been excluded from school.
5. The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The notice will include the reasons for the suspension.
6. The suspension also shall be reported to the County Superintendent the same day and to the faculty senate of the School at the next meeting after the suspension.
7. The suspension imposed upon a student shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) by the principal

within twenty-four ~~(24)~~ hours of the imposition of the suspension. Each record of a suspension shall include the student's name and identification number, the reason for the suspension or expulsion, and the beginning and ending dates of the suspension.

8. ~~A student may not participate in any school sponsored activities, or be permitted on school grounds during the period of suspension.~~

B. Students Subject to Expulsion:

When a student is being considered for expulsion by the Board:

1. The Superintendent shall cause a written notice, by certified mail, return receipt requested, to be served upon the student and his/her parent(s), guardian(s) or custodian(s), as the case may be, which states the:
  - a. charges and the recommended disposition;
  - b. date and time at which the hearing shall be held;
  - c. right of the student to be represented by counsel;
  - d. right of the student to call his/her own witnesses to verify his/her version of the incident and;
  - e. right to confront and cross-examine witnesses supporting the charge against him/her;
  - f. notice shall state clearly whether the Board will attempt at hearing to establish the student as a dangerous student and also shall include any evidence upon which the Board will rely in asserting its claim that the student is a dangerous student.
2. The hearing before the Board shall be within the ten ~~(10)~~ day period of suspension imposed by the principal.
3. The hearing shall be held in executive session unless the student requests an open hearing.
4. The County Board shall hold the scheduled hearing to determine if the student should be reinstated or should or, must be expelled from school. If the County Board determines that the student should or must be expelled from school, it may also determine whether the student is a dangerous student, if proper notice of the charge has been provided as set forth in 1.f. immediately above.

If notice has not been given that the Board may find the student is a dangerous student and the Board determines through the course of the hearing that the student may be dangerous, the Board must make such determination at a separate hearing to be scheduled within ten (10) days of the first hearing, upon full notification to the student and his/her parent(s), guardian(s) or custodian(s).

The hearing(s) shall be recorded by mechanical means unless recorded by a certified court reporter.

The Superintendent may apply to a circuit judge or magistrate for authority to subpoena witness and documents, upon his/her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination. Upon the written request of any other party, the Superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination. If the authority to subpoena is granted, the Superintendent shall subpoena the witnesses, documents or both requested by the other party. If the authority to subpoena is granted, it shall be exercised in accordance with the provisions of WV Code 29A-5-1.

The hearing may be postponed for: (1) good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. However, a student shall remain under suspension until after the hearing in any case where a postponement occurs.

At the conclusion of the hearing the ~~County~~ Board shall either:

- a. order the student reinstated immediately or at the end of his/her initial suspension;
- b. suspend the student for a further designated number of days; or
- c. expel the student from the public schools of the County.

5. The Superintendent shall notify the student, parent(s), or guardian(s), by certified mail, return receipt requested, of the disposition of the hearing.
6. The expulsion imposed upon a student shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) by the principal within twenty-four (24) hours of the imposition of the expulsion. Each record of an expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the expulsion.

C. Students Subject to Emergency Removal

If the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, even before the informal hearing is held, such student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

D. Students Subject to Suspension from Bus Riding/Transportation Privileges:

A bus driver may exclude from a bus any student who: is guilty of disorderly conduct; interferes with an orderly education process; threatens, abuses, intimidates or attempts to intimidate a school employee or student; willfully disobeys a school employee; or uses profane or abusive language toward a school employee. Once a student is excluded from the bus, the student must be referred to the appropriate administrator who will take disciplinary action, notify the parent/guardian in writing of the disciplinary action taken, and provide a copy to the bus driver before the student is readmitted to the bus.

The Superintendent shall ensure that all members of the staff use the above procedures when dealing with students. In addition, this statement of due process rights is to be placed in all student handbooks in a manner that will facilitate understanding by students and their parents.

These procedures shall not apply to in-school disciplinary alternatives including in-school suspensions. An in-school suspension is one served entirely within a school setting. Nor shall these disciplinary alternative procedures apply to students who are prohibited by authorized school personnel from all or part of their participation in co-curricular, interscholastic, and/or noninterscholastic extra-curricular activities.

The application of this policy shall comply with the requirements of the Individuals with Disabilities Education Act.

~~WV Code 18A-5-1a~~

~~West Virginia State Board of Education policy 4373~~

*Search and Seizure*

~~The Board of Education~~ recognizes that the privacy of students as to their person and their belongings may not be violated by unreasonable search and seizure and directs that no student be searched in an unreasonable manner or without reasonable suspicion.

The Board acknowledges the need for in-school storage of student possessions and shall provide storage places, including desks and lockers, for that purpose. Such spaces remain the property of the Board and, in accordance with law, may be the subject of random search. Where locks are provided for such places, students may lock them against incursion by other students, but in no such places shall students have such an expectation of privacy as to prevent examination by a school official.

School authorities are charged with the responsibility of safeguarding the safety and well-being of the students in their care. In the discharge of that responsibility, school authorities may search the person or property, including vehicles located on school property, of a student, with or without the student's consent, whenever they reasonably suspect that the search is required to discover evidence of a violation of law or of school rules. The extent of the search will be governed by the seriousness of the alleged infraction and the student's age.

This authorization to search shall also apply to all situations in which the student is under the jurisdiction of the Board.

Search of a student's person or intimate personal belongings shall be conducted by a person of the student's gender, in the presence of another staff member of the same gender, and only in exceptional circumstances when the health or safety of the student or of others is immediately threatened.

Administrators are authorized to arrange for the use of a breath-test instrument for the purpose of determining if a student has consumed an alcoholic beverage. It is not necessary for the test to accurately determine blood-alcohol level, since the Board has established a zero tolerance for alcohol use.

The Board also authorizes the use of canines, trained in detecting the presence of drugs or devices, when the principal has reasonable suspicion that illegal drugs or devices may be present in a school. This means of detection shall be used only to determine the presence of drugs in locker areas and other places on school property where such substances could be concealed. Canine detection must be conducted in collaboration with law enforcement authorities or with organizations certified in canine detection and is not to be used to search individual students unless a warrant has been obtained prior to the search.

Except as provided below, a request for the search of a student or a student's possessions will be directed to the principal who shall seek the freely offered consent of the student to the inspection. Whenever possible, a search will be conducted by the principal in the presence of the student and a staff member other than the principal. A search prompted by the reasonable belief that health and safety are immediately threatened will be conducted with as much speed and dispatch as may be required to protect persons and property.

The principal shall be responsible for the prompt recording in writing of each student search, including the reasons for the search; information received that established the need for the search and the name of informant, if any; the persons present when the search was conducted; any substances or objects found; and the disposition made of them. The principal shall be responsible for the custody, control, and disposition of any illegal or dangerous substance or object taken from a student.

~~The Superintendent shall prepare administrative guidelines to implement this policy.~~

~~U.S. Constitution, 4th Amendment~~

~~West Virginia Board of Education Policy 4372, 126 CSR 98~~