

CHAPTER: STUDENTS

TITLE: EXPECTED BEHAVIORS IN SAFE and SUPPORTIVE SCHOOLS

STUDENT RIGHTS AND RESPONSIBILITIES

Rights and responsibilities go hand in hand. Students in West Virginia have basic rights and responsibilities similar to those enjoyed by other citizens. These include the right to the equal protection of the laws and the right to the privileges and immunities of United States citizenship. Enjoyment of these rights is governed by due process of law.

School officials have control over 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 their designated bus stop. To meet this responsibility school officials have the right and responsibility to adopt rules and regulations for the purpose of maintaining order and discipline and creating a positive learning environment. 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. The Right to a Thorough and Efficient Education.

1.1. All Calhoun County students, regardless of race, religion, national origin, language, gender, disability, marital status, parenthood, or pregnancy have the right to an equal education opportunity. Students are required by law to attend school regularly until their seventeenth birthday; as long as they continue to be enrolled as a student after their seventeenth birthday; or until their graduation. A student who has not graduated may attend school until they are twenty-one.

1.2. Public schooling is tuition-free for all students. Calhoun County Schools may charge tuition for summer school and before/after-school programs, if offered, provided that any student whose parents, in the judgment of the board, are unable to pay such tuition, may attend at a reduced charge or without charge except for post secondary, community education, or adult preparatory programs.

1.3. Whatever school supplies are deemed necessary to accomplish the goals of Calhoun County Schools are an integral and fundamental part of elementary and secondary education must be provided free of charge to all students, such as textbooks, paper, writing implements and computers if their use is part of the curriculum. Students may be required to purchase their own equipment, such as instruments and costumes, for performance-based classes, such as band, orchestra, choir, dance and theatre. However, students shall not be denied participation in a class because their

parents/guardians cannot afford to do so. All schools have contingency plans to accommodate students and families who do not have the financial means to make these purchases.

Section 2. Student Inquiry and Expression.

2.1. No Calhoun school may conduct, sponsor or endorse religious activities during school time. 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 after school. 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.

2.2. 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 and substantially disrupt the work and discipline of the school or impinge upon the rights of other students. Schools may 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 might reasonably be expected to cause disruption in the school may be prohibited or disciplined. This includes blogs and social media postings created for the purpose of inviting others to indulge in disruptive and hateful conduct towards a student or staff member.

2.3. 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.

2.4. 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 3. Non-curriculum Related Student Groups.

3.1. 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 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 4. Extra-Curricular Activities.

4.1. Students must meet all state and local attendance requirements and maintain a 2.0 grade point average in order to participate in non-academic extra-curricular activities (e.g. interscholastic athletics such as football, basketball, track or wrestling; cheerleading; student government; class officers in grades 6-12). Eligibility is determined for each semester by a student's grade point average for the previous semester. Those students participating in a GED program whose grade point average for the last semester before entering into the program was below 2.0 grade point average may become eligible if they achieve a 2.0 average or better the mid-point of the second semester (the nine week point) in the same manner as students enrolled in the regular curriculum as outlined in [WVBE Policy 2436.10](#)..

4.2. Fees may be required to help support the cost of extra-curricular activities; however, the fees shall be kept to a minimum in order to further equal opportunity for participation regardless of economic status. If fees are to be paid by a student who cannot afford those fees, school officials shall develop options that will allow the student to participate.

Section 5. Privacy.

5.1. Students have certain privacy rights regarding school records. To ensure this privacy, WVBE Policy [4350 – Collection, Maintenance and Disclosure of Student Data](#) provides regulations for schools to follow regarding school records.

Parent(s)/guardian(s) of students under eighteen years of age are entitled by law to inspect and review their child's school records. This right applies to both custodial and non-custodial parents. Students have these same rights if they are eighteen years of age or older. A guidance counselor or other school official may be needed to assist in interpreting the information in a student's permanent record file, but their assistance is not required.

5.2. If a student or parent/guardian believes that information contained in an education record is inaccurate or misleading or violates the student's privacy or other rights, the student or parent/guardian may request that the records be amended. If the school does not amend the records, a hearing may be requested to challenge the content of the records.

5.3. Except in certain instances, school officials may not release information from a student's records without the consent of a parent or guardian, or student if the student is eighteen years of age or older. For example, confidential medical information cannot be released without the consent of the parents or guardians or eligible students' specific written consent. However, under certain conditions, authorized persons or agencies may receive information without consent. For example, if school officials are served with a valid subpoena for student information, the parents or guardians must be provided notice prior to compliance with the subpoena in order that they may voice any objections in the venue that issued the subpoena.

5.4. Directory information may be released without seeking prior consent of the parents or guardians unless they refuse to waive consent at the beginning of each school year after receiving notification by the school of their statutory rights under the law.

Section 6. Protection from Unreasonable Searches and Seizures and Self-Incrimination.

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

6.2. 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***. They are entitled to be informed of their right against self-incrimination if they are in a custodial setting, in other words, they 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 PRO Officers acting under the supervision of school officials who are investigating school related misconduct.***

Section 7. Child Abuse Prevention.

7.1. Students have the right to grow up without being physically or sexually abused at school, in the home or the community. [W.Va Code §49-6A-2](#) requires teachers, counselors, nurses, or other professionals who suspect that a student is being abused ***to report the circumstances to the West Virginia Department of Health and Human Resources.*** Victims of abuse may seek the advice or assistance of a teacher, counselor, nurse, or other school professional. The school professional will assist students in getting needed help to prevent the abuse from recurring.

BULLYING, HARASSMENT, AND INTIMIDATION.

1. General.

1.1. Scope. This section sets the requirements for schools and school property in Calhoun County to be free from all forms of bullying, harassment, and/or intimidation.

