TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 99
EXPECTED BEHAVIOR IN SAFE AND SUPPORTIVE SCHOOLS (4373)

§126-99-1. General.

1.1. Scope. -- This legislative rule sets the requirements for the development of safe and supportive schools that provide optimal learning conditions for both students and staff. Safety and order are the foundation of a positive school climate/culture that supports student academic achievement and personal-social development. This rule also establishes disciplinary guidelines for student conduct in West Virginia schools in order to assure an orderly, safe, drug-free, violence-free, and harassment-free learning environment.

1.1.a. County/Counties. -- For purposes of this rule, county includes county boards of education and schools and facilities under the supervision of the West Virginia Board of Education (WVBE).

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §§16-9A-4, 16-9A-9, 18-2-5, 18-2-7b, 18-2-9, 18-2C-1, 18-2C-2, 18-2C-3, 18-2-41 18-5A-2, 18-8-8, 18-16-1, 18A-1-1, 18A-5-1, 18A-5-1a, 18-9F-9, 18-9F-1, et seq., 49-2-803(a-b), 49-4-701, 60A-1-101, 61-2-15, 61-3-13, 61-7-2, 61-7-11a, 20 U.S.C. §1400 et seq., and 20 U.S.C. §6301 et seq.

1.3. Filing Date. -- June 12, 2024.

1.4. Effective Date. -- July 15, 2024.

1.5. Repeal of Former Rule. -- This rule amends W. Va. 126CSR99, Policy 4373, Expected Behavior in Safe and Supportive Schools (Policy 4373), filed March 14, 2019, and effective July 1, 2019.

§126-99-2. Purpose.

2.1. The WVBE recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. Public schools should undertake proactive, preventive approaches which integrate services using a Multi-Tiered System of Supports (MTSS) framework. MTSS frameworks utilize evidence-based strategies to promote students' academic success, behavioral and mental health, including social and emotional needs, trauma sensitivity, bullying prevention, dropout prevention, and truancy reduction to ensure a positive school climate and culture that fosters learning and personal-social development. This rule requires county boards of education to design and implement procedures to create and support continuous school climate and culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning for all.

§126-99-3. Incorporation by Reference.

3.1. The West Virginia Manual for Expected Behavior in Safe and Supportive Schools is attached and

incorporated by reference into this rule. Copies may be obtained from the Office of the Secretary of State and from the West Virginia Department of Education (WVDE).

§126-99-4. Application.

4.1. The expectations outlined in this policy in public schools in West Virginia during any education-sponsored event, at any location. Such locations may include, but are not limited to classrooms, other areas on school premises, school buses or other vehicles used for school-related events, or at any school-sponsored activity or event, whether or not it is held on school premises, in a building or other property used or operated by a county board of education, WVDE, WVBE, 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. School staff will be subject to disciplinary and licensure action in accordance with W. Va. Code §§18-17-8, 18A-3-2a, 18A-3-3, and 18A-3-6.

§126-99-5. Severability.

5.1. If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.

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WEST VIRGINIA MANUAL FOR EXPECTED BEHAVIOR IN SAFE AND SUPPORTIVE SCHOOLS (4373)

Introduction

The West Virginia Manual for Expected Behavior in Safe and Supportive Schools provides guidance to assist all public schools to design and implement procedures to create and support positive school climate and culture improvement processes that will promote students' academic success and behavioral health, including social and emotional needs, trauma sensitivity and responses, bullying prevention, dropout prevention, and truancy reduction to ensure an orderly and safe environment that is conducive to teaching and learning for all.

Chapter 1
STUDENT PROTECTIONS

School officials are responsible for student safety, welfare, and behavior from the time a student boards the school bus or arrives at school until the student returns home or to his/her designated bus stop. It is a student's responsibility to follow school rules and regulations and to cooperate with school authorities who enforce these rules and regulations.

Section 1. Student Inquiry and Expression

Schools may not conduct, sponsor, or endorse religious activities. Individual students have the right to practice their own religion in a manner that does not interfere with the orderly conduct of classes and may form student groups with a religious focus that meet before school, after school, or during a sanctioned club or activity time. Students have the right to be absent from school, on a reasonable basis, for religious instruction and/or for participation in religious activities. An opportunity must be provided for students to make up any work missed; however, it is the student's responsibility to make up such work pursuant to the rules established by the school or county.

Students are entitled to exercise appropriate speech while at school. Freedom of speech includes forms of expression other than vocal, provided this activity does not materially or substantially disrupt the work and discipline of the school or impinge upon the rights of other students. Schools shall limit vulgar or offensive speech inconsistent with the school's responsibility for teaching students the boundaries of socially appropriate behavior. Students' off-campus conduct that would reasonably be expected to cause disruption in the school may be prohibited or disciplined. This includes, but is not limited to, all online activity, messages, and texts created for the purpose of inviting others to indulge in disruptive and hateful conduct towards a student or staff member.

Students have the right not to be compelled to participate in certain types of speech, such as reciting the Pledge of Allegiance. Students who choose not to participate in these ceremonies have the responsibility to respect the rights of those who do participate and must remain respectfully silent.

School-sponsored student publications that are a part of the curriculum are subject to teacher editorial control and therefore student speech may be regulated in a manner reasonably related to educational purposes.

Section 2. Non-curriculum Related Student Groups

When high schools allow one or more student groups whose purpose is not directly related to any class taught at the school to meet at the school, this meeting is referred to as a limited open forum. If a school is a limited open forum for any purpose, the school must allow religious, political, and/or philosophical group meetings as long as the meetings are voluntary, monitored by the school, and do not interfere with the conduct of school activities.

Section 3. Protection from Unreasonable Searches and Seizures and Self-Incrimination

Federal and state constitutions and statutes provide protection for all citizens from unreasonable searches and seizures. Although school personnel have more latitude than law enforcement in this regard, because they do not need search warrants, search and seizures of lockers or students by school officials must be

reasonable and based upon the information known by them at the time of the search. Personal property may be searched by those authorized where there is reasonable suspicion to believe that student property contains stolen articles, illegal items, or other contraband as defined by law or by local board or school policy.

Students also have a right under federal and state constitutions not to incriminate themselves about a crime when questioned on school grounds by an individual acting in the capacity of a law enforcement official. The students are entitled to be informed of their right against self-incrimination if they are in a custodial setting. However, the students are not at liberty to terminate the interrogation and leave. Students do not have a constitutional right against self-incrimination when being questioned by school officials or Prevention Resource Officers (PRO)/School Resource Officer (SRO) acting under the direct and immediate supervision of school officials while conducting investigations of school-related misconduct. The PRO/SRO is responsible for ensuring constitutional and legal obligations are maintained when conversations and investigations extend beyond school related misconduct.

Section 4. Child Abuse and Neglect Prevention

This section sets forth when the West Virginia Department of Human Services (WVDHS) and law enforcement must be notified about suspected child abuse and neglect. Victims of abuse may seek the advice or assistance of a teacher, counselor, nurse, or other school or county personnel. School personnel shall assist students in getting needed help to prevent the abuse from recurring.

24 Hour Notice Requirement

Mandatory reporters, such as teachers, school personnel, counselors, nurses, coaches, or volunteers who provide organized activities for children, or other professionals within a school who suspect that a student is being abused or neglected, shall immediately, and not more than 24 hours after suspecting this abuse or neglect:

- report the circumstances to the WVDHS, and
- inform their immediate supervisor immediately following and not more than 24 hours after reporting suspected abuse or neglect to WVDHS.

In any case, where the mandatory reporter believes that the child suffered serious physical abuse, sexual abuse, or sexual assault, the reporter shall immediately report the same to:

- the West Virginia State Police, and
- any law-enforcement agency having jurisdiction to investigate the complaint.

Mandatory reporters who are also staff or volunteers of an entity or organization that provides services to a school or otherwise organizes activities at a school or on school premises, must immediately notify the person in charge of the entity or organization providing services or activities to a school. The mandatory reporter must follow any additional reporting requirements established by such entity or organization.

In determining whether conduct falls within the exception to the mandatory reporting requirement, mandatory reporters are encouraged to err on the side of caution and report the conduct within the mandatory reporting time frame.

State law contains criminal penalties for failure to meet the reporting requirements outlined in this

section. For more information on those penalties, refer to W. Va. Code §49-2-812.

Section 5. Age-appropriate Body Safety Information

Children in grades K-12 shall receive age-appropriate body safety information at least once per academic school year, with a preference for four times per academic year, addressing education and prevention of the sexual abuse of children.

To facilitate this process, the WVDE will provide resources and guidance that address the following:

- developmentally appropriate education and resources;
- social media usage and content;
- implementation of best practices;
- resources that support differing county and school sizes, demographics, etc., for implementation strategies;
- strategies for dealing with disclosures of sexual abuse;
- processes to include community shareholders and inclusion of family voice; and
- offender dynamics and child-on-child scenarios.

Standards, resources, and protocols for local crisis response will be provided to school systems and are posted on the WVDE website.

Section 6. Preventing Child Sexual Abuse

WVDE has established standards for Preventing Child Sexual Abuse (PCSA) training requirements of all public school employees focused on developing skills, knowledge, and capabilities related to preventing child sexual abuse and recognizing and responding to suspected abuse and neglect.

The required PCSA training shall include comprehensive instruction and information to better equip schools and their employees to recognize and prevent child sexual abuse, including:

- recognizing sexually offensive behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;
- recognizing, and appropriately responding to, sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;
- recognizing behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;
- supporting the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;
- recognizing and appropriately responding to student infatuations and flirtations with adults in schools;
- recognizing appropriate and inappropriate social media usage by adults and children;
- providing consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;
- providing adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and
- recognizing effects of Adverse Childhood Experiences (ACEs) and providing trauma-informed care.

Public school employees are required to complete a PCSA training. The training shall be at least a cumulative four hours of instruction on the elements identified in this section and shall occur during non-instructional time. Training will not be assigned during teachers' planning time. A skills renewal training is required every two years thereafter. The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules. E-learning modules are available on the WVDE website and cover the required standards and certificates of satisfactory completion. Should the county boards of education choose to provide training through another mode of delivery, the standards stated above shall be covered, and the county boards of education shall provide the WVBE with a list of employees who have completed the required training. The WVBE shall provide certificates of satisfactory completion for the employee and the employer documenting that the employee completed the required training. Counties are required to track and monitor the skills renewal training for their respective employees.

