

Criminal or other illegal behavior is prohibited. Any student who the principal reasonably believes has engaged in criminal behavior on school premises or at school activities will be subject to appropriate disciplinary action, as stated in applicable board policies, and also may be criminally prosecuted.

School officials shall cooperate fully with any criminal investigation and prosecution. School officials shall independently investigate any criminal behavior that also violates school rules or board policy.

A. STUDENTS CHARGED WITH OR CONVICTED OF CRIMINAL BEHAVIOR

The superintendent and principal may take reasonable or legally required measures to preserve a safe, orderly environment when a student has been charged with or convicted of a serious crime, regardless of whether the alleged offense was committed on school grounds or was related to school activities. Depending upon the circumstances, including the nature of the crime or alleged crime, the child's age, and the publicity within the school community, reasonable or legally required efforts may include changing a student's classroom assignment or transferring the student to another school. Transfer to an alternative school may be made in accordance with the criteria established in policy 3470/4305, Alternative Learning Programs/Schools. The student will continue to be provided with educational opportunities unless and until the student is found to have violated board policy or school rules and is suspended or expelled in accordance with procedures established in board policy.

B. REPORTING CRIMINAL BEHAVIOR

A school employee is permitted to report to law enforcement an assault by a student on a school employee. Principals or other supervisors shall not, by threats or in any other manner, intimidate or attempt to intimidate the school employee from doing so.

If the principal or the assistant principal in charge in the absence of the principal has personal knowledge, a reasonable belief or actual notice from school personnel that certain incidents, listed below, has occurred on educational property (i.e., in or on any school building, school bus, school campus, school grounds, school recreation area, or school athletic field) he/she shall immediately report the incident to law enforcement and the Superintendent in writing or by email at the end of the workday in which the incident occurred if possible, or by the end of the next workday. The Superintendent shall report the information to the Board. Except for the required reporting, all confidential laws (i.e., FERPA) apply.

- 1. Assault Resulting in Serious Injury.** An intentional offer or attempt by force of violence to do injury to another person that causes reasonable apprehension of immediate bodily harm resulting in one of the following: (1) substantial risk of

death; (2) serious permanent disfigurement; (3) a coma; (4) a permanent or protracted condition that causes extreme pain; (5) permanent or protracted loss or impairment of the function of any bodily member or organ; or (6) that results in prolonged hospitalization. If the offender used a weapon in an assault resulting in serious injury, report both Assault Resulting in Serious Injury and Assault Involving Use of a Weapon. Fights or affrays, where no weapon was used, resulting in no apparent or serious injuries are not required by state law to be reported, even if the incident resulted in suspensions or expulsion for the student. Board policy may, however, require reporting of fights or affrays to law enforcement.

2. **Assault Involving Use of a Weapon.** An intentional offer or attempt by force or violence to injure another person that causes reasonable apprehension of immediate bodily harm through the use of one of the following: (1) a gun, rifle, pistol or other firearm; (2) BB gun; (3) stun gun; (4) air rifle; (5) air pistol; (6) bowie knife; (7) dirk; (8) dagger; (9) slingshot; (10) leaded cane; (11) switchblade knife; (12) blackjack; (13) metallic knuckles; (14) razors and razor blades; (15) fireworks; or (16) any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance. **If a firearm or other weapon is used in the commission of any offense, the type of weapon must be identified in the WEAPON USED/POSSESSED column of the Data Collection Form.**

3. **Assault on School Officials, Employees and Volunteers.** An assault is an intentional offer or attempt by force or violence to injure a school official, employee or volunteer that causes reasonable apprehension of immediate bodily harm while the school official, employee or volunteer is discharging his/her duties. This offense includes assaults on school personnel that do not involve the use of a weapon and do not result in apparent serious injury. Acts which would not be reported are things such as unintentional pushing and jostling, as in a crowd; a school official, employee or volunteer who is accidentally struck while attempting to break up a fight or affray; or who is knocked down by a student carelessly rushing through a door. Verbal threats to physically attack are not included unless they are accompanied by an act that is an intentional show of force or menace of violence sufficient to put a reasonable person in fear of immediate physical injury.
 - The "duties" of a school official, employee or volunteer including the following: (1) all activities on school property; (2) all activities during a school authorized event or the accompanying of students to or from that event; and (3) all activities relating to the operation of school transportation.
 - An "employee" is an individual who is employed by the Board or an independent contractor if the independent contractor or employee of the independent contractor carries out duties customarily performed by employees of the school.
 - A "volunteer" is an individual who volunteers his/her services or presence at any school activity and is under the supervision of an employee.