1.2. Authority. W. Va. Code 18-2C-1 et seq. and 49-6A-2.

2. Definitions.

A student will not bully/intimidate/harass another student. According to West Virginia Code [§18-2C-2](#), “harassment, intimidation or bullying” means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

- A reasonable person under the circumstances should know will have the effect of harming a student, damaging a student’s property, placing a student in reasonable fear of harm to his or her person, and/or placing a student in reasonable fear of damage to his or 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.

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

Acts of harassment, intimidation, or bullying that are reasonably perceived as being motivated by any actual or perceived differentiating characteristic, or by association

with a person who has or is perceived to have one 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 regardless of whether they involve students, staff or the public.

Detailed definitions related to inappropriate behavior of this nature are as follows 2.1. Bullying, harassment, and/or intimidation - "Bullying, harassment, and/or intimidation is an intentional gesture, or any written, verbal or physical act, or threat that is sufficiently inappropriate, severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment or that a reasonable person under the circumstances should know will have the effect of:

Sexual harassment consists of sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
- submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or
- creating an intimidating, hostile or offensive employment or educational environment.

Amorous relationships between county board employees and students are prohibited.

Sexual harassment may include but is not limited to:

- verbal harassment of a sexual nature or abuse;
- pressure for sexual activity;
- inappropriate or unwelcome patting, pinching or physical contact;
- sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status;
- behavior, verbal or written words or symbols directed at an individual because of gender; or
- the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits,

climate/culture or opportunities.

Racial harassment consists of 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;
- has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
- otherwise adversely affects an individual's employment or academic opportunities.

Religious/ethnic harassment consists of physical, verbal or written conduct which is 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;
- has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
- otherwise adversely affects an individual's employment or academic opportunities.

Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:

- 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; or
- threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.
- threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

Religious/ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.

3. Purpose.

3.1. The purpose of this rule is to:

3.1.1. prevent all forms of bullying, harassment, and intimidation toward students in order to protect the academic environment, and

3.1.2. assure that Calhoun County Schools respond to incidents of bullying, harassment, and intimidation in a manner that effectively deters similar future incidents and affirms respect for individuals.

3.2. Calhoun County Schools finds that a safe and civil environment in school is necessary for students to learn and achieve high academic standards. Bullying, harassment, or intimidation, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe, non-threatening environment.

3.3. Calhoun County Schools shall collaborate with other state and local agencies in carrying out the purpose of this rule.

4. General Statement of Policy

4.1. This policy applies to all persons on any school property and all persons attending school, school-related activities, or any education-sponsored events, whether held in a building or within or upon other property used or operated by the Calhoun County Board of Education to include bus stops, or in any other facility being used by the Calhoun County Board of Education.

4.2. No person on any school property or attending any school-related activity or any education-sponsored event, whether in a building or upon other property used or operated by the Calhoun County Board of Education, or in any other facility being used by the Board of Education, shall engage in bullying, harassment, or intimidation. Persons found to have violated this prohibition shall be subject to the penalties in Section 7, Discipline, and any other penalties prescribed by law.

4.3. Any staff member who has or receives notice that a student has or likely has been the victim of bullying, harassment, or intimidation is required to immediately report the alleged acts to the designated investigator. Failure to do so shall result in disciplinary action.

5. Complaint Procedures.

5.1. Any student who believes he or she has been the victim of any form of bullying, harassment, or intimidation and any person with knowledge or reasonable belief of conduct which may constitute any form of bullying, harassment, or intimidation toward another student shall report the alleged acts immediately to the designated person as set forth in section 5.2, below. Assistance shall be provided to individuals who need help in filing such complaints. Nothing in this policy shall prevent any person from also reporting bullying, harassment, or intimidation directly to the building principal, the

county superintendent, or to the West Virginia Human Rights Commission, a law enforcement agency, or any other appropriate institution or official.

5.2. Any student assigned to a school who believes he or she has been the victim of any form of bullying, harassment, or intimidation, or any staff member who has knowledge or reasonable belief of conduct which may constitute any form of bullying, harassment, or intimidation toward a student shall report the alleged acts immediately to the building principal, who shall become the designated investigator. In the event that the principal is the alleged harasser, the report may be made to any teacher, who shall forward the complaint directly to the Director of Special Programs, who shall become the designated investigator.

5.3. All designated investigators shall be given training by Calhoun County Schools on an annual basis regarding proper investigation and reporting procedures.

5.4. Upon receipt of a report substantiated by staff observation or by the investigation, the principal, superintendent or local board of education will take appropriate action against those found to have violated §126-99-6 pursuant to WV Code §18A-1-1 and §18A-5-1a.

5.5. Under certain circumstances, some forms of bullying, harassment, or intimidation may rise to the level of child and/or sexual abuse as defined in Chapter 49 of the West Virginia Code. In such situations, all staff members shall comply with the provisions of law for reporting such abuse.

6. Investigation.

6.1. Upon receipt of a report or complaint alleging any form of bullying, harassment, and/or intimidation, the designated investigator shall immediately undertake or authorize a thorough investigation. Immediate steps shall be taken to protect the complainant pending completion of an investigation of alleged bullying, harassment, or intimidation.

6.2. After the investigator has determined that there are reasonable grounds to believe that an incident of bullying, harassment, and/or intimidation has occurred, the person accused of bullying, harassment, and/or intimidation, or his or her parent(s), custodian(s) or guardian(s), should be notified promptly of the resulting investigation. Likewise, the parent(s), custodian(s), or guardian(s) of any student involved in an incident prohibited pursuant to this policy shall be notified promptly.

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

6.4. The investigation shall be completed forthwith. The designated investigator shall cause the findings of the investigation to be set forth in a written report. The report shall

include a determination of whether the allegations have been substantiated and whether the actions are violations of this policy.