Section 7. Eating Disorders and Self-Harm Information

Children in grades 5-12 shall receive information regarding self-harm and eating disorder signs, prevention, and treatment at least once per academic school year.

The information may be obtained from the West Virginia Bureau for Behavioral Health and Health Facilities (Bureau), a licensed healthcare provider, or from commercially developed awareness and prevention training programs for the awareness, treatment resources, and prevention of self-harm behavior and eating disorders approved by the WVBE in consultation with the Bureau to assure the accuracy and appropriateness of the information.

Section 8. Preventing Eating Disorders and Self-Harm

County boards of education shall provide routine education of all professional educators, including principals and administrators, and those service personnel having direct contact with students on warning signs and resources to assist in self-harm behavior and eating disorder awareness, prevention, and treatment under guidelines established by the WVBE. The education may be accomplished through self-review of materials and resources approved by the WVBE.

The required training shall include instruction and information to better equip schools and their employees, including how to:

- recognize warning signs of self-harm behaviors and eating disorders that can lead to serious health issues and death;
- support the healthy development of students by learning how to appropriately respond to or refer a student who exhibits warning signs of self-harm or eating disorders; and
- provide consistent and standard protocols for responding to disclosures or discovery of self-harm or an eating disorder.

All public school employees shall complete the required training every three years.

Section 9. Dress Codes Requiring School Uniforms for Students

County boards of education may implement a dress code requiring students to wear school uniforms. The uniforms may be required by the county board of education for either the entire county or for certain schools within the county.

County boards of education considering the option of adopting a dress code requiring the wearing of school uniforms shall create an advisory committee consisting of parents or guardians, school employees, and students. The advisory committee shall consider whether the county board of education should adopt a dress code requiring school uniforms for students in the county or for certain schools within the county. If the advisory committee recommends to the county board of education a dress code requiring school uniforms, then the county board of education may adopt a dress code requiring school uniforms for students. The advisory committee shall make recommendations on methods of paying for the school uniforms. However, nothing in this policy shall require any level of funding from the Legislature, state, or county boards of education, or any other agency of the government.

This policy does not require county boards of education to adopt dress codes requiring students to wear school uniforms nor prevent a county board of education from adopting a dress code policy.

Chapter 2
INAPPROPRIATE BEHAVIOR AND MEANINGFUL INTERVENTIONS AND CONSEQUENCES

Section 1. Addressing Inappropriate Behavior with Meaningful Interventions and Consequences

The purpose of this policy is to provide schools with guidance that creates and ensures an orderly and safe environment that is conducive to teaching and learning for all. All interventions and consequences are in effect on all school property and at all school-sanctioned events, including extracurricular and co-curricular activities. Each county will implement proactive, preventative, and evidence-based practices utilizing a MTSS framework, outline investigatory and reporting procedures, and delineate meaningful interventions and consequences in response to inappropriate behavior. Schools will provide explicit instruction on expected behaviors, model and reteach expectations when needed, and provide feedback to maximize the probability of student success in all school settings, including extracurricular, co-curricular, and school-sanctioned events.

This policy defines disciplinary levels and provides definitions for common inappropriate student behaviors. County policies may provide additional guidance in the implementation and classification for specific offenses and/or levels provided the treatment of the inappropriate behavior is consistent with W. Va. Code.

County and school policies should identify appropriate and meaningful interventions and consequences. The interventions and consequences in this policy serve as examples, with the exception of Level 4 offenses. It is not a requirement that all schools offer every intervention and consequence listed in this policy. Through a MTSS framework, school administrators and staff should leverage available school and community resources to provide appropriate evidence-based intervention strategies designed improve student behavior, maximize student attendance, and increase student engagement.

The purpose of interventions is to support, model, and/or teach appropriate behavior to maximize the probability of student success and decrease the likelihood of continued inappropriate behavior. Interventions should be used to reinforce expectations related to school rules and county policies regarding student behavior.

The purpose of consequences is to provide responses to inappropriate behavior that assist in keeping a school safe and orderly.

Sample interventions and consequences can be found in Appendix A. It is the school principal's responsibility to appropriately determine which intervention or consequence is necessary for each behavior and to ensure it is documented appropriately in the West Virginia Education Information System (WVEIS). Each discipline referral entered into WVEIS that deems an administrative response, shall, at minimum, include a documented intervention.

Exclusionary practices can have a direct impact on student academic achievement and schools/counties have a responsibility to ensure discipline practices are fair, equitable, and consistent. Therefore at least annually each county board of education shall publicly present a report of the previous year’s certified discipline data at a regularly scheduled county board of education meeting. The report shall be comprised of exclusionary practices (in-school and out-of-school suspension) throughout the county and shall not

include any subgroup with less than 20 students to ensure student data privacy. At a minimum the report shall include:

- total count of students by federally identified subgroup;
- total count of students who were not referred for discipline by subgroup;
- total count of students who were referred for discipline but not suspended by subgroup;
- total count of suspensions by discipline level and for each subgroup;
- total days of suspension for the county and for each subgroup; and
- average number of days suspended by subgroup of each discipline referral level.

Discipline matrices can be used as a tool to ensure fair and consistent implementation of a school's discipline plan. However, the principal shall always consider the individual details and specifics of a student's needs in ensuring appropriate implementation. If a matrix is used, the principal shall retain the right to amend and change an intervention or consequence, as deemed necessary.

Out-of-school suspension strategies should be considered when appropriate evidence-based interventions and consequences have not proven to correct the behavior. Out-of-school suspension shall never deny students access to instructional material and information necessary to maintain their academic progress. The determination of interventions and consequences is at the discretion of the school administrator, with input considered from teachers/service personnel/support staff. W. Va. Code §18A-5-1 requires that the principal shall suspend a student who commits a behavior classified as Level 4 in this policy. 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.

Any student suspended or expelled from school is also suspended from extracurricular activities for the duration of the out-of-school suspension or expulsion.

When administering interventions and consequences, the county is required to determine if a student warrants protection under Public Law 108-446, Individuals with Disabilities Education Improvement Act of 2004 (IDEA), W. Va. 126CSR16, Policy 2419, Regulations for the Education of Students with Exceptionalities (Policy 2419), and/or Section 504 (504 Plan) of the Rehabilitation Act of 1973.

Section 2. Inappropriate Behavior Levels

The following behaviors have been assigned levels based on the nature of severity. It is important for the principal to evaluate behaviors with a holistic and developmentally appropriate approach. The principal may change a Level 1, 2, or 3 behavior level in WVEIS, if the circumstances dictate it. If a behavior level is changed, the principal shall document in the WVEIS discipline referral the reason as to why the level was changed. Level 4 behaviors are defined in W. Va. Code §18A-5-1 and shall not be changed.

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

Behavior	Definition
Cheating	Plagiarizing or copying the work of others or breaking rules to gain advantage in a competitive situation. Interventions could result in academic sanctions.
Cell Phone Violation	Not adhering to classroom, school, or county rules or policies

	regarding the use of cell phones, tablets, or other electronic devices.
Deceit	Deliberately concealing or misrepresenting the truth, deceiving another, or causing another to be deceived by false or misleading information.
Disruptive Conduct	Exhibiting behavior that violates classroom/school rules and results in distraction and/or obstruction of the educational process.
Failure to Serve Detention	Failing to serve an assigned detention of which the student and/or parent or guardian have been notified.
Falsifying Identity	Providing false identification to any school official with intent to deceive school personnel or falsely obtain money or property.
Inappropriate Appearance	Dressing or grooming in a manner that is in violation of the county board of education's dress code policy.
Inappropriate Display of Affection	Engaging in inappropriate displays of intimate affection, such as kissing or embracing.
Inappropriate Language	Using profanity in a general context (not directed toward any individual or group), whether orally, in writing, electronically, or with photographs or drawings.
Possession of Inappropriate Personal Property	Possessing personal property that is prohibited by school rules or that is disruptive to the educational process.
Skipping Class	Failing to report to the student's assigned class or activity without prior permission, knowledge, or excuse by the school or by the parent or guardian.
Tardiness	Failing to be in his/her place of instruction at the assigned time without a valid excuse.
Unauthorized Zone	Accessing a prohibited area of the school or campus.
Vehicle Parking Violation	Engaging 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, danger, or educational detriment 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.

Behavior	Definition
Disruptive/Disrespectful Conduct	Exhibiting behavior that violates classroom/school rules and results in distraction and/or obstruction of the educational process. Conduct is considered disruptive and disrespectful when the student fails to comply with redirection in a discourteous, rude, impolite, or bad-mannered way.
Habitual Violation of School Rules or Policies	Persistently refusing to obey the reasonable and proper orders or directions of school employees, school rules, or policies. Violations of school rules or policies shall be considered to be habitual when a student has had three or more previous discipline referrals for such violations.
Insubordination	Ignoring, refusing to comply with directions, or a general

	unwillingness to cooperate with instructions given by school authorities.
Leaving School Without Permission	Leaving the school building, campus, or school activity without permission from authorized school personnel.
Physical Fight Without Injury	Engaging in a physical altercation using blows with intent to harm or overpower another person or persons.
Possession of Imitation Weapon	Possessing any object fashioned to imitate or look like a weapon.
Possession of knife not meeting the definition of a dangerous weapon set forth in W. Va. Code §61-7-2	Possessing a knife or knife-like implement under 3½ inches in length.
Profane Language/Obscene Gesture/ Indecent Act Toward an Employee or a Student	Directing profane language, obscene gestures, or indecent acts towards a school employee or a fellow student. This includes, but is not limited to, verbal, written, electronic, and/or illustrative communications intended to offend and/or humiliate.
Technology Misuse	Violating W. Va. 126CSR41, Policy 2460, Educational Purpose and Acceptable Use of Electronic Resources, Technologies, and the Internet.
Reckless Conduct	Creating an unsafe environment through actions that are not intentionally directed towards someone. Carelessly throwing a door open, shoving a chair or other object that inadvertently strikes or nearly strikes another, would both be examples of reckless conduct.

