



**WEST VIRGINIA
SECRETARY OF STATE**

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-**
RULE NAME **Expected Behavior in Safe and Supportive Schools (Policy 4373)** **099**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988).**

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE, THE EFFECTIVE DATE OF THIS RULE IS

Monday, November 13, 2017

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-099



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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 rule sets the requirements for the development of safe and supportive schools that provide optimum learning conditions for both students and staff. Whereas safety and order is 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 that outline behaviors prohibited in West Virginia schools that must be consistently addressed in order to assure the orderly, safe, drug-free, violence- and harassment-free learning environment.

1.2. Authority. -- West Virginia Constitution, Article XII, §2, W. Va. Code §§16-9A-4, 16-9A-9, 18-2-5, 18-2-7b, 18-2-9, 18-2-33, 18-2C-1, 18-2C-2, 18-2C-3, 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), 49-6A-2, 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. -- October 12, 2017.

1.4. Effective Date. -- November 13, 2017.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. §126CSR99, Expected Behavior in Safe and Supportive Schools, (Policy 4373) filed December 16, 2011, and effective July 1, 2012.

§126-99-2. Purpose.

2.1. The West Virginia Board of Education (WVBE) recognizes the need for students, teachers, administrators, and other school personnel to have a safe and supportive educational environment. The WVBE believes further that public schools should undertake proactive, preventive approaches to ensure a positive school climate/culture that fosters learning and personal-social development. These regulations require county boards of education to design and implement procedures to create and support continuous school climate/culture improvement processes within all schools that will ensure an orderly and safe environment that is conducive to learning. Public schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational environment requires a comprehensive plan supported by everyone in the school organization, as well as parents/guardians and the community.

2.2. These regulations also set forth unacceptable behaviors that undermine a school's efforts to create a positive school climate/culture. These unacceptable behaviors are prohibited on all school property and school sponsored events. West Virginia's public schools must respond quickly and consistently, in accordance with these regulations, to incidents of these prohibited behaviors in a manner that effectively deters future incidents and affirms respect for individuals.

§126-99-3. Incorporation by Reference.

3.1. The West Virginia Procedures Manual for Expected Behavior in Safe and Supportive Schools is attached and incorporated by reference into this policy. Copies may be obtained in 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 these regulations apply in public schools in West Virginia during any education-sponsored event, whether in a classroom, elsewhere on school premises, on a school bus or other vehicle used for a school related event, or at a school-sponsored activity or event, whether or not it is held on school premises, in a building or other property used or operated by 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. The consequences of violating these expectations are as follows:

4.1.a. Students will be subject to the interventions and consequences outlined in Chapter 4 of the accompanying West Virginia Manual for Expected Behavior in Safe and Supportive Schools.

4.1.b. School staff will be subject to disciplinary and/or licensure action in accordance with W. Va. Code §§18-17-8, 18A-3-2a, 18A-3-3 and 18A-3-6.

4.1.c. Public guests in public schools will be subject to removal from school property/events and appropriate notification of local authorities as warranted.

4.1.d. This policy does not supersede any rights granted to special education students by federal or state law or other WVBE policy.

§126-99-5. Severability.

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

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

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

Introduction

The West Virginia Board of Education (WVBE) has the constitutional responsibility to provide for a thorough and efficient public education system. As the State's public education leaders, we accept the responsibility and accountability for bringing about results. This is the promise we make to our students, parents, and educators, and the obligation we have to the taxpayers of West Virginia. Our vision is to provide an education that supports students to develop into healthy, responsible, and self-directed citizens who have the knowledge and College- and Career-Readiness skills to lead satisfying and productive lives.

If we are to realize our vision, then we must be purposeful in the way we structure our curriculum to teach the valued disposition that we want students to develop and the way we shape our environment to reinforce those behaviors. This West Virginia Manual for Expected Behavior in Safe and Supportive Schools (Policy 4373) provides the procedural guidance to assist all public schools and school systems in their efforts to create the climate/culture that supports development of the dispositions that are valued in our communities, state, nation and world.

Chapter 1
EXPECTED STUDENT DISPOSITIONS

Section 1. Rationale for Developing Expected Dispositions

Our nation's founders envisioned the American education system as an institutional structure that would prepare each generation to be active, principled citizens. This vision has placed a great responsibility on schools to sustain a democratic culture. To accomplish this charge, schools must deliberately focus on conveying democratic principles through the explicit curriculum and through the implicit learning that is affected by the manner in which all individuals within a school interact with one another.

Schools must consistently and persistently work to improve student knowledge, skills, and dispositions that convey our nation's democratic principles. Dispositions are the values, commitments, and ethics that influence one's behaviors toward others and affect learning, motivation, and development. Dispositions are affected by beliefs and attitudes related to values such as caring, fairness, honesty, responsibility, and social justice. Ideally, the teaching and learning of these valued dispositions should be the shared responsibility of every school employee, student, parent and community member and these stakeholders should be engaged in supporting the development of these dispositions.

School and Community Social Skills Standards are encompassed in W. Va. §126CSR44, Policy 2520.19, West Virginia College- and Career-Readiness Dispositions and Standards for Student Success for Grades K-12.