6.5. The result of the investigation of each complaint filed under these procedures shall be reported in writing by the designated investigator to the subject of the complaint or his/her legal guardian as well as the complainant or his/her legal guardian.

7. Discipline.

7.1. In determining both the appropriate school or county response and/or the appropriate punishment for the perpetrator, the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred shall be considered. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

7.2. If the results of the investigation support disciplinary action, appropriate disciplinary action may include, but is not limited to, warning, written reprimand, suspension, exclusion, expulsion, and/or termination, to be determined at the discretion of the designated investigator and/or the Superintendent as provided in this section. In matters where a student is the perpetrator, the principal shall determine the appropriate response and/or punishment after consulting with the Superintendent. In matters where the perpetrator is an employee of Calhoun County Schools, the immediate supervisor shall forward his or her recommendations to the Superintendent, who shall have final authority in determining the appropriate response and/or punishment.

7.3 Any staff member found to be in violation of this policy shall have the investigation report placed in his/her personnel file along with any and all records concerning action taken as a result of such violation of policy. Those same records shall be immediately transmitted to the State Superintendent of Schools.

8. Confidentiality.

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

8.2 Any information related to a reported incident of bullying, harassment, or intimidation is exempt from disclosure under West Virginia Code 29B-1-1, et seq.

9. Reporting to West Virginia Department of Education.

9.1 The Superintendent of Calhoun County Schools, or his or her designee, shall immediately file a report with the West Virginia Department of Education of any allegations of bullying, harassment, and/or intimidation.

9.2. Upon conclusion of the investigation, the Superintendent of Calhoun County Schools, or his or her designee, shall file a report, or update his or her initial report, with the West Virginia Department of Education indicating whether or not the allegations were substantiated and outlining every action taken in response to any report.

9.3. The Superintendent of Calhoun County Schools, or the Calhoun County Board of Education shall also initiate such other action as is appropriate to prevent recurrences of bullying, harassment, or intimidation and adequately protect students in accordance with this policy.

10. Reprisal.

10.1. Calhoun County Schools shall develop discipline procedures with which to take appropriate action against any person who retaliates against another person for reporting alleged bullying, harassment, or intimidation or for testifying, assisting, or participating in an investigation, or for testifying, assisting, or participating in a proceeding or hearing relating to such bullying, harassment, or intimidation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

11. Right to Alternative Complaint Procedures.

11.1. This policy does not deny the right of any person 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.

12. Dissemination of Policy and Training.

12.1. This policy, or a summary, hereof, shall be conspicuously posted throughout all Calhoun County Schools and facilities in areas accessible to all persons. Further, a copy of the policy shall appear in any student handbook and in any county board publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools.

12.2. A legible copy of this policy, or a summary thereof, must be disseminated to students and parents, custodians, or guardians of students along with an explanation of how to report violations of the policy by September 30th of each year.

12.3. Calhoun County Schools shall develop and implement training for students and staff members concerning this policy, its implications, and means for effectively promoting the goals of this policy.

ALTERNATIVE EDUCATION.

SECTION 1. PURPOSE.

1.1. In order to provide a safe and orderly learning environment for the education of all students in Calhoun County Schools, and to meet the educational needs of disruptive students, the establishment of alternative education programs is essential. Schools in Calhoun County will have the flexibility to offer, within staff and financial limitations, such alternative options as: in-school suspension, a separate part-time or full-time alternative education classroom, or (with Board approval) an after-school class/night class, or a combination academic/work-based program.

1.2. In-school programs may be determined at individual schools based on individual school needs as assessed by the administration and faculty. Rules and regulations of in-school programs must reflect current state and county policies or be drafted according to waivers approved by the county or state boards of education.

1.3. A multi-county alternative education program, in cooperation with Gilmer County, will be established at the Calhoun-Gilmer Career Center. The Center will provide for the educational and social development of student whose disruptive behavior causes undue disruption to the educational opportunities of other students and places the disruptive student, without positive intervention, at risk of not succeeding in the traditional school structure and in adult life.

1.4. An in-school suspension room will be established at Calhoun County Middle/High School to provide an alternative to out-of-school suspensions. This will be staffed by personnel assigned to Calhoun County Middle/High School.

1.5. Students who are suspended either in-school or outside-of-school, or placed in the Alternative School for disciplinary reasons, will automatically be on social probation, and will not be allowed to attend or participate in any school activities.

SECTION 2. PROCEDURES.

Students placed in the Alternative School will be placed using the following criteria:

2.1. Students must have demonstrated repeated disruptive behavior.

2.2. School-requested parental intervention must be documented.

2.3. Student must have been through the school suspension process.

2.4. Student must be referred to the school-based assistance team for recommendation to the principal for Alternative School placement.

2.5. The IEP committee for an identified special education student must document previously implemented placement interventions and placement options in consideration of the least restrictive environment.

2.6. High school-level students will be awarded credits based on the satisfactory completion of a course or upon demonstrated mastery of a course curriculum. Middle level students will receive passing grades based upon mastery of the intended curriculum.

2.7. Once placed, students may reenter the regular school program after the satisfactory completion of a full grading period (i.e., six week or nine weeks), and with the recommendation of the Alternative School personnel and the respective placement committee. Upon placement of a special education student, the IEP committee must document the rationale for placement outside of the regular education environment, and how special education and related services will be provided.

2.8. The Alternative School will accommodate middle and high school students. Only core classes will be taught (English/language arts, math, science, and social studies), and the responsible student curriculum will be integrated into the core areas. The curriculum for all courses will be based on the state goals and objectives for the core areas. The instructional materials will be age appropriate, functionally appropriate, and of a high interest level for students. Computer instruction will be utilized to provide learning activities. Computer labs and specialized equipment will be available for alternative evening classes. Equipment and supplies will be available as needed.