LEVEL 3: Severely Disruptive, Imminently Dangerous, Illegal, and/or Aggressive Behaviors are willfully committed and are known to be illegal and/or harmful to people and/or property. (Specific behaviors are outlined in W. Va. Code §18A-5-1a(c) and the principal shall address these inappropriate behaviors accordingly.)

Behavior	Definition
Battery Against a Student	Injuring another student unlawfully and intentionally.
Disruptive/Defiant Conduct	Exhibiting escalating behavior that violates classroom/school rules, resulting in distraction and obstruction of the overall educational process. Conduct becomes defiant when the student refuses to comply with any redirection and will not obey the directives they have been provided, responding in an aggressive or insubordinate manner.
Defacing School Property/Vandalism	Defacing or damaging 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.

False Fire Alarm	Setting off a fire alarm knowingly and willingly without cause.
Fraud/Forgery	Deceiving another or causing another to be deceived by false or misleading information or signing the name of another person in order to obtain anything of value or defrauding authorities.
Gambling	Engaging 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.
Gang Related Activity	Using violence, force, coercion, threat of violence, or engaging in gang activity that causes 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 school county's educational mission. Gang activity includes: • wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member or otherwise symbolizes support of a gang; • using any word, phrase, written symbol, or gesture that intentionally identifies a student as a member, or otherwise symbolizes support of a gang; • gathering of two or more persons for purposes of engaging in activities or discussions promoting gangs; and • recruiting student(s) for gangs.
Harassment/Bullying/Intimidation	W. Va. Code §18-2C-2 defines harassment, intimidation, or bullying as any intentional gesture, or any intentional electronic, written, verbal, or physical act, communication, transmission, or threat that: • a reasonable person 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; • is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or emotionally abusive educational environment for a student; or • disrupts or interferes with the orderly operation of the school and/or educational process. An electronic act, communication, transmission, or threat includes, but is not limited to, one which is administered via telephone, computer, pager, or any electronic or wireless device, 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 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. When harassment, intimidation, or bullying are of a racial, sexual, and/or religious/ethnic nature, the above definition applies to all cases whether or not they involve students, staff, or the public. Detailed definitions related to inappropriate behavior of this nature are as follow.
Sexual Harassment	Sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education; or submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education by creating an intimidating, hostile, or offensive employment or educational environment. Amorous relationships between county board of education employees and students are prohibited, pursuant to W. Va. Code §61-8B-11b.
Racial Harassment	Physical, verbal, or written conduct relating to an individual's race when the conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment; or otherwise adversely affects an individual's academic opportunities.
Religious/Ethnic Harassment	Physical, verbal, or written conduct related to an individual's religion or ethnic background when the conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment.
Sexual Violence	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: touching, patting, grabbing, or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex; coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts; coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another; or; threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
Racial Violence	Physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.
Hazing	Hazing or conspiring 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 or persons, to destroy or remove public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any activity or organization, including both co-curricular and extra-curricular activities.
Imitation Drugs: Possession, Use, Distribution or Sale	Possessing, using, distributing, or selling any substance that is expressly represented or implied to be a controlled substance or to simulate the effect and/or the appearance (color, shape, size, and markings) of a controlled substance.
Improper or Negligent Operation of a Motor Vehicle	Operating a motor vehicle intentionally and recklessly on the grounds of any educational facility, parking lot, or at any school-sponsored activity which endangers the safety, health, or welfare of others.
Inhalant Abuse	Deliberately inhaling or sniffing common products found in homes, schools, and communities with the purpose of intoxication. The action may be referred to as huffing, sniffing, dusting, and/or bagging.
Larceny	Taking another person’s property or having another person’s property in his/her possession without permission. Property valued at $1,000 or more will increase this behavior to a Level 4 because it is considered a felony in accordance with W. Va. Code §61-3-13.
Possession/Use of Substance Containing Tobacco and/or Nicotine	Possessing, using, or being 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. This includes any electronic

	cigarette or vaporizing device; regardless of whether or not it contains nicotine.
Sexual Misconduct	Exposing himself/herself publicly and indecently, displaying or transmitting any sexually explicit media including, but not limited to drawings, photographs, animations, or videos of a sexual nature, or committing an indecent act of a sexual nature on school property, on a school bus, or at a school-sponsored event.
Threat of Injury/Assault Against An Employee or A Student	Threatening (verbal or written) or attempting to injure another student, teacher, administrator, or other school personnel. (This includes assault on a school employee defined in W. Va. Code §61-2-15.)
Trespassing	Entering the premises of county school system property, other than the assigned time and the location without authorization from proper school authorities.

Level 4 Behaviors			
LEVEL 4: Safe Schools Act Behaviors are defined in W. Va. Code §18A-5-1 and §18A-5-1a. These laws require that the principal, county superintendent, and county board of education address Level 4 behaviors in a specific manner as outlined in W. Va. Code §18A-5-1a and paraphrased in this chapter. W. Va. Code §18A-5-1 and §18A-5-1a require mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than 12 consecutive months by the county board of education for possession of a deadly weapon, battery on a school employee, or sale of a narcotic drug.			
Battery on 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 or causing physical harm to a school employee as outlined in W. Va. Code §61-2-15. A student who violates this code section shall be suspended and expelled.	Shall Suspend	Shall Expel
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 W. Va. Code §18A-5-1a(b)(i). Such acts that would constitute a felony include, but are not limited to, arson as outlined in W. Va. Code §61-3-1; malicious assault and unlawful assault, as outlined in W. Va. Code §61-2-9; bomb threat, as outlined in W. Va. Code §61-6-17; sexual assault, as outlined in W. Va. Code §61-8B-3; terrorist act or false information about a terrorist act, hoax terrorist act, as outlined in W. Va. Code §61-6-24; and grand larceny, as outlined in W. Va. Code §61-3-13. The principal shall suspend a student from school and from transportation if the principal determines the student committed an act or engaged in conduct that would constitute a felony. The principal shall request that the superintendent recommend to the board that the student be expelled. *Threats of mass or whole school violence, including but not	Shall Suspend	Shall Expel

Level 4 Behaviors			
	limited to, school shootings or gun violence shall be considered a felony in WVEIS.		
Illegal Substance Related Behaviors – Narcotic	A student will not sell, possess, or distribute a narcotic drug as defined in W. Va. Code §60A-1-101 on the premises of an educational facility, at a school-sponsored function, or on a school bus. A student guilty of this behavior shall be suspended and expelled.	Shall Suspend	Shall Expel
Illegal Substance Related Behaviors – Nonnarcotic	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, any other substance included in the Uniform Controlled Substances Act as described in W. Va. 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 school district. This includes violations of W. Va. 126CSR25A, Policy 2422.7, Standards for Basic and Specialized Health Care Procedures and Standards for the Possession and Use of Medical Cannabis By a Student, and instances of prescription drug abuse (Policy 2442.7). This also includes the possession, use, or distribution of electronic cigarettes or vaporizing devices that possess any level of THC, or its derivative. The principal shall suspend a student from school and/or from transportation and may recommend expulsion for possession of a controlled substance governed by the Uniform Controlled Substance Act. The principal determines consequences for other violations listed herein. *Provisions for medical cannabis can be found in Policy 2422.7.	Shall Suspend	May Expel
Possession and/or Use of Deadly Weapon	According to W. Va. Code §18A-5-1a(a), a student will not possess a firearm or deadly weapon as defined in W. Va. Code §61-7-2, on any school bus, on school property, or at any school-sponsored function as defined in W. Va. Code §61-7-11a. As defined in W. Va. Code §61-7-2, a deadly 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. Deadly weapons include, but are not limited to, blackjack, gravity knife, knife, knife-like implement, switchblade knife, nunchaku, metallic or false knuckles, pistol, revolver, or other firearm. A deadly weapon may also include the use of a legitimate tool, instrument, or equipment as a weapon including, but not limited to, pens, pencils, compasses, or combs, with the intent to harm another. The student shall be suspended and expelled for violating W. Va. Code §61-7-11a.	Shall Suspend	Shall Expel

Section 3. Classification of Persistently Dangerous Schools

The following criteria are set forth to determine whether a school will be classified as a Persistently Dangerous School. Data indicating the number of substantiated inappropriate behaviors will be collected using WVEIS in order to identify and classify a school as persistently dangerous. A West Virginia public school will be classified as a Persistently Dangerous School on or before August 1 of each year if the school has for two consecutive years substantiated Level 4 behaviors that exceed five percent of the total number of students enrolled in the school based on the school's second month enrollment:

- battery on a school employee as defined in W. Va. Code §61-2-15;
- commission of an act that would constitute a felony under the laws of the state on the premises of an educational facility, at a school-sponsored function, or on a school bus;
- possession of a firearm or deadly weapon as defined in W. Va. Code §61-7-2 on the premises of an educational facility, at a school-sponsored function, or on a school bus; or
- sale of a narcotic drug as defined in W. Va. Code §60A-1-101 on the premises of an educational facility, at a school-sponsored function, or on a school bus.

WVDE Requirements Related to Persistently Dangerous Schools:

- provide targeted technical assistance to any school that has for two consecutive years substantiated Level 4 behaviors that exceed five percent of the total number of students enrolled in the school, based on the school's second month enrollment.

A student attending a school identified as persistently dangerous or who becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of a public school that the student attends or while attending a school-sponsored activity, shall be allowed to attend an alternative setting at his or her request as determined by the county school system.

Section 4. Use of Physical Punishment Prohibited

W. Va. Code §18A-5-1(e) prohibits school employees from using corporal (bodily) punishment on any student. No physical punishment of any kind can be inflicted upon a student. This includes:

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

Section 5. Use of Restraint

Restraint, with reasonable force, may be used to prevent a student from hurting himself/herself or any other person or property. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the student and others. When the use of physical restraint is necessary, the following guidelines must be followed:

- shall be limited to the use of such reasonable force as is necessary to address the emergency;
- shall not restrict breathing (e.g. prone restraint); place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat; or cause physical harm;

- shall be discontinued at the point at which the emergency no longer exists;
- shall be implemented in such a way as to protect the health and safety of the student and others; and
- shall not deprive the student of basic human necessities.