Social and emotional learning is addressed through West Virginia Board of Education (WVBE) policies such as:

- 2315 - Comprehensive School Counseling Programs
- Standards
 - 2520.4 - Social Studies
 - 2520.55 - Wellness PreK-4
 - 2520.5 - Health Education 5-12
 - 2520.6 - Physical Education 5-12
 - 2520.14 - Technology and Computer Science
 - 2520.15 - Early Learning Standards Framework: Content Standards and Learning Criteria for West Virginia Pre-Kindergarten
 - 2520.19 - College- and Career-Readiness 5-12

Chapter 2
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

All 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.

Public schooling is tuition-free for all students. School systems, however, 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.

Whatever school supplies are deemed necessary to accomplish the goals of a school system and 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. Schools must 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

Schools may not 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.

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 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, but is not limited to, 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.

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 3. 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 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

Students must meet all requirements outlined in W. Va. §126CSR26, Policy 2436.10, Participation in Extracurricular Activities 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).

Fees may be required to help support the cost of extra-curricular activities; however, the fees should 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

Students have certain privacy rights regarding school records. To ensure this privacy, W. Va. §126CSR94, Policy 4350, Procedures for the 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.

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.

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.

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

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.

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 and Neglect Prevention

Students have the right to grow up without being mentally, physically or sexually abused at school, in the home or the community. This section sets forth those instances when law enforcement must be notified about child abuse and neglect, including when such notification must be made. 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.

48 Hour Notice Requirement

Teachers, school personnel, volunteers, counselors, nurses, or other professionals within a school ("Mandatory Reporters") who suspect that a student is being abused or neglected to report the circumstances to the West Virginia Department of Health and Human Resources immediately, and within no more than 48 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 immediately, and within no more than 48 hours.

Mandatory Reporters who are also staff or volunteers of an entity or organization that provides services to a school or otherwise organize 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.

24 Hour Notice Requirement

In instances where a Mandatory Reporter personally witnesses 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, and within no more than 24 hours.

- 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);
- 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
- 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 student; or
- A student who is 16 or older and a student that is less than 16 when there is at least a 4 age difference between the students.

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.

Alternatively, Mandatory Reporters may notify the school’s principal or assistant principal when receiving credible information or observing the acts described above. If a principal or assistant principal receives such information, he or she must notify the West Virginia State Police and local law enforcement immediately, and within no more than 24 hours, of receiving such information.

State law does contain criminal penalties for failure to meet the reporting requirements outlined in this section. For more information on those penalties, please see W. Va. Code §49-2-802.

Chapter 3 PLANNING FOR POLICY IMPLEMENTATION

Section 1. Conceptual Framework

The School and Community Social Skills Standards outlined in Policy 2520.19, Chapter 1, are student focused and articulate the dispositions that students in West Virginia public schools are expected to develop throughout their school career. The WVBE believes that school systems have a fundamental responsibility for creating the opportunity for students to master the standards. However, the full responsibility rests collectively with school systems, students, families and communities. All entities must work collaboratively to plan, implement and evaluate a systemic approach to shaping the valued dispositions that students must have as they develop into active, respectful and responsible citizens. The system must include schools, families and communities in the effort to teach, support and acknowledge valued dispositions and provide appropriate and meaningful interventions for inappropriate behavior.

Parent, family and community involvement at early childhood, middle and adolescent levels is absolutely fundamental to an effective system of public education. Strong partnerships between

homes, schools and communities are needed to ensure a quality education for all children. Parents, teachers and community members, by fostering a sense of cooperative responsibility, can reinforce one another's efforts. Parents, as their children's first and most enduring teachers, can complement their children's school learning and behavior by serving as collaborators in the educational process. Community involvement, including strong business partnerships, promotes a safe and supportive school climate/culture that connects students to a broader learning community. Home-school-community partnerships are essential to the successful implementation of Policy 4373.

In order to convey a pervasive and consistent message that the valued dispositions are a priority, all students, staff and public guests of West Virginia public schools shall behave in a manner that promotes a school climate/culture that is safe and supportive and conducive to developing our valued dispositions. Conduct expectations apply to all students, staff and public guests on school property, school owned/leased buses and vehicles, school bus stops and school sponsored events.

School climate/culture refers to the quality and character of school life and its responsibilities to student success and growth. School climate/culture is based on patterns of people's experience of school life and reflects norms, goals, values, interpersonal relationships, teaching, learning, leadership practices, and organizational structures. A sustainable, positive school climate/culture fosters youth development and learning necessary for a productive, contributing and satisfying life in a democratic society. This climate/culture includes norms, values and expectations that support people feeling socially, emotionally, intellectually and physically safe. Students and staff are engaged and respected. Students, families and educators work together to develop, live and contribute to a shared school vision. Educators model and nurture an attitude that emphasizes the benefits and satisfaction from learning. Each person contributes to the operations of the school and the care of the physical, social and emotional environment.