2.9. Teaching, counseling, and psychological services will be provided as needed. Staff will include a teacher/facilitator and a paraprofessional. Class size will be limited to maintain an effective teacher/pupil ratio.

2.10. The evaluation of the effectiveness of the program will be based on academic progress, reduction of the drop-out rate, reduction in the number of disruptive incidents requiring disciplinary action, and rates of successful program completion resulting in return to the regular school program.

DISCIPLINE

Disciplinary action may be taken against students who violate **SBP 4373 EXPECTED BEHAVIORS IN SAFE and SUPPORTIVE SCHOOLS**, local board policies, or school rules and regulations. These policies, rules and regulations are available at each school.

Violations may result in withdrawal of certain privileges, detention, or an in-school suspension. To retain the right to a free education, students must comply with the regulations and requirements of the **SBP 4373 EXPECTED BEHAVIORS IN SAFE and SUPPORTIVE SCHOOLS**, local board of education policy and school policy. Denying students school attendance, either through suspension or expulsion, must be for just cause and in accordance with due process of law.

SECTION 1. SUSPENSION.

The purpose of suspension is to protect the student body, school personnel and property, the educational environment, and the orderly process of the school. Suspension is intended as a temporary solution until the problem which caused the suspension is corrected. A suspension should be short, usually one to three school days, but may extend to ten (10) school days.

Students may be excluded from attending class by a teacher, or suspended from school or from riding a bus by the principal, the county superintendent of schools, and the county director of transportation. The parent is entitled to participate in the settlement of the problem causing the suspension.

When faced with suspension, either in school or out of school, students are entitled to an informal hearing if they are to be suspended from school for a period of ten (10) days or less. At this hearing, the principal must inform the student why they are being suspended, and the student must be given the opportunity to present their reasons why they should not be suspended. In other words, the student has the right to present their side of the case. However, if the student's conduct is detrimental to the process and the general conduct of the school, they may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures which the school must follow when dealing with suspensions are:

1. The parent(s)/guardian(s) must be notified promptly in all cases of suspension.
2. The county superintendent of schools must be notified immediately and preferably in writing of the time and conditions pertaining to the suspension.

3. If a student is suspended from school, they may not participate in any school-sponsored activities, and are not permitted on school grounds during the period of suspension without permission of school officials.
4. No reprisals may be taken by anyone involved in the suspension.

SUSPENSION OF DISABLED STUDENTS.

The discipline policies apply to students with disabilities as well as non-disabled students. ***The only exception is if the misconduct is determined to be a manifestation of the disability.*** The following applies to students with disabilities:

1. Students may be suspended immediately for up to ten (10) school days for violations of ***SBP 4373 EXPECTED BEHAVIORS IN SAFE and SUPPORTIVE SCHOOLS***, or when it is necessary for their protection, the protection of school personnel or the protection of other students.
2. If a student has violated the ***SBP 4373 EXPECTED BEHAVIORS IN SAFE and SUPPORTIVE SCHOOLS***, and has exceeded the ten (10) school days of suspension, an IEP Committee must determine if the violation was a manifestation of the disability.
 - a. Through the IEP Team process, if it is determined that the violation was not a manifestation of the disability, the student may be suspended for more than ten (10) school days. A free, appropriate public education must be provided during the suspension period beyond ten (10) school days.
 - b. Through the IEP Team process, if it is determined that the violation was a manifestation of the disability, the student may not be suspended and alternative disciplinary action must be utilized.
3. If the student possesses a weapon, possesses or uses an illegal drug or solicits a controlled substance, they may be placed in an alternative educational setting by an IEP Committee for not more than forty-five days. On or within ten (10) school days of the violation, an IEP Committee will determine if the violation was a manifestation of the disability.
 - a. If it is determined that the violation was not a manifestation of the disability, the student may be expelled from school. A free, appropriate public education must be provided during the period of expulsion unless the student is determined to be dangerous.
 - b. If it is determined that the violation was a manifestation of the disability, the student may not be expelled from school and alternative disciplinary action must be utilized.

SECTION 2. EXPULSION

When a principal has notified the county superintendent of a student's suspension for battery upon a school employee, possession of a deadly weapon or sale of a narcotic drug listed in the Uniform Controlled Substances Act, W. Va. Code § 60A-1-101(p), on a school bus, at a school bus stop, on the premises of an educational facility or at a school-sponsored function, the principal shall recommend the student's expulsion to the superintendent. The superintendent, in turn, shall recommend to the county board that the student be expelled.

- When a principal has notified the county superintendent of a student's suspension for any other conduct listed in W.Va. Code §[18A-5-1a](#), on a school bus, on the premises of an educational facility or at a school-sponsored function, the principal may recommend the student's expulsion to the superintendent. The superintendent, in turn, may recommend to the county board that the student be expelled.

- Upon such recommendation by the county superintendent, the county board shall conduct a hearing in accordance with this section of state code to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall act as prescribed for each respective Safe Schools violation delineated in Chapter 4, Section 2, Level 4.

- The county board shall issue written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s). The notice shall include:
 - The date and time at which the hearing shall be held (within ten days of the beginning of the suspension);
 - If the county board will 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.

- The county board shall hold the scheduled hearing to determine if the student should be reinstated or expelled from school and if to determine if the student is a dangerous student.

- At any hearing before a county board, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross-examine witnesses supporting the charge against him or her.

- The hearing shall be recorded by mechanical means unless recorded by a certified court reporter.
- The hearing 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 shall either: (1) order the student reinstated immediately at the end of his or 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 that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.
- A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, 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.
- 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.
- The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents in a proceeding related to a recommended student expulsion or dangerous student determination. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both.
- 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.
- County boards must report the number of students determined to be dangerous students to the State Board of Education. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.