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

A core team of personnel in each school, including an administrator designee and any general or special education personnel likely to use restraint, must be trained annually in the use of:

- nationally recognized restraint process, and
- current professionally accepted practices and standards regarding behavior interventions and supports including prevention and de-escalation techniques.

Any non-trained personnel called upon to use restraint in an emergency must receive training within 30 days following the use of restraint if the principal determines the situation is likely to reoccur.

Comprehensive documentation and immediate notification of restraint usage to both school administration and the parent or guardian of the student is required.

Time Requirement	Documentation/Notification
Within one hour following the use of restraint	The principal/designee must be provided verbal and written description of the restraint process used on a given student.
Same day	A good faith effort shall be made to verbally notify the parent or guardian of the restraint process used.
Within one school day	Written notification of the use of restraint must be: • provided to the parent or guardian, and • included in the student's official school record. The written notification includes: • name of the student; • name of the staff member(s) administering the restraint; • date of the restraint and the time the restraint began and ended; • location of the restraint; • 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 • documentation of all parental/guardian contact and notification efforts. This notification must be available to determine if the student's behavior impacts the student's learning and/or the creation of or revision to a behavior plan.

Section 6. Collaboration with Law Enforcement

Police can enter schools if they suspect a crime has been committed, have a warrant for an arrest or search, or if their assistance has been requested by school officials. It is the duty of the school officials, teachers, and students to cooperate with the police and each other to ensure that the rights of all involved persons are respected.

Prevention Resource Officer (PRO)/School Resource Officers (SRO). PROs/SROs are certified police officers, working within a public school. The PRO/SRO duties, salary, and responsibilities should be determined through an agreement with the county board of education and the authorized law enforcement agency. The principal is the immediate supervisor while the PRO/SRO officer is present in the school. There may be a time during the course of PRO/SRO duties when the officer's position as law enforcement would take precedence, such as intervening in or investigating criminal activity.

Other Law Enforcement Officer Conducting an Investigation in the School. When a student is questioned by law enforcement or by school officials in the presence of law enforcement, the school administration and law enforcement must cooperate to ensure the privacy of the student is protected. It is the law enforcement officer's responsibility to ensure the student's constitutional rights are not violated and to determine if the student's parent or guardian, or lawyer should be contacted prior to questioning. The law enforcement officer must also determine when the use of restraints is necessary to control an unruly student to prevent the student from harming him/herself or others during questioning.

W. Va. Code §49-4-701 specifies that statements made by a student under the age of fourteen, while being questioned by law enforcement officials, cannot be used in a court proceeding unless his/her lawyer is present. Statements made by students who are fourteen or fifteen years old cannot be used in a court proceeding unless their lawyers are present or a parent or guardian is present and, the parent or guardian has been informed of the student's rights.

Chapter 3
PROCEDURES FOR ADDRESSING ALLEGATIONS OF INAPPROPRIATE BEHAVIORS

Section 1. Procedures for Reporting Complaints of Inappropriate Behavior

School employees are responsible for assuring a safe and supportive school climate and culture. When incidents of inappropriate behavior are witnessed by school staff, the behavior shall be addressed consistently as outlined in this policy.

Inappropriate behaviors observed by students or guests must be reported to the appropriate personnel for action to be taken according to county policy.

County boards of education shall develop and publicize procedures to assure that any person who believes he or she is the victim of or witness to a violation of Policy 4373 has an identified, easily accessible mechanism to report the alleged acts immediately to the appropriate official(s) designated by the county. 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, including Title IX.

County boards of education shall develop and publicize appropriate procedures for investigating, reporting, responding, and determining consequences for the failure of an employee to appropriately respond to violations of Policy 4373, in accordance with W. Va. 126CSR142, Policy 5310, Performance Evaluation of School Personnel, in a manner that promotes understanding and respect.

County boards of education and the WVDE shall develop and publicize procedures to assure that any person who believes he or she has been the victim or a witness of religious, ethnic, racial or sexual harassment, or violence by a student, teacher, administrator, or other school personnel toward a student, teacher, administrator, or other school personnel has the identified, easily accessible mechanism to report the alleged acts immediately to an appropriate official(s) designated in county policy. 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, including Title IX.

All alleged incidents of harassment or violence observed by faculty or staff must be reported to the appropriate official(s) and appropriate action should be taken as specified in Section 2 of this chapter.

Section 2. Procedures for Investigating Allegations of Inappropriate Behavior

The county designee shall immediately undertake or authorize an investigation upon receipt of a report or complaint. The investigation may be conducted by school/county officials, or by a third party designated by the county school system.

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 within the complaint. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator.

When a student is to be interviewed pursuant to a Level 3 or 4 behavior, a reasonable effort shall be made to contact the student's parent or guardian, in a timely manner and invite them to be present during the interview, provided such notification does not compromise overall school/student safety. Parental/guardian notification is encouraged at Level 2 and discretionary at Level 1.

The principal shall:

- determine whether the alleged conduct constitutes a violation of this policy;
- take immediate and reasonable steps to protect the complainant, students, teachers, administrators, or other personnel pending completion of an investigation;
- assure that the investigation will be completed as soon as practicable but no later than 10 school days following the reported violation; and
- beyond the initial response, assure educational services to all students involved are not disrupted during the investigative process.

Upon completion of the investigation:

- a written WVEIS report shall be provided to the principal which includes a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy;
- the report shall be recorded and filed at the county/school level as determined in county policy; and
- a written notice of the conclusion of the investigation will be reported to the complainant or his/her legal guardian by the principal or his/her designee, but the report itself will not be shared with the complainant or his/her legal guardian.

Confidentiality of the filing of complaints, the identity of subjects and witnesses, and 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 provided information gathered in the investigation. A violation of confidentiality may itself be grounds for disciplinary action.

County boards of education and the WVDE shall develop procedures following the above guidelines to investigate complaints of religious/ethnic, racial or sexual harassment or violence by a student, teacher, administrator or other school personnel of the county board of education. For the WVDE, the State Superintendent of Schools shall take the place of the principal.

Section 3. Procedures to Prevent Reprisal

The county board of education shall develop and publicize discipline procedures to take appropriate action against any student or employee 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. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Likewise, the county board of education shall develop a disciplinary process to take appropriate action against any student, administrator, or other school employee who falsely reports violations of this policy.

Chapter 4
PROCEDURES FOR TAKING ACTION ON SUBSTANTIATED INAPPROPRIATE BEHAVIORS

Section 1. Interventions and Consequences of Inappropriate Behavior

Inappropriate behavior should be addressed with meaningful interventions and consequences that strive to improve future behavior using a MTSS framework. School administrators and staff shall leverage all appropriate school and community resources to provide appropriate evidence-based interventions designed to maximize student attendance and engagement. Out-of-school suspension strategies shall never deny a student access to instructional material and information necessary to maintain academic progress. Out-of-school suspension is not a recommended consequence or intervention for minimally disruptive Level 1 and 2 behaviors; however, the determination of interventions and consequences is at the discretion of the school administrator, with input considered from teachers/service personnel, for Levels 1, 2, and 3. Specific Level 3 behaviors mentioned in W. Va. Code shall be referred directly to the appropriate administrator because of the serious/unlawful nature of the misconduct.

In determining the appropriate intervention and/or consequence in response to a Level 1, 2, or 3 behavior, the principal, county superintendent, and/or county board of education should consider:

- the surrounding circumstances;
- the intent of the behavior;
- past incidents, continuing, or escalating patterns of behavior; and
- the relationships between the parties involved and the context in which the alleged incidents occurred.

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

Alternatives to Exclusion. When designing or adopting discipline plans, county boards of education and schools shall also consider and adopt alternatives to exclusion. Because student academic progress can be negatively impacted by exclusionary practices, processes should be considered that provide students support that are designed to decrease the chance of repeated behavior and increase the chance of academic success such as:

- restorative practices;
- mentoring;
- mental health supports;
- civil citations;
- academic and behavior supports;
- behavior contracts;
- community service;
- school-wide Positive Behavior Supports and Interventions (PBIS); and
- community health.

Exclusion. According to W. Va. Code §18A-5-1, a student may be removed from a classroom or school bus. Requirements for re-entry into the classroom and/or bus are outlined in the code section.

Bus operators must follow the guidelines outlined in W. Va. 126CSR92, Policy 4336, West Virginia School

Bus Transportation Regulations, Procedures, and Specifications for the Design and Equipment of Schools Buses, and Policy 2419. When the bus operator excludes a student from the school bus, the bus operator shall notify the student and the student's principal. The principal/designee shall notify the student's parent or guardian. All students shall be transported until the parent or guardian has been properly notified of the exclusion. The principal/designee shall notify the parent or guardian when the child may resume riding the bus. 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. The purpose of suspension is to protect the students, school personnel and property, the educational environment, and the orderly process of the school. Suspension is considered a temporary solution to an inappropriate behavior until the problem that caused the suspension is corrected. The length of a suspension should be short, usually one to three school days, but may not exceed 10 school days.

Suspension typically takes one of two forms:

- In-School Suspension. Student is temporarily removed from the classroom(s) for disciplinary reasons but remains under the direct supervision of school personnel and continues to receive instructional support. Direct supervision means school personnel are physically in the same location as the student(s) under their supervision. Settings may include other locations within the school building or removal to another school, such as an alternative school, provided the student remains under direct supervision of school personnel.
- Out-of-School Suspension. Student is temporarily removed from the school for disciplinary reasons to another setting pursuant to W. Va. Code §18A-5-1a (e.g., home, community setting). This includes both removals in which no Individual Education Plan (IEP) services are provided because the removal is 10 days or less, as well as removals in which the student continues to receive services according to his/her IEP. The student is not under direct supervision of school personnel as defined under in-school suspension.

A student is entitled to an informal hearing when faced with an out-of-school suspension of 10 days or less. At this hearing, the principal must explain why the student is being suspended, and the student must be given the opportunity to present reasons why she/he should not be suspended. However, a student whose conduct is detrimental to the safety of the school may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures the school must follow when dealing with out-of-school suspensions are outlined in W. Va. Code §18A-5-1 and §18A-5-1a and include:

- parent or guardian must be notified promptly in all cases of suspension;
- county superintendent or designee must be notified, preferably in writing, of the time and conditions pertaining to the suspension;
- student may not participate in any school-sponsored activities and is not permitted on school grounds during the period of suspension; or
- student may not be suspended from school solely for not attending class (W. Va. 126CSR81, Policy 4110, Attendance).