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4. **Making Bomb Threats or Engaging in Bomb Hoaxes.** A person who, with intent to perpetrate a hoax, conceals, places or displays in or at a public building a device, machine, instrument or artifact so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property. This offense includes when a person communicates a bomb threat by any means.

A "public building" encompasses all educational property, as defined in G.S.14-269.2, including: (1) any school building or bus, and (2) school campus, grounds, recreational area, athletic field or other property owned, used or operated, by the Board .

5. **Willfully Burning of a School Building.** (See G.S. 14-60). Any person who wantonly and willfully sets fire to, burns or causes to be burned (i.e. aids, directs or procures the burning of) any school building owned, leased or used by the Board.
6. **Homicide.** A murder which is perpetrated by one of the following means: (1) nuclear, biological or chemical weapons of mass destruction; (2) poison; (3) lying in wait; (4) imprisonment; (5) starving; (6) torture; (7) any other kind of willful, deliberate and premeditated murder; (8) felony murder; (9) unlawful distribution and ingestion by someone of opium or other synthetic or natural salt, compound, derivative or preparation of opium, cocaine or methamphetamine resulting in death or all other types of murder.
7. **Kidnapping.** Unlawfully confining, restraining or removing from one place to another, any other person 16 years of age or over without the consent of such person or any other person under the age of 16 years of age without the parent's or legal guardian's consent for the purpose of committing a felony; or holding a victim as hostage or for ransom, or for use as a shield. A parent taking a child in violation of a court order, although it may be a crime, is not kidnapping for this purpose.
8. **Unlawful, Underage Sales, Purchase, Provisions, Possession or Consumption of Alcoholic Beverage.** (See G.S. 18B-300 to 302). Any underage person who purchases, provides or sells to another, possesses or has in his/her immediate custody or control, or consumes beer, malt beverages, fortified or unfortified wine, or spirituous liquor, in any amount or form, on school property owned or leased by the Board, or at school-sponsored events (comparable to a misdemeanor violation by G.S. 18B-102 and G.S. 18B-300, 301, and 302).
9. **Possession of Controlled Substance in Violation of Law.** Possession of narcotic drugs on or in the immediate control of the person. Narcotic drugs include any form of cocaine, marijuana, heroin, LSD, methamphetamine, and all drugs listed in the North Carolina Controlled Substances Act. Possession of any amount in any form must be reported. Unauthorized possession of a prescription drug (e.g., Ritalin) is included in this category. The principal should confer with law enforcement

personnel when in doubt as to whether a drug is a controlled substance. Alcohol possession should be reported as **Possession of Alcoholic Beverage**.

- 10. Possession of a Firearm or Powerful Explosive.** Any unauthorized person possessing on their person or within their custody or control, or storing, or carrying, whether openly or concealed, locked or unlocked, any firearm or powerful explosive, whether operable or inoperable, on school property; or bringing such a device onto school property. Persons authorized to carry weapons on school property are law enforcement officers, firefighters, and emergency services personnel *when discharging their official duties* (**State law G.S. 115C-390.11 requires that Boards suspend for 365 days any student who brings a “weapon” onto school property. Weapons are defined as any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or other powerful explosive, as defined in G.S. 14-284.1; and this does not apply to fireworks. Superintendents may modify the suspension on a case-by-case basis, but a written explanation for the decision must be included with the school’s Annual Report on School Crime and Violence**). The type of any firearm(s) that is/are involved must be identified in the WEAPON USED/POSSESSED column of the Data Collection Form.
- 11. Possession of a Weapon.** Possessing on their person or within their custody or control, storing, or carrying, by any unauthorized person, whether openly or concealed, a weapon excluding firearms and powerful explosives, defined as follows: Any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades, fireworks, any sharp pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance. This category covers possession of all weapons, other than firearms and powerful explosives, which the law prohibits on educational property (N.C.G.S. § G14-269.2). Persons authorized to possess such weapons are law enforcement officers, firefighters and emergency service personnel *when discharging their official duties*. “Education property” refers to any school building or bus, school campus, grounds, recreational area, athletic field or other property owned, used or operated by the Board. **Report type of weapon unlawfully possessed in the WEAPON USED/POSSESSED column of the Data Collection Form.**
- 12. Rape.** Rape may be statutory or forcible. Forcible Rape is vaginal intercourse committed by force and without the consent of the victim, regardless of age. Statutory Rape is vaginal intercourse committed on a child under the age of 16 by a person who is at least 12 years old and at least 4 years older than the victim, regardless of whether the victim consented. Consensual vaginal intercourse between a 13, 14 or 15 year old girl or boy and a 16 year old girl or boy is not a crime; statutory rape requires at least four years between birthdays of the victim and perpetrator. Some examples of incidents which must be reported under this category are consensual intercourse between a 19-year old and a 15-year old; consensual

intercourse with a person who is mentally handicapped or incapacitated, or physically helpless, regardless of whether the victim consented; or intercourse with an intoxicated or drugged victim who is too incapacitated to give consent.