- Students may be expelled pursuant to the provisions of this code section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of §18A-5-1a(a) (battery on a school employee, possession of deadly weapons, or sale of a narcotic drug on a school bus, on the school premises or at a school-sponsored function, the student shall be expelled for a period of not less than twelve consecutive months.
- The county superintendent may lessen the mandatory period of twelve 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, 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 twelve-month expulsion:
 - The extent of the student's malicious intent;
 - The outcome of the student's misconduct;
 - The student's past behavior history; and
 - The likelihood of the student's repeated misconduct.
- In all hearings under this section, facts shall be found by a preponderance of the evidence.
- All actions taken with regard to this section of law must be in compliance with the federal provisions of the Individuals with Disabilities Education Act, [20 U.S.C. §1400 et seq.](#)
- Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in WVEIS.

It is unlawful for any person to possess any firearm or any other deadly weapon on any school bus or in/on any public or private primary or secondary education building, structure, facility or grounds including any vocational education building, structure, facility or grounds or at any school-sponsored function.

INAPPROPRIATE BEHAVIOR AND MEANINGFUL INTERVENTIONS AND CONSEQUENCES.

Section 1. Addressing Inappropriate Behavior with Meaningful Interventions and Consequences.

1.1. The purpose of these regulations is to provide schools with policy that creates and ensures an orderly and safe environment that is conducive to learning. This policy requires that all schools respond immediately and consistently to any behavior that disrupts the learning environment in a manner that effectively deters future incidents and affirms respect for individuals. Inappropriate behaviors include but are not limited to incidents of harassment, intimidation, bullying, substance abuse and/or violence. The intent is for students to learn and exhibit appropriate behavior. All interventions and consequences are in effect on all school property and at all school sanctioned events, including extracurricular activities. Each district, with support from the WVDE and RESAs, will implement proactive, preventative, and responsive programs, outline investigatory and reporting procedures, and delineate meaningful interventions and consequences in response to inappropriate behavior.

This policy classifies inappropriate student behavior in four levels. County policies may reclassify Level 2 and 3 inappropriate behaviors depending on the severity or repetition of the behaviors and provided this reclassification assures that the treatment of the inappropriate behavior is consistent with West Virginia Code.

County/school policies should identify appropriate and meaningful interventions and consequences that include, but are not limited to, examples provided in this policy. It is not a requirement that all schools offer every intervention and consequence listed in this policy. School administrators and staff are encouraged to exhaust all available school and community resources to provide appropriate school-based intervention strategies designed to keep students in school and engaged in instruction.

Out-of-school suspension strategies should be used sparingly and shall never deny a student access to instructional material and information necessary to maintain their academic progress. Out-of-school suspension is not a recommended consequence or intervention for Level 1 behaviors, however, the determination of interventions and consequences is at the discretion of the school administrator for levels 1, 2 and 3. West Virginia Code 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.

In order to create consistency among all schools in the application of out-of-school suspension and expulsion as they relate to inter-scholastic extracurricular activities, 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, it is required to determine if a student warrants protection under the IDEA, WVBE Policy 2419 and or Section 504.

Section 2. Inappropriate Behaviors: Codes, Definitions and Interventions and Consequences

Behaviors	Definitions – Level 1	Interventions and Consequences
LEVEL 1: Minimally Disruptive Behaviors – disrupt the educational process and the orderly operations of the school but do not pose direct danger to self or others.		
Cheating	A student will not plagiarize or copy the work of others or break rules to gain advantage in a competitive situation. Interventions for this inappropriate behavior may include academic sanctions in addition to other discipline.	<ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Academic sanctions may be used to deny credit for work resulting from cheating; however, previously earned grades/credits may not be reduced. • Counseling referrals and conference to support staff or agencies • Daily/weekly progress reports • Behavioral contracts • Change in the student’s class schedule • School service assignment • Confiscation of inappropriate item • Revocation of privileges • Restitution/restoration • Detention (lunch, before and/or after school) • Denial of participation in class
Deceit	A student will not deliberately conceal or misrepresent the truth, deceive another or cause another to be deceived by false or misleading information.	
Disruptive/ Disrespectful/ or Disorderly Conduct	A student will not exhibit behavior that violates classroom/school rules, results in distraction and obstruction of the educational process or that is discourteous, impolite, bad mannered and/or rude. Behavior is considered disruptive and/or disrespectful if a teacher is prevented from starting an activity or lesson, or has to stop instruction to address the disruption.	
Failure to Serve Detention	A student will not fail to serve an assigned detention of which students and/or parents/guardian have been notified.	
Falsifying Identity	A student will not use another person’s identification or give false identification to any school official with intent to deceive school personnel or falsely obtain money or property.	
Inappropriate Appearance	A student will not dress or groom in a manner that disrupts the educational process or is detrimental to the health, safety or welfare of others. A student will not dress in a manner that is distractive or indecent, to the extent that it interferes with the teaching and learning process, including wearing any apparel that displays or promotes behavior and/or items prohibited by this policy.	

Behaviors	Definitions – Level 1	Interventions and Consequences
Inappropriate Display of Affection	Students will not engage in inappropriate displays of intimate affection, such as kissing or embracing.	<p>and/or school activities</p> <ul style="list-style-type: none"> • Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1) • Voluntary weekend detention (Superintendent’s Interpretation of May 12, 2006) • In-school suspension • *West Virginia Code §18A-5-1 (d) prohibits the use of suspension solely for not attending class. • While out-of-school suspension is not recommended for Level 1 Inappropriate Behavior, if used at the discretion of the school administrator, it should be limited to a maximum of three (3) days. • 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.
Inappropriate Language	A student will not orally, in writing, electronically, or with photographs or drawings, use profanity in general context (not directed toward a person).	
Possession of Inappropriate Personal Property	A student will not possess personal property that is prohibited by school rules or that is disruptive to teaching and learning.	
Skipping Class*	In accordance with WVBE Policy 4110 - Attendance , a student will not fail to report to the school's assigned class or activity without prior permission, knowledge or excuse by the school or by the parent/guardian.	
Tardiness*	A student will not fail to be in his/her place of instruction at the assigned time without a valid excuse.	
Vehicle Parking Violation	A student will not engage in improper parking of a motor vehicle on school property.	