An out-of-school suspension of more than 10 days requires a formal hearing before the county board of education. The school and county must adhere to the following procedures as outlined in W. Va. Code §§18A-5-1, 18A-5-1a, and 18A-5-1b when dealing with suspensions of more than 10 days:

- parents or guardian must be informed in writing of the charges against their child, including a summary of the evidence upon which the charges are based;

- upon the student's parent or guardian's request, a formal hearing must be scheduled before the county board of education;
- students are entitled to be represented or advised during the proceedings by a person or persons of their choosing, including legal counsel; and
- students are entitled to be given reasonable time to prepare for the hearing.

Expulsion. The county superintendent, upon recommendation by the principal, may recommend that a county board of education expel a student from school if the student's conduct is judged to be detrimental to the progress and general conduct of the school. In all cases involving expulsion, the student is entitled to formal due process procedures. These procedures are outlined in W. Va. Code §18A-5-1 and §18A-5-1a. In expulsions involving students with an IEP or 504 Plan, a manifestation determination must be completed prior to the expulsion hearing, pursuant to Policy 2419 and IDEA.

W. Va. Code §18A-5-1 and §18A-5-1a requires mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than 12 consecutive months by the county board of education for: possession of a deadly weapon, battery of a school employee, or sale of a narcotic drug. Procedures that must be followed when dealing with an expulsion include:

- the student and parent or guardian must be given a written statement of the specific charges against the student;
- the county board of education must hold a hearing regarding the recommended expulsion;
- the student and parent or guardian must be given a written notice of the time and place of the county board of education hearing at which the expulsion will be considered. This notice must be given far enough in advance for the student to have time to prepare an adequate defense against the charges;
- the student and parent or guardian have the right to be present at the county board of education hearing and to defend against the charges;
- the student has the right to be represented by an attorney at the hearing at his/her own expense;
- the student has the right to present witnesses on his/her behalf, to hear the testimony of witnesses against him/her, and to question the witnesses against him/her;
- if the board of education decides that the charges against a student do not warrant his/her expulsion from school, the student may remain in school or return to school without being subjected to punishment or harassment;
- in all expulsion hearings, facts shall be found by a preponderance of the evidence;
- expulsion by the board of education is final. However, if a student or parent or guardian believes that the student was not given procedural due process, he/she may appeal to the State Superintendent of Schools, within 10 days of receiving the expulsion decision. If the State Superintendent of Schools finds that the board's decision to expel the student was properly made, then the expulsion will stand unless overturned by a court.
- If the State Superintendent of Schools finds the board's decision lacked procedural due process, the board shall ensure all due process procedures are provided and readminister the expulsion hearing within 10 days of receiving the decision.

Section 3. Considerations for Transferring Students with Expulsions

Students who have been suspended or expelled from a public or private school in West Virginia or another state, currently residing within the county, may not be denied enrollment in a county school system unless determined to be a "dangerous student" under the procedures set forth in W. Va. Code §18A-5-1a.

Pursuant to W. Va. Code §18A-1-1(j) "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. County superintendents may, in their discretion, determine the appropriate educational placement, including alternative education services, for these students (State Superintendent of Schools' Interpretation of January 26, 2007).

Section 4. Considerations for Students with Disabilities, Students not yet Determined Eligible for Special Education, and Students with 504 Plans

Refer to Policy 2419, Chapter 7 for specific guidelines related to protections that are warranted for students with disabilities, students not yet determined eligible for special education (i.e., students currently engaged in the eligibility process beginning with a Student Assistance Team referral), or students with 504 Plans.

Section 5. Procedures for Reporting Action on Substantiated Incidents

Schools shall accurately track incidents of inappropriate behavior and interventions/consequences 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. The WVEIS provides schools with the platform to report all incidents of inappropriate behavior at the classroom level and above. The primary value of this data rests at the school and county level and is necessary for development and monitoring of Policy 4373. All inappropriate behaviors as described in Chapter 2, Section 2, Levels 1, 2, 3, and 4 shall be reported through:

- teacher-level documentation of inappropriate behavior leading to interventions, consequences, and/or referrals to the principal;
- Principal-level WVEIS data entry of teacher level documentation and administrative disciplinary actions. This data shall be entered by the principal and/or other authorized staff; or
- county superintendent-level WVEIS data entry of county board of education actions resulting from expulsion hearings. This data shall be entered by the county superintendent and/or other authorized staff.

Incidents of inappropriate behaviors reported into WVEIS in accordance with this policy will be used by the WVDE to comply with federal and state reporting requirements. Schools are responsible for timely, complete, and accurate reporting of inappropriate behaviors and disciplinary actions. Counties are responsible for monitoring accuracy of school data in accordance with W. Va. 126CSR94, Policy 4350, Procedures for the Collection, Maintenance, and Disclosure of Student Data.

Section 6. Conflict Resolution Process

If someone believes that a county board of education has violated the procedural rights set forth in this policy, the person may follow the appeal procedures outlined in W. Va. 126CSR188, Policy 7211, Conflict Resolution Process for Citizens (Policy 7211). The procedures set forth in this policy are not deemed to be a precondition to seeking relief in some other forum, nor do they address personal complaints against a school employee.

Chapter 5
ALTERNATIVE EDUCATION REQUIREMENTS FOR DISRUPTIVE STUDENTS

W. Va. Code §18-5-19 provides for the creation of alternative education programs to allow for the provision of a free and appropriate education to students whose disruptive behavior has caused them to be removed from the regular classroom/school setting. Nothing in this manual precludes county boards of education from operating alternative education programs for non-disruptive students. The guidelines in this manual apply solely to alternative education programs for disruptive students. The State Superintendent of School's approval of the county alternative education policies and procedures is required for authorization to operate an alternative education program under these regulations.

Alternative education program is a temporarily authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions. These programs provide a safe and orderly learning environment for the education of all students in West Virginia public schools and meet the educational needs of disruptive students.

Alternative education programs for disruptive students encompass a range of program options such as:

- in-school suspension;
- a separate part-time or full-time alternative education classroom;
- a school-within-a-school;
- a school at an alternative site;
- a virtual setting;
- a combination in-person/virtual setting;
- an afterschool class/night school program; or
- a combination academic/work-based program.

County boards of education shall have flexibility in developing the type or types of alternative education program options needed to meet the needs of disruptive students in the county. County boards of education may request a waiver of WVBE policies and regulations in the development and operation of alternative education programs. Such a waiver request does not have to be submitted in accordance with the procedures for requesting waivers stipulated under W. Va. Code §18-5A-3, but may be submitted directly to the State Superintendent of Schools.

Program flexibility does not extend to modifying the provisions of Policy 2419 in providing alternative education programs for students with exceptionalities or Section 504 of the Rehabilitation Act of 1973.

Section 1. Policies and Procedure

County boards of education policies and procedures shall include, but are not limited to the:

- goals of the program;
- eligibility criteria and process for placement of students in the program as determined by Student Assistance Team as defined by W. Va. 126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510);
- involvement of parent or guardian and community agencies;
- length and time of day the after-hours/night school program operates, if applicable;
- plan for awarding of grades and/or credits;

- behavioral management plan as an alternative to the county's discipline policy, if applicable;
- staffing plan, personnel qualifications, and class size limits;
- criteria for completion of the alternative education program or re-entry into general education; and
- performance measures and process for program evaluation.

Section 2. Eligibility and Placement

A student may be placed in alternative education programs for:

- violations of the W. Va. Code §18A-5-1a;
- repeated violations of the county's discipline policy following documented multiple behavioral interventions by the Student Assistance Team at the referring school; or
- continuation of educational services during periods of suspension.
- A student returning to a West Virginia public school from an in-state or out-of-state placement does not automatically meet the eligibility for alternative education for disruptive students. West Virginia schools are prohibited from automatically placing these students in alternative education for disruptive students based solely on the fact that they are returning from placement.

A student who has been expelled must be placed in an alternative education program unless found to be a “dangerous student” under the procedures set forth in W. Va. Code §18A-5-1a.

A student who has been suspended or expelled from a public or private school in West Virginia or another state, currently residing within the county, may not be denied enrollment unless determined to be a “dangerous student” under the procedures set forth in W. Va. Code §18A-5-1a.

Upon placement, the Student Assistant Team shall develop a student's written plan to address academic, behavioral, social-emotional, and mental health needs as appropriate criteria for re-entry to the regular school program, and provisions for periodic review of the student's progress at least on an annual basis. The team for all students with disabilities shall be the IEP team and the written plan shall be the IEP.

Section 3. County Alternative Education Requirements

Curriculum. The curriculum will be based upon state-approved standards and include a component for teaching responsible behavior in a climate/culture conducive to teaching and learning.

Instruction. The instruction shall be personalized in a developmentally and age appropriate delivery.

Units of Credit. Units of credit are granted based upon proficiency of state-approved content standards.

Program Completion. A student may complete an alternative education program in one of the following manners:

- fulfillment of the criteria for re-entry into the referral school;
- completion of high school graduation requirements and awarding of a high school diploma from the referral school; or
- completion of a high school equivalency exam in accordance with W. Va. 126CSR32, Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma and the Administration of the West Virginia High School Equivalency Test, Option Pathway, and Mountaineer ChalleNGe

Academy Graduation Pathway.

State Assessment. A student shall participate in the appropriate assessment according to W. Va. 126CSR14, Policy 2340, West Virginia Measures of Academic Progress Program. The test scores for these students shall be counted in the results of the referral school.

Support Services. A student shall receive counseling and/or other support services as indicated in the student's written plan.

Special Education. A student's IEP shall comply with applicable state and federal laws and regulations.

Licensure. A teacher assigned to deliver the state-approved content standards within an alternative education program must possess a West Virginia professional teaching certificate in any area. A Temporary Authorization valid for one year shall be granted to the successful candidate for the alternative education program position. The employing county superintendent must verify that the applicant possesses the required competencies. The Temporary Authorization may be renewed each year based on the applicant's continued employment in an alternative education program.