13. **Robbery With a Dangerous Weapon (Armed Robbery).** Theft or attempted theft of anything of value from the person of another, or from the area under the immediate bodily control of the other, by using a dangerous weapon or by an act threatening use of a dangerous weapon. A dangerous weapon is any article; instrument or substance that is likely to produce death or great bodily harm. Forcible theft or attempted theft or attempted theft from a person without the use of a dangerous weapon should be reported under Robbery Without a Dangerous Weapon. **Report type of weapon used in the WEAPON USED/POSSESSED column of the Data Collection Form.**
14. **Sexual Assault (Not Involving Rape or Sexual Offense).** An assault of a sexual nature. An unauthorized and unwanted, intentional, or forcible touching of a sex organ of a person of the opposite sex. Sex organs are the breasts of females and genital areas of males and females. This category includes forcibly and intentionally grabbing the clothed or unclothed breast or genitals of a person of the opposite sex, without the consent of the victim. Report **attempted rape and attempted sexual offense** under this category. **The difference between Sexual Assault and Sexual Offense** is that Sexual Assault involves **forcible and intentional touching without penetration** of a sex organ, and Sexual Offense involves **penetration** of a sex organ or anus by any object, or touching another's mouth or anus by the male sex organ.
15. **Sexual Offense.** Sexual Offense may be **forcible or statutory**. **Forcible Sexual Offense** is actual oral-genital contact, or penile-anal penetration, or insertion of any object, including a finger, into the genital or anal opening of another person's body, committed by force and without the consent of the victim. **Statutory Sexual Offense** is any of the above acts committed on a child under the age of 16 by a person who is at least 12 years old and at least 4 years older than the victim, regardless of whether the victim consented. **Statutory Sexual Offense** is also any of the above acts committed on a person who is mentally handicapped or incapacitated or physically helpless, regardless of whether the victim consented. **The difference between Rape and Sexual Offense** is that Rape involves vaginal intercourse only, and Sexual Offense involves oral-genital contact, penile-anal penetration, or genital or anal penetration by any object.
16. **Taking Indecent Liberties With a Minor.** Committing a sexual act with or in the presence of a child under the age of 16 years, by a person at least age 16 and at least five years older than the child, for sexual gratification, regardless of whether force was used, or whether the victim consented. Examples of acts to be reported under this category are intentional exposure of genitals in front of a child; showing a child pornography, secretly or in the child's presence; or photographing girls changing clothes or using toilets, if these acts are done for sexual gratification.

The principal or assistant principal making such report shall keep a written record of the report including, but not limited to the date, time, and name and title of the law enforcement official to whom the report was made and the facts and circumstances of the occurrence giving rise to the report. The record of the report shall be maintained at the school for a minimum of three (3) years and a copy of the report shall be delivered to the Superintendent within three (3) days after the making of the report.

In addition, the principal or assistant principal in charge is required to refer to the criminal justice or juvenile system any student who brings a firearm, bomb or powerful explosive device to school.

Certain crimes must be reported to the State Board of Education in accordance with State Board of Education Policy HRS-A-000.

Legal References: Gun-Free Schools Act, 20 U.S.C. 7151; G.S. 14-17, -18, -27.2 to -27.5, -32, -33, -34 to -34.2, -41, -60, -69.1, -69.2, -87, -87.1, -132, -132.2, -202.1, -269.2, -289.1; ch. 90 art. 5; 115C-47(56); -288(g), -325; State Board of Education Policy HRS-A-000

Cross References: Alternative Learning Programs/Schools (policy 3470/4305), Drugs and Alcohol (policy 4325), Theft, Trespass and Damage to Property (policy 4330), Assaults, Threats and Harassment (policy 4331), Weapons, Bomb Threats, Terrorist Threats and Clear Threats to Safety (policy 4333), School-Level Investigations (policy 4340)

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