Behaviors	Definitions – Level 2	Interventions and Consequences
LEVEL 2: Disruptive and Potentially Harmful Behaviors – disrupt the educational process and/or pose potential harm or danger to self and/or others. The behavior is committed willfully but not in a manner that is intended maliciously to cause harm or danger to self and/or others.		
Gang Related Activity	<p>A student will not, by use of violence, force, coercion, threat of violence or gang activity, cause disruption or obstruction to the educational process. Gangs are defined as organized groups of students and/or adults who engage in activities that threaten the safety of the general populace, compromise the general community order, and/or interfere with the school district’s educational mission. Gang activity includes:</p> <ul style="list-style-type: none"> • Wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member of a gang, or otherwise symbolizes support of a gang. • Using any word, phrase, written symbol or gesture that intentionally identifies a student as a member of gang, or otherwise symbolizes support of a gang. • Gathering of two or more persons for purposes of engaging in activities or discussions promoting gangs. • Recruiting student(s) for gangs. • 	<ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Referral to support staff or agencies for counseling or other therapeutic services • Daily/weekly progress reports • Behavioral contracts • Change in the student’s class schedule • School service assignment • Confiscation of inappropriate item • Revocation of privileges • Restitution/restoration
Habitual Violation of School Rules or Policies	<p>A student will not persistently, as defined by the county, refuse to obey the reasonable and proper orders or directions of school employees, school rules or policies.</p>	<ul style="list-style-type: none"> • Before and/or after-school detention • Denial of participation in class and/or school activities
Insubordination	<p>A student will not ignore or refuse to comply with directions or instructions given by school authorities. Refusing to open a book, complete an assignment, work with another student, work in a group, take a test or do any other class- or school-related activity not listed herein, refusing to leave a hallway when requested by a school staff member, or running away from school staff when told to stop, all constitute</p>	<ul style="list-style-type: none"> • Immediate exclusion by teacher from the classroom with a recom duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1)

Behaviors	Definitions – Level 2	Interventions and Consequences
	insubordination/unruly conduct.	
Leaving School Without Permission	A student will not leave the school building, campus of school activity for which the student is enrolled without permission from authorized school personnel.	<ul style="list-style-type: none"> • Voluntary weekend detention (Superintendena recommended maximum of five (5) days (See guidelines in Chapter 6, Section 2)West Virginia Code §18A-5-1 (d) prohibits the use of suspension solely for not attending class. • The principal and/or superintendent may recommend placement in an Alternative Education program as described in Section 5 of this chapter. • Expulsion • 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.
Physical Fight Without Injury	A student will not engage in a physical altercation using blows in an attempt to harm or overpower another person or persons.	
Possession of Imitation Weapon	A student will not possess any object fashioned to imitate or look like a weapon.	
Possession of Knife not meeting Dangerous Weapon Definition (West Virginia Code §61-7-2)	A student will not possess a knife or knife-like implement under 3½ inches in length. West Virginia Code §61-7-2 clarifies that a pocket knife with a blade 3½ inches or less in length, a hunting or fishing knife carried for sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined as a deadly weapon unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.	
Profane Language/ Obscene Gesture/ Indecent Act Toward... An Employee or A Student	A student will not direct profane language, obscene gestures or indecent acts towards a school employee or a fellow student. This inappropriate behavior includes but is not limited to, verbal, written, electronic and/or illustrative communications intended to offend and/or humiliate.	
Technology Misuse	A student will not violate the terms of WVBE Policy 2460 , Safety and Acceptable Use of the Internet by Students and Educators.	

Behaviors	Definitions – Level 3	Interventions and Consequences
<p>LEVEL 3: Imminently Dangerous, Illegal and/or Aggressive Behaviors – are willfully committed and are known to be illegal and/or harmful to people and/or property. The principal shall address these inappropriate behaviors in accordance with W. Va. Code §18A-5-1a, subsections (b) through (h)</p>		
Battery Against a Student	A student will not unlawfully and intentionally injure another student.	<p>Level 3 behaviors are criminal offenses and therefore warrant formal law enforcement intervention which may result in issuance of a criminal citation, ticket, or summons, filing a delinquency petition, referral to a probation officer or actual arrest.</p> <p>In collaboration with law enforcement, the school shall also implement intervention strategies and meaningful consequences that promote and support appropriate behavioral changes. These strategies include but are not limited to:</p> <ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Referral to support staff or agencies for counseling or other therapeutic services • Notification of appropriate
Defacing School Property/ Vandalism	A student will not willfully cause defacement of or damage to property of the school or others. Actions such as writing in school textbooks or library books, writing on desks or walls, carving into woodwork, desks, or tables, and spray painting surfaces are acts of defacement. Examples of damage to school property include, but are not limited to, ruining bulletin boards, intentionally clogging the plumbing system, breaking light bulbs or fixtures, and damaging school equipment to the point where repair is necessary.	
False Fire Alarm	A student will not knowingly and willingly set off a fire alarm without cause.	
Fraud/Forgery	A student will not deceive another or cause another to be deceived by false or misleading information or sign the name of another person in order to obtain anything of value or defraud authorities.	
Gambling	A student will not engage in any game of chance or contest wherein money or other items of monetary value are awarded to the winner, except for those games and contests authorized as official school functions.	
Hazing	A student will not haze or conspire to engage in the hazing of another person. “Hazing” means to cause any action or situation which recklessly or intentionally endangers the mental or physical health or safety of another person or persons to destroy or remove public or	