Personnel Selection Criteria. A certified classroom teacher shall be selected on the basis of the teacher's demonstration of competence in meeting the following standards:

- ability to effect positive behavior in disruptive students;
- effective leadership and/or mentoring skills in working with youth;
- successful experience in providing education to troubled or disruptive youth;
- specialized training or experience in non-traditional programs; and
- specialized training in behavior management skills.

Section 4. Optional Alternative Education Settings

Day-School Programs. Absent expulsion, a student attending an alternative education day school program shall have the opportunity to receive a full-time instructional program and full instructional day during regular school hours. The county board of education must provide transportation for alternative education students in Day School Programs ensuring equal access for all public school students to access the school day.

After-Hours/Night School Classes. County boards of education are authorized to provide alternative education programs after regular school hours for expelled students and for students who have repeated serious violations of the county's discipline policy following documented multiple behavioral interventions and out-of-school suspensions. After-hour/night school programs shall include the provision of academic coursework and development of social skills/and appropriate behavior. Unless otherwise required by law, regulation, or court order, transportation services for such programs are at the discretion of the county board of education.

Home-Based Programs for Disruptive Students. County boards of education may provide home-based programs solely for students expelled under the Productive and Safe Schools Act (W. Va. Code §18A-5-1a) or for disruptive students who meet the eligibility criteria for home/hospital instruction under Policy 2510.

Program Evaluation. County boards of education shall conduct an annual evaluation of the effectiveness of the programs. The evaluation shall focus upon the impact on student performance and results using

indicators such as:

- academic gains;
- reduction in dropout rates;
- reduction in incidences requiring disciplinary action;
- improvement in attendance rates;
- rates of successful program completion and return to the regular school program;
- rates of successful completion of career and technical training programs;
- rates of successful completion of high school graduation or attainment of a high school equivalency diploma; and
- rates of successful job placement and job retention.

The WVDE shall review compliance with alternative education requirements and the effectiveness of alternative education programs through monitoring and review of the application received annually. The alternative education program shall be evaluated on the basis of its stated goals and the provisions of this policy.

Appendix A: Sample Interventions and Consequences

Interventions
Administrator/student conference or reprimand
Administrator and teacher-parent or guardian conference
Counseling referrals to support staff or agencies
Notification of appropriate Health and Human Resources
Daily/weekly academic and/or behavioral progress reports
Referral to Student Assistance Team (SAT)
Behavioral contracts
Change in the student's class schedule, locker assignment, or seat assignment
School service assignment
Interventions provided through a MTSS framework
Restorative Practices
*W. Va. Code §18A-5-1(d) prohibits the use of suspension solely for not attending class.
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 or 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.

Consequences
Academic sanctions may be used to deny credit for work resulting from cheating; however, previously earned grades/credits may not be reduced, if cheating did not occur on the earned grades and credits.
Confiscation of inappropriate item
Revocation of privileges
Detention (lunch, before and/or after school)
Denial of participation in class and/or school activities
Restitution/restoration
Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion (W. Va. Code §18A-5-1)
Voluntary weekend detention (State Superintendent of Schools' Interpretation of May 12, 2006)
In-school suspension
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 days.
Out-of-school suspension (W. Va. Code §18A-5-1(d) prohibits the use of suspension solely for not attending class.)
Out-of-school suspension for up to 10 days. (See guidelines in W. Va. Code §18A-5-1(d).)
The principal and/or county superintendent may recommend placement in an Alternative Education program as described in Section 5 of this policy.
Expulsion (See guidelines in W. Va. Code §18A-5-1(d).)
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.
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, 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, notification of law enforcement and/or human services.

Appendix B: Requirements

W. Va. Code	WVBE and WVDE Requirements
§18-2-7b Programs in drug prevention and violence reduction	• Prescribe programs within the existing health and physical education program which involve teachers, counselors, and other staff in the teaching of resistance and life skills to counteract societal and peer pressure to use drugs, alcohol, and tobacco. • Prescribe programs to coordinate violence reduction efforts in schools and between schools and their communities and to train students, teachers, counselors, and staff in conflict resolution skills. The program shall be comprehensive, interdisciplinary, and shall begin in elementary school.
§18-2C-1, et seq. Prohibiting harassment, intimidation, or bullying	• Compile WVEIS incident data for harassment, intimidation, and bullying and report it annually to the Legislative Oversight Committee on Education Accountability.
§18-9F-9 School Crisis Prevention and Response Plan	The WVBE, in conjunction with the Division of Homeland Security and Emergency Management, has developed a School Crisis Prevention and Response Plan Template containing the requirements for school specific School Crisis Prevention and Response Plans. The School Crisis Prevention and Response Plan Template to be used by schools may be found on the WVDE website. This template aligns with the safe schools initiatives of the School Building Authority of West Virginia (SBA) and Homeland Security and Emergency Management. Additionally, those portions of a school's access safety plan may be included in the School Crisis Prevention and Response Plan if there are any overlapping requirements.
§61-7-11a Possessing deadly weapons	The WVBE shall keep and maintain reports received by the State Superintendent of Schools from school principals that discover the unlawful possession of firearms on school premises or school buses. The WVBE may establish procedures for making and delivering such reports, entering into WVEIS, and notifying the State Superintendent of Schools via email and telephone as soon as possible, per W. Va. Code §61-7-11a, after the principal becomes aware of such unlawful or unauthorized possession.

W. Va. Code	County Board of Education Requirements

§18-2C-1, et seq. Prohibiting harassment, intimidation, or bullying	• Establish a policy prohibiting harassment, intimidation, or bullying using a process that includes representation of parent or guardian, school employees, school volunteers, students, and community members.
	• Include the following minimum policy components:
	  • effective on school property, school bus, school bus stop, and school-sponsored events;
	  • defined with all components of the definition set forth in W. Va. Code §18-2C-3 and this policy;
	  • procedures for reporting incidents;
	  • requirement that school personnel report incidents of which they are aware;
	  • requirement that parent or guardian of any student involved in an incident be notified;
	  • procedures for responding to and investigating reported incidents;
	  • strategies for protecting a victim from additional harassment, intimidation, or

W. Va. Code	County Board of Education Requirements
	bullying and from retaliation following a report; • discipline procedures for any student guilty of harassment, intimidation, or bullying; • procedures to ensure confidentiality of any information relating to a reported incident; and • requirement that each incident be reported within the WVEIS. • When/if the county policy is revised, submit a copy to the State Superintendent of Schools. • Post notice of the county policy in any student handbook, and in any county board of education publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. • Incorporate into each school's current employee training program Information regarding the county board of education policy prohibiting harassment, intimidation, and/or bullying. • Provide training, to the extent state or federal funds are appropriated, on the harassment, intimidation, or bullying policy to school employees and volunteers who have direct contact with students and develop a process for educating students on the same.
§18-5A-2 Local School Improvement Councils (LSIC)	• Annually, the LSIC shall develop and deliver a report, adhering to all applicable student privacy regulations, to the county superintendent (council on productive and safe schools) that includes: • guidelines for the instruction and delivery of interventions for students who have been excluded from the classroom, suspended from the school, or expelled from the school. The guidelines shall include descriptions/ recommendations for in-school programs with alternative settings and/or schedules, a system to provide effective communication and coordination between school and local emergency services agencies, preventive discipline strategies, and student involvement strategies. • findings from an examination of school discipline procedures including disciplinary measures used at the school along with a documented assessment of fairness and consistency of disciplinary actions. • The county superintendent or designee shall respond to the LSIC in writing within 10 days of receiving the report. • The county board of education shall retain and file all such correspondence for public review.
§18-9F-1, et seq. School Access Safety Act	Each county board of education seeking funds for school access safety projects during a fiscal year shall submit to SBA a school access safety plan or annual plan update that addresses the school access safety needs of each school facility in the county. The safety plan shall include at least the following: • a prescribed countywide inventory of each school facility's means of ingress to and egress from the school for students, school employees, parent or guardian, visitors, and emergency personnel; • the recommendations and guidelines developed by the Countywide Council on Productive and Safe Schools together with the county board of education assessment of the recommendations and guidelines; • recommendations for effective communication and coordination between school

W. Va. Code	County Board of Education Requirements
	facilities, local law-enforcement agencies, and local emergency service agencies in the county; • an assessment of the current status of crime committed on school campuses and at school-related functions; • a projected school access safety repair and renovation schedule for all school facilities in the county; • a prioritized list of all projects contained in the plan, including the projected cost of each project; • a description of how the plan addresses the school access safety goals and guidelines established by the SBA and how each project furthers the county board of education safety plan, facilities plan, and school major improvement plan; • notation of the funds available for allocation and disbursement to the county board of education from the School Access Safety Fund; • a description of any source of local funds that the county board of education intends to contribute to the safety projects, or an approved financial hardship waiver, to satisfy the local contribution requirements; and • any other element considered appropriate by the SBA or required by other regulations.
§18-9F-9 Crisis Response Plan	County board of education is required to: • keep the current School Crisis Prevention and Response Plans for each school in the county on file and, unless otherwise provided for, provide a copy of each school's crisis prevention and response plan to each local emergency response agency that has a role in the plan. Local emergency response agencies that maintain a copy of the plan shall provide the same necessary safeguards for the information in the plan; • employ the approved safeguards put in place by the school to protect information contained in each crisis prevention and response plan that may be considered protected critical infrastructure information, law enforcement sensitive information, or for official use; and • make available to the public, upon request, a redacted copy of a school crisis prevention and response plan with any information removed that is necessary for compliance with the necessary safeguards. The county board of education should support schools in the development and updating of school crisis prevention and response plans by providing the following guidance and support: • standardized procedures, developed in collaboration with local emergency agencies and service providers, that can be used in each school crisis prevention and response plan as appropriate when one agency or service provider serves all schools within the county; • standardized lists of existing county board of education policies that support the requirements of the school crisis prevention and response plan; • standardized local procedures for document safeguards and technical support to schools regarding the appropriate filing of the school crisis prevention and response plan; • standardized procedures for the annual review/update of each school crisis prevention and response plan; and

W. Va. Code	County Board of Education Requirements
	• resources for training school personnel on school specific school crisis prevention and response plans.
§18A-5-1 Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished	• The county board of education shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct disruptive student behaviors so disruptive students can return to a regular classroom without engaging in further disruptive behavior. • Corporal punishment of any student by a school employee is prohibited. • The county board of education is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with state laws to govern disciplinary actions. These policies shall encourage the involvement of parent or guardian in the maintenance of school discipline. • The county board of education shall provide for the implementation of a preventive discipline program including student involvement. • The county board of education shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. • The county board of education also may 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.
§18A-5-1a Possessing deadly weapon; possessing a controlled substance; assaults and batteries upon teachers or other school personnel; sale of narcotic; expulsion; exception; alternative education	Students are not permitted to engage in the following conduct on school premises, on school buses or school transportation, or at school-sponsored functions. GROUP A • Intentionally making physical contact of an insulting or provoking nature with a school employee while he or she is performing job duties; is commuting to or from work; or in retaliation to the school employee's action to supervise or discipline students. • Possessing a firearm or other deadly weapon. • Participating in the sale of a narcotic drug. GROUP B • Committing an act or engaging in conduct that would constitute a felony in West Virginia if committed by an adult. • Possessing a controlled substance governed by the Uniform Controlled Substance Act. GROUP C • Injuring, or threatening to injure, a student, teacher, administrator, or other school personnel. • Willfully disobeying a teacher. • Possessing alcohol. • Using profane language directed at a school employee or student intentionally defacing school property. • Participating in a physical altercation with another person while under the

W. Va. Code	County Board of Education Requirements
	authority of school personnel. • Habitually violating school rules or policies. When a principal has notified the county superintendent of a student's suspension for conduct described in Group A above and makes the mandatory request to the county superintendent that the student be expelled, the county superintendent shall recommend to the county board of education that the student be expelled. Upon receiving the county superintendent's recommendation, the county board of education shall hold a hearing following the procedures outlined below. If it is determined the student did commit the alleged conduct, the county board of education shall expel the student in accordance with Level 4, Chapter 2, Section 2. When a principal has notified the county superintendent of a student's suspension for conduct described in Groups B and C above and submits a request to the county superintendent that the student be expelled, the county superintendent may recommend to the county board of education that the student be expelled. If the county superintendent makes such recommendation, the county board of education may hold a hearing following the procedures outlined below. If it is determined the student did commit the alleged conduct, the county board of education may expel the student. Hearing Procedure • Prior to a hearing, the county board of education shall issue written notice which states the charges and the recommended disposition to be served upon the student and his/her parent, guardian or custodian(s). The notice shall include: o the date and time at which the hearing shall be held (within 10 days of the beginning of the suspension); and o if there will be an attempt to establish the student as a "dangerous student," the notice must state this intention and include any evidence which will be used to assert this claim. • At the hearing, the county board of education shall determine: (1) if the student should be reinstated; or (2) if the student should be expelled from school. If the county board of education determines the student should be expelled from school, it may also determine whether the student is a dangerous student. If the written notice for the hearing did not clearly articulate that evidence would be presented to establish the student as a dangerous student, the county board of education shall schedule a second hearing within 10 days to decide that issue. A second hearing attempting to establish a student as a dangerous student may be postponed for good cause shown by the student; such student shall remain under suspension until after the second hearing. • At any hearing before a county board of education, the student may be represented by counsel, may call his/her own witnesses to verify his/her version of the incident, and may confront and cross-examine witnesses supporting the charge against him or her. • All hearings before the county board of education shall be recorded by electronic means unless recorded by a certified court reporter. • In all hearings, facts shall be found by a preponderance of the evidence.

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	• A hearing before the county board of education may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing. • At the conclusion of the hearing, the county board of education shall either: (1) order the student reinstated immediately at the end of his/her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county. • A county board of education that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. o A hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. o During such hearings, the county board of education may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. o If it is determined during any of the hearings 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. • In connection with proceedings related to a recommended student expulsion or dangerous student determination, the superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents. Upon 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. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents, or both following the subpoena requirements set forth in W. Va. Code §29A-5-1. • Any hearing may be postponed: (1) For 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. 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 school year, except that if a student is determined to have committed conduct described in Group A above the student shall be expelled for a period of not less than 12 consecutive months. o The county superintendent may lessen the mandatory period of 12 consecutive months for the expulsion of the student if the circumstances of the student's case 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 of education, the principal, the faculty senate, and the local school improvement council. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory 12-month expulsion:

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	▪ the extent of the student's malicious intent; ▪ the outcome of the student's misconduct; ▪ the student's past behavior history; ▪ the likelihood of the student's repeated misconduct; and ▪ if applicable, successful completion of satisfactory progress towards successful completion of Juvenile Drug Court. • All actions taken with regard to this section of law must be in compliance with the federal provisions of the IDEA. • Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in WVEIS.
W. Va. Code §49-2-803 Persons mandated to report suspected abuse and neglect; requirements.	County boards of education are responsible for providing all of its employees with a written document setting forth the notification requirements when child abuse or neglect is suspected. The statement must contain the following information: • teachers, school personnel, volunteers, counselors, nurses, or other professional mandatory reporters within a school who suspect that a student is being abused or neglected shall report the circumstances to the WVDHS immediately, and within **no more than 24 hours**; • if a mandatory reporter suspects a student has suffered serious physical abuse or sexual abuse or sexual assault, the West Virginia State Police and the local law enforcement entity must also be notified immediately; • mandatory reporters that are also staff or volunteers of an entity or organization that provides services to a school or otherwise organizes activities at a school or on school premises must immediately notify the person in charge of the entity or organization providing services or activities to a school. The mandatory reporter must follow any additional reporting requirements established by such entity or organization; • in instances where a mandatory reporter personally witness any of the following acts, or receives credible information from a witness of any of the following acts, he or she must notify the West Virginia State Police and the local law enforcement entity immediately: o sexual contact of a child on school premises, on a school bus, or on transportation used in furtherance of a school purpose. Sexual contact is further defined in W. Va. Code §61-8B-1(6); o sexual intercourse of a child on school premises, on a school bus, or on transportation used in furtherance of a school purpose. Sexual intercourse is further defined in W. Va. Code §61-8B-1(7); or o sexual intrusion of a child on school premises, on a school bus, or on transportation used in furtherance of a school purpose. Sexual intrusion is further defined in W. Va. Code §61-8B-1(8). There is a *limited* exception to the mandatory reporting requirement when a mandatory reporter receives information or observes *consensual* sexual contact, intercourse, or intrusion between students. This exception does not apply, and thus the immediate and within no more than 24-hour notification requirement must be followed, when the consensual sexual contact, intercourse, or intrusion involves: • a student who is 14 or older and a student who is less than 12; • a mentally or physically incapacitated students; or

W. Va. Code	County Board of Education Requirements
	• a student who is 16 or older and a student who is less than 16 when there is at least a 4-year age difference between the students. County boards of education must secure a written acknowledgment from every employee indicating the employee has received and understands the statement of reporting requirements provided by the county board of education.
§61-7-11a Possessing deadly weapons on premises of educational facilities	• It is unlawful for any person, excepting the individuals and classes of individuals listed below, to possess a firearm or other deadly weapon on school premises, on school buses, or at school-sponsored functions. • Approval of the county board of education is necessary for certain individuals and classes of individuals to lawfully possess a firearm or other deadly weapon on school premises, on school buses, or at school-sponsored functions, which include specific areas that are owned, rented, or leased WVDE, West Virginia Secondary School Activities Commission, county board of education, or local public school for the actual period a function is occurring. • The prohibition against possessing firearms or other deadly weapons on school premises, on school buses, or at school-sponsored functions does not apply to: o law-enforcement officers employed by federal, state, county, or municipal law-enforcement agencies; o probation officers appointed to their position by the West Virginia Supreme Court of Appeals, or otherwise pursuant to W. Va. Code §62-12-5 or Chapter 49 of said Code, in the performance of his/her duties; o retired law-enforcement officers who are: (1) employed by a state, county, or municipal law-enforcement agency; (2) covered for liability purposes by the law-enforcement agency; (3) authorized by the county board of education and the school principal to serve as security for the school; (4) qualified to carry a firearm as a retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c); and (5) qualified with his/her firearm to his/her employer's requirements for handling and using a firearm; o individuals specifically authorized by the county board of education or school principal to conduct programs with valid educational purposes; o individuals who are otherwise lawfully permitted to possess a firearm or deadly weapon may possess an unloaded firearm or deadly weapon in a motor vehicle on school premises; o individuals who are otherwise lawfully permitted to possess a firearm or deadly weapon may leave an unloaded firearm or deadly weapon in a locked motor vehicle on school premises; o programs or raffles, approved by the county board of education or school, that include the display of unloaded firearms; o individuals 21 years and older may possess a concealed handgun in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school if: (1) while occupying the vehicle, the handgun is stored out of view from persons outside the vehicle; or (2) when not occupying the vehicle, the vehicle as a whole is locked and the handgun is stored in a locked trunk, locked glove box, locked interior compartment, or locked container securely fixed to the vehicle;

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	○ West Virginia University's official mascot, commonly known as the Mountaineer, when acting in his/her official capacity; and ○ Parkersburg South High School's official mascot, commonly known as the Patriot, when acting in his/her official capacity.