Behaviors	Definitions – Level 3	Interventions and Consequences
	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.	Health and Human Resources <ul style="list-style-type: none"> • Daily/weekly progress reports • Behavioral contracts • Change in the student’s class schedule
Improper or Negligent Operation of a Motor Vehicle	A student will not intentionally or recklessly operate a motor vehicle, on the grounds of any educational facility, parking lot, or at any school-sponsored activity, so as to endanger the safety, health or welfare of others.	<ul style="list-style-type: none"> • School service assignment • Confiscation of inappropriate item(s) • Revocation of privileges • Restitution/restoration • Before and/or after-school detention • Denial of participation in class and/or school activities • Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1)
Larceny	A student will not, without permission, take another person’s property or have another person’s property in his or her possession. Property valued at \$1,000 or more will increase this behavior to a Level 4 because it is considered a felony in accordance with West Virginia Code §61-3-13 .	<ul style="list-style-type: none"> • Voluntary weekend detention (Superintendent’s Interpretation of May 12, 2006)
Sexual Misconduct	A student will not publicly and indecently expose themselves, display or transmit any drawing or photograph of a sexual nature, or commit an indecent act of a sexual nature on school property, on a school bus or at a school sponsored event.	<ul style="list-style-type: none"> • In-school suspension • Out-of-school suspension for up to ten (10) days (See guidelines in Chapter 6, Section 2)
Threat of Injury/Assault Against... An Employee A Student	A student will not threaten (verbal or written) or attempt to injure another student, teacher, administrator or other school personnel. [This includes assault on a school employee defined in West Virginia Code §61-2-15].	<ul style="list-style-type: none"> • The principal and/or superintendent may • recommend placement in an Alternative Education program
Trespassing	A student will not enter upon the premises of the county school system	

Behaviors	Definitions – Level 3	Interventions and Consequences
	property, other than to the location to which the student is assigned, without authorization from proper school authorities.	as described in Section 5 of this chapter. <ul style="list-style-type: none"> • Expulsion

Behaviors	Definitions – Level 3	Interventions and Consequences
Harassment/ Bullying/ Intimidation	<p>A student will not bully/intimidate/harass another student. According to West Virginia Code §18-2C-2, “harassment, intimidation or bullying” means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:</p> <ul style="list-style-type: none"> • A reasonable person under the circumstances should know will have the effect of harming a student, damaging a student’s property, placing a student in reasonable fear of harm to his or her person, and/or placing a student in reasonable fear of damage to his or 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. <p>An electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.</p> <p>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.</p> <p>When harassment, intimidation or bullying are of a racial, sexual and/or religious/ethnic nature, the above definition applies to all cases regardless of whether they involve students, staff or the public. Detailed definitions related to inappropriate behavior of this nature are as follows:</p>	<p>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.</p>

Behaviors	Definitions – Level 3	Interventions and Consequences
	<p><u>Sexual harassment</u> consists of sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:</p> <ul style="list-style-type: none"> • submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or • submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or • creating an intimidating, hostile or offensive employment or educational environment. <p>Amorous relationships between county board employees and students are prohibited.</p> <p>Sexual harassment may include but is not limited to:</p> <ul style="list-style-type: none"> • verbal harassment of a sexual nature or abuse; • pressure for sexual activity; • inappropriate or unwelcome patting, pinching or physical contact; • sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status; • behavior, verbal or written words or symbols directed at an individual because of gender; or • the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate/culture or opportunities. 	

Behaviors	Definitions – Level 3	Interventions and Consequences
	<p><u>Racial harassment</u> consists of physical, verbal or written conduct relating to an individual's race when the conduct:</p> <ul style="list-style-type: none"> • has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment; • has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or • otherwise adversely affects an individual's employment or academic opportunities. <p><u>Religious/ethnic harassment</u> consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:</p> <ul style="list-style-type: none"> • has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment; • has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or • otherwise adversely affects an individual's employment or academic opportunities. <p><u>Sexual violence</u> is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:</p> <ul style="list-style-type: none"> • 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; or • threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another. 	

Behaviors	Definitions – Level 3	Interventions and Consequences
	<ul style="list-style-type: none"> • threatening or forcing exposure of intimate apparel or body parts by removal of clothing. <p><u>Racial violence</u> is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.</p> <p><u>Religious/ethnic</u> violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.</p>	

Behaviors	Definitions – Level 3	Interventions and Consequences
Imitation Drugs: Possession, Use, Distribution or Sale	A student will not possess, use, distribute or sell any substance that is expressly represented or implied to be a controlled substance or simulate the effect and/or the appearance (color, shape, size and markings) of a controlled substance.	The selection of appropriate interventions and consequences for substance abuse must be considered very carefully depending upon the severity of the behavior and potential safety concern for others in the school. The first action must be to conference with the parent/guardian and appropriate law enforcement representatives in an effort to direct the student to appropriate addiction services. Referral to tobacco cessation services/treatment and substance abuse treatment services shall be a priority intervention strategy for these behaviors.
Inhalant Abuse	A student will not deliberately inhale or sniff common products found in homes, schools and communities with the purpose of “getting high”. The action may be referred to as huffing, sniffing, dusting and/or bagging.	
Possession/Use of Substance Containing Tobacco and/or Nicotine	<p>A student will not unlawfully possess, use or be under the influence of any substance containing tobacco and/or nicotine or any paraphernalia intended for the manufacture, sale and/or use of tobacco/nicotine products in any building/area under the control of a county school system, including all activities or events sponsored by the county school district.</p> <p><u>Special considerations</u> according to West Virginia Code §16-9A-4.</p> <ul style="list-style-type: none"> • No person (student, staff member or public guest) shall at any time use or distribute any tobacco or nicotine containing product on school property or during school sponsored events. • Individuals supervising students off school grounds are prohibited from distributing or using tobacco or nicotine containing products in the presence of students. • An exception shall be made to allow possession/use of approved nicotine replacement product for tobacco cessation. WVBE Policy 2422.8 - Medication Administration must be followed in order for students to use such products on school property or at school sponsored events. 	