W. Va. Code	School Requirements
§18-5A-2 Local School Improvement Councils (LSIC)	• The LSIC shall schedule any meeting that involves the issue of student discipline outside the regularly scheduled working hours of any school employee member of the council. • The LSIC shall conduct a meeting to engage parent or guardian, students, school employees, and other interested parties in a positive and interactive dialogue regarding effective discipline policies. • The LSIC shall develop and deliver a report (adhering to all applicable student privacy regulations) to the county superintendent (council on productive and safe schools) that includes: ○ guidelines for the instruction and delivery of interventions for students who have been excluded from the classroom, suspended from the school or expelled from the school. The guidelines shall include descriptions/ recommendations for in-school programs with alternative settings and/or schedules, a system to provide effective communication and coordination between school and local emergency services agencies, preventive discipline strategies, and student involvement strategies; and ○ findings from an examination of school discipline procedures including disciplinary measures used at the school along with a documented assessment of fairness and consistency of disciplinary actions. ○ The superintendent (or designee) shall respond to the LSIC in writing within 10 days of receiving the report and the county board of education shall retain and file all such correspondence for public review.
§18-9F-9 School crisis response plan	Each school shall create a comprehensive School Crisis Prevention and Response Plan Template model developed by the WVBE. In developing the School Crisis Prevention and Response Plan, schools shall employ necessary safeguards to protect information contained in each plan that may be considered protected critical infrastructure information, law enforcement sensitive information or for official use only. The safeguards employed to protect sensitive information must have the approval of the West Virginia Department of Homeland Security's Division of Emergency Management. School Crisis Prevention and Response Plans, and updates to such plans, are to be filed with the school's county board of education. The Crisis Prevention and Response Plans must be developed under the following requirements: • each school within the state shall form a crisis prevention and response planning team consisting of either: (1) the school's Local School Improvement Council, or (2) a team consisting of the principal, two teachers, one service person, and two parents or guardians of children attending the school. The school crisis prevention and response planning team may include one member of the county board of education, a school counselor, a member from local law-

W. Va. Code	School Requirements

	enforcement authorities, the local county emergency services director, and one student in grade 10 or higher if the school has those grades;
	• each school within the state, through the school's crisis prevention and response planning team, shall develop a school specific crisis prevention and response plan using the state/county template, and with consultation from local social services agencies and local first response agencies including police, fire, emergency medical services (EMS), emergency management, and any other local entities the school's crisis prevention and response planning team determines should be consulted;
	• each school's crisis prevention and response planning team shall annually review its crisis prevention and response plan and shall update the Plan as necessary. Each school shall file either an updated School Crisis Prevention and Response Plan or a memorandum stating that no update to the Plan was necessary with the county board of education and the Division of Homeland Security and Emergency Management no later than August 1 of each year;
	• each school shall make a redacted copy of its school crisis prevention and response plan available, upon request, for inspection by the public with any information removed, that is necessary for compliance, with the necessary safeguards developed by the state;
	• each school shall annually send notice home to all parents and guardians of students, at the school, alerting the parents and guardians to the existence of the crisis prevention and response plan and the ability to review a redacted copy at the offices of the county board of education; and
	• each School Crisis Prevention and Response Plan shall include at least the following:
	  • the school employee in charge during a crisis and a designated substitute;
	  • a communication plan to be used during a crisis;
	  • protocols for responding to immediate physical harm of students, faculty or staff, and to traumatic events, including the period after the event(s) have concluded;
	  • disaster and emergency procedures to respond to earthquakes, fire, flood, other natural disasters, explosions, or other events or conditions in which death or serious injury is likely;
	  • crisis procedures for safe entrance to and exit from the school by students, parent or guardian, and employees, including an evacuation and lock down plan; and
	  • policies for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

§18-2-40 Jamie's Law Suicide Prevention	A public middle and high school administrator shall disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students.
§18A-5-1 Authority of teachers and other school	• The teacher shall stand in the place of the parent or guardian in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of students is provided, the driver in

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personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished	charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school. • Subject to W. Va. 126CSR51, Policy 2423, Health Promotion and Disease Prevention, the school administrator or school nurse shall exclude from the school any student known to have or suspected of having any infectious disease, or any student who has been exposed to any infectious disease. • The teacher or bus driver may exclude from his/her classroom or school bus any student who is guilty of inappropriate behavior as outlined in Chapter 2, Section 2, Levels 1, 2, 3, or 4 of this policy. • 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 that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. • If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent or guardian. • When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent or guardian of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student, and inform the parent or guardian of the course of action. • If the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. • A student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class, time or alternative class settings. • Corporal punishment of any student by a school employee is prohibited.
§18A-5-1a Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and	• Students are not permitted to engage in the following conduct on school premises, on school buses, or school transportation, or at school-sponsored functions; such conduct is grounds for suspension. GROUP A ○ Intentionally make physical contact of an insulting or provoking nature with a school employee while he or she is performing job duties; is commuting to or from work; or in retaliation to the school employee's action to supervise or discipline students. ○ Possessing a firearm or other deadly weapon. ○ Participating in the sale of a narcotic drug. GROUP B

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batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.	○ Committing an act or engaging in conduct that would constitute a felony in West Virginia if committed by an adult. ○ Possessing a controlled substance governed by the Uniform Controlled Substance Act. GROUP C ○ Injuring, or threatening to injure, a student, teacher, administrator, or other school personnel. ○ Willfully disobeying a teacher. ○ Possessing alcohol. ○ Using profane language directed at a school employee or student. ○ Intentionally defacing school property. ○ Participating in a physical altercation with another person while under the authority of school personnel. ○ Habitually violating school rules or policies. • School personnel that receive information or witness student(s) committing conduct described above must immediately report such student(s) and conduct to the school principal. • Prior to suspending a student, the principal must hold an informal hearing immediately after the conduct. The hearing must take place before a student is suspended. However, a student may be suspended without first holding a hearing if the principal believes the continued presence of the student in the school poses a continuing danger or presents a continuing threat of disrupting academic progress. In such situations, an informal hearing must be held as soon as practically possible following the suspension. • The student and his/her parent or guardian must be given telephonic notice, if possible, of the informal hearing. This notice shall include a brief statement of the grounds for suspension. • Informal Hearing Procedure. ○ At the beginning of the hearing, the principal must ask the student if he or she admits or denies the charges. ○ If the student denies charges, he or she must be provided with an explanation of the principal's evidence supporting the charges. ○ The student must be given an opportunity to present his/her version of the incident. • At the conclusion of an informal hearing or upon the failure of the noticed student to appear, if the principal finds the student to have committed the alleged conduct, the disciplinary action to be taken by the principal is as follows: ○ For students found to have committed the conduct described in Groups A and B above, the principal **shall** suspend the student for up to 10 days, including any time the student was suspended prior to the hearing. ○ For students found to have committed the conduct described in Group C above, the principal **may** suspend the student for up to 10 days, including any time the student was suspended prior to the hearing.

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	• The principal shall report any suspension the same day it is determined, in writing, to the parent or guardian 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. All suspensions must also be recorded in WVEIS **within 24 hours**. • For any student suspended as the result of the conduct described in Group A above, the principal **must** make a request, within 24 hours of the suspension, to the county superintendent that he or she recommend to the county board of education that such student be expelled. • For any student suspended as the result of the conduct described in Groups B and C above, the principal **may** make a request to the county superintendent that he or she recommends to the county board of education that such student be expelled. • Each expulsion imposed upon a student shall be recorded in WVEIS. • Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the WVBE.
W. Va. Code §49-2-803 Persons mandated to report suspected abuse and neglect; requirements.	• Teachers, school personnel, volunteers, counselors, nurses, or other professional mandatory reporters within a school, who suspect that a student is being abused or neglected, to report the circumstances to the WVDHS immediately, and within **no more than 24 hours**. • If a mandatory reporter suspects a student has suffered sexual abuse, sexual assault, or serious physical abuse, the West Virginia State Police and the local law enforcement entity must also be notified immediately. • Mandatory reporters, that are also staff or volunteers of an entity or organization that provides services to a school or otherwise organizes activities at a school or on school premises, must immediately notify the person in charge of the entity or organization providing services or activities to a school. The mandatory reporter must follow any additional reporting requirements established by such entity or organization.
§61-7-11a Possessing deadly weapons on premises of educational facilities; reports by school principals…	• It is unlawful for any person, excepting the individuals and classes of individuals listed below, to possess a firearm or other deadly weapon on school premises, on school buses, or at school-sponsored functions. • The prohibition against possessing firearms or other deadly weapons on school premises, on school buses, or at school-sponsored functions does not apply to: o law-enforcement officers employed by federal, state, county, or municipal law-enforcement agency; o probation officers appointed to their position by the West Virginia Supreme Court of Appeals, or otherwise pursuant to W. Va. Code §62-12-5 or Chapter 49 of said code, in the performance of his/her duties; o retired law-enforcement officers that are: (1) employed by a state, county, or municipal law-enforcement agency; (2) covered for liability purposes by the law-enforcement agency; (3) authorized by the county board of education and the school principal to serve as security for the school; (4) qualified to carry a firearm as a retired law-enforcement

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	officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c); and (5) qualified with his/her firearm to his/her employer's requirements for handling and using a firearm; ○ individuals specifically authorized by the county board of education or school principal to conduct programs with valid educational purposes; ○ individuals that are otherwise lawfully permitted to possess a firearm or deadly weapon may possess an unloaded firearm or deadly weapon in a motor vehicle on school premises; ○ individuals that are otherwise lawfully permitted to possess a firearm or deadly weapon may leave an unloaded firearm or deadly weapon in a locked motor vehicle on school premises; ○ programs or raffles, approved by the county board of education or school, that include the display of unloaded firearms; ○ individuals 21 years and older may possess a concealed handgun in a motor vehicle in a parking lot, traffic circle or other areas of vehicular ingress or egress to a public school if: (1) while occupying the vehicle, the handgun is stored out of view from persons outside the vehicle; or (2) when not occupying the vehicle, the vehicle as a whole is locked and the handgun is stored in a locked trunk, locked glove box, locked interior compartment, or locked container securely fixed to the vehicle; ○ West Virginia University's official mascot, commonly known as the Mountaineer, when acting in his/her official capacity; and ○ Parkersburg South High School's official mascot, commonly known as the Patriot, when acting in his/her official capacity. • State law does contain criminal penalties for unlawfully possessing a firearm or deadly weapon on school premises, on school buses or at school-sponsored functions. For more information on those penalties, please see W. Va. Code §61-7-11a(b)(3). • The principal shall report any unlawful or unauthorized possession of a firearm or deadly weapon discovered by such principal on school premises, on school buses or at school-sponsored functions to the state superintendent of schools as soon as possible, per W. Va. Code §61-7-11a, after the principal becomes aware of such unlawful or unauthorized possession. • The principal shall report any unlawful or unauthorized possession of a firearm or deadly weapon discovered by such principal to the appropriate local office of the division of public safety as soon as possible, per W. Va. Code §61-7-11a, after the principal becomes aware of such unlawful or unauthorized possession.