Behaviors	Definitions – Level 4
<p>LEVEL 4: Safe Schools Act Behaviors - are consistent with those addressed in West Virginia Code §18A-5-1a(a) and (b). The following Level 4 behavior definitions are aligned with West Virginia Code §§61-6-17, 61-6-24, and 18A-5-1, and in the Gun-Free Schools Act of 1994. These laws require that the principal, superintendent and county board address Level 4 behaviors in a specific manner as outlined in West Virginia Code §18A-5-1a and paraphrased in Chapter 3, Sections 4 and 5 of this manual.</p>	
Battery Against a School Employee	A student will not commit a battery by unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee as outlined in West Virginia Code §61-2-15(b) .
Felony	A student will not commit an act or engage in conduct that would constitute a felony under the laws of this state if committed by an adult as outlined in West Virginia Code §18A-5-1a(b)(i) . Such acts that would constitute a felony include, but are not limited to, arson (West Virginia Code §61-3-1), malicious wounding and unlawful wounding (West Virginia Code §61-2-9), bomb threat (West Virginia Code §61-6-17), sexual assault (West Virginia Code §61-8B-3), terrorist act or false information about a terrorist act, hoax terrorist act (West Virginia Code §61-6-24) and grand larceny (West Virginia Code §61-3-13).
Illegal Substance Related Behaviors	A student will not unlawfully possess, use, be under the influence of, distribute or sell any substance containing alcohol, over-the-counter drugs, prescription drugs, marijuana, narcotics, any other substance included in the Uniform Controlled Substances Act as described in West Virginia 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 WVBE Policy 2422.8 - Medication Administration and instances of prescription drug abuse.
Possession and/or Use of Dangerous Weapon	<p>According to West Virginia Code §18A-5-1a(a), a student will not possess a firearm or deadly weapon as defined in West Virginia Code §61-7-2, on any school bus, on school property or at any school-sponsored function as defined in West Virginia Code §61-7-11a.</p> <p>As defined in West Virginia Code §61-7-2, a “dangerous weapon” means any device intended to cause injury or bodily harm, any device used in a threatening manner that could cause injury or bodily harm, or any device that is primarily used for self-protection. Dangerous weapons include, but are not limited to, blackjack, gravity knife, knife, knife-like implement, switchblade knife, nunchaku, metallic or false knuckles, pistol, or revolver. A dangerous weapon may also include the use of a legitimate tool, instrument, or equipment as a weapon including, but not limited to, pens, pencils, compasses, or combs, with the intent to harm another.</p>

Level 4 Behaviors are Used in the Identification and Classification of Persistently Dangerous Schools

As required by [20USC7912 Title IX, Part E, Section 9532](#) (No Child Left Behind), the following criteria is 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 the 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 (5%) 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 West Virginia 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 West Virginia Code [§61-7-2](#) on the premises of an educational facility, at a school sponsored function or on a school bus.
- Sale of a narcotic drug as defined in West Virginia Code [§60A-1-101](#) on the premises of an educational facility, at a school sponsored function or on a school bus.

County School System Requirements Related to Persistently Dangerous Schools:

1. provide targeted technical assistance to any school that has, for two consecutive years, substantiated Level 4 behaviors that exceed 3% of the total number of students enrolled in the school, based on the school's second month enrollment;
2. develop a corrective action plan for any school identified as persistently dangerous, submit it to the WVDE, and implement the plan in a timely manner; and
3. conduct a timely notification process to inform parents of each student attending a school identified as persistently dangerous of this; provide the opportunity for students to transfer to a safe public school within the county school district; and complete the transfer process for all students wishing to transfer.

WVDE Requirements Related to Persistently Dangerous Schools:

1. provide targeted technical assistance to any school that has, for two consecutive years, substantiated Level 4 behaviors that exceed 3.75% 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, shall be allowed to attend an alternate safe public school within the county school district.

Section 3. Use of Physical Punishment Prohibited

West Virginia 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 a dark area or in any space as an intervention or consequence to inappropriate behavior.

Section 4. Use of Restraint

Reasonable force may be used to restrain a student from hurting himself/herself or any other person or property. All students, including students with disabilities, must be treated with dignity and respect. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the students and others. When the use of physical restraint is necessary, the following guidelines must be followed:

Definitions:

- Restraint - the use of physical force to significantly restrict the free movement of all or a portion of a student's body.
- Emergency - a situation in which a student's behavior poses a threat of imminent, serious physical harm to the student or others or serious property destruction.

A school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations:

- Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited.
- Restraint shall be discontinued at the point at which the emergency no longer exists.
- Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
- Restraint 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; however, the application of mechanical restraint is prohibited as an intervention or consequence for inappropriate behavior.

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

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

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

Time Requirement	Documentation/Notification
Immediately following the use of restraint (within one hour)	The principal or designee must be provided verbal and written notification that restraint was used on a given student with a description of the restraint process used.
Same day	A good faith effort shall be made to verbally notify the parents/guardian regarding the use of restraint.

REFERENCE: SBP 126CSR99

ADOPTED: 06/11/12