School climate/culture and procedures that support the development of positive school climate/culture are addressed through W. Va. Code and WVBE policies such as:

- 126CSR12, Policy 2322 - Standards for High Quality Schools (Standard 1 – Positive Climate/culture and Cohesive Culture)
- 126CSR41, Policy 2460 - Educational Purpose and Acceptable Use of Electronic Resources, Technologies, and the Internet
- 126CSR42, 2510 - Assuring Quality of Education: Regulations for Education Programs
- 126CSR136, 5202 - Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications
- 126CSR142, 5310 - Performance Evaluation of School Personnel
- 126CSR146, 5314 - Service Personnel Responsibilities and Performance Standards
- 126CSR165, 5800 - Standards of Professional Practice for West Virginia Superintendents, Principals and Teacher Leaders
- 126CSR162, 5902 - Employee Code of Conduct

School climate/culture is also addressed in various county board of education policies, procedures and programs. The shaping of student behaviors is not confined to any one school personnel group or program; therefore, it is the collective responsibility of all school staff and all community partners to assume an appropriate role in shaping behavior and creating safe and supportive schools.

Section 2. Responsibilities of the WVBE and WVDE

Policy Development: The WVDE shall review Policy 4373 as needed, with appropriate stakeholders, and advise the WVBE of needed revisions based on emerging federal and state law as well as research and best practice related to school climate/culture and student behavior.

Partnership Development: School systems cannot provide all of the resources and intervention services that may be required to meet the more severe behavioral needs of students or to address high need concerns within a specific community. For this reason, partnerships with other agencies and organizations are essential in order to coordinate a seamless delivery of necessary services and support to implement this policy.

The WVDE shall establish state agency and organization partnerships that enhance the policy development, supports and resources to shape behaviors in safe and supportive schools. These partnerships may be both formal and informal.

At the state level, formal partnerships are long term commitments that should be operationalized through memoranda of understanding and/or contracts that clearly articulate roles and responsibilities, procedural operations and resource sharing agreements. These formal agreements are necessary when funding, human resources and/or data are being shared.

Informal partnerships may be short or long-term commitments that may or may not require written agreements. These partnerships usually involve collaborative groups that form around common mission and goals to coordinate events, initiatives, resource development/dissemination, service delivery, local partnership development and/or professional development. They do not require formal agency agreements.

In the spirit of promoting successful partnerships at the regional, county and school levels, the WVDE shall provide sample partnership agreements, protocols and best practice documents to guide successful partnership development of this nature. For more information contact the WVDE.

Training and Technical Assistance: The WVDE shall provide training and technical assistance to school systems and schools in:

- Implementing research-based, effective models for developing and supporting positive school climate/culture (including but not limited to positive behavior programs, character education, peer mediation, conflict resolution and prevention of bullying, harassment, intimidation and substance abuse);
- Addressing school climate/culture improvement within the school improvement planning process;
- Collection and reporting of incident data via the WVEIS; and
- Developing interventions to assure school success for all students.

For more information on Training and Technical Assistance contact the WVDE.

Evaluation of Effectiveness: The WVDE shall prepare an annual report to the WVBE to include:

- evidence of school climate/culture improvement efforts within county and school strategic plans;
- reported incidents of inappropriate behavior;
- training and staff development offered by the WVDE;
- trend analysis from school climate/culture survey tools (as available); and

- a report analyzing cost implications of providing comprehensive school-based intervention programs.

For more information on Evaluation of Effectiveness contact the WVDE.

W. Va. Requirements for the WVBE and WVDE:

W. Va. Code	WVBE and WVDE Requirements
§18-2-7b Programs in drug prevention and violence reduction	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Compile West Virginia Education Information System (WVEIS) incident data for harassment, intimidation and bullying and report it annually to the Legislative Oversight Committee on Education Accountability beginning July 1, 2012. • Develop a model policy applicable to grades Pre-kindergarten through twelfth and disseminate by September 1, 2011.
§18-9F-9 School Crisis Prevention and Response Plan	<p>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 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.</p>
§18A-5-1a Possessing deadly weapons on premises of educational facilities...	<p>Through WVEIS, WVBE collects and distributes student suspension and expulsion data to school principals so they may review the complete history of disciplinary action taken by West Virginia public schools against students enrolled or seeking enrollment at that principal’s school. The purpose of making this information available to principals is to allow him or her to fulfill their statutory obligation under W. Va. Code §18-5-15f and determine whether a student seeking enrollment is currently serving a suspension or expulsion from another public school in WV, and to allow principals to obtain general information about students’ disciplinary histories.</p>
§61-7-11a Possessing deadly weapons	<p>The WVBE shall keep and maintain reports received by the State Superintendent 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, enter into WVEIS, and notify the State Superintendent 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.</p>

Section 3. Responsibilities of County Boards of Education

Policy Development: Each county board of education shall have policies and procedures for implementing Policy 4373. County board policies must address and adhere to all applicable federal and state laws cited within this policy. County board policies and procedures must include guidelines for school level implementation.

County board of education policies shall also include safeguards to protect the safe and supportive environment of the school. These safeguards shall include but not be limited to:

- The responsibility of school administration to implement provisions of this policy with specific regard to education, communication and enforcement provisions;
- Clear procedures for identification, intervention and referral of students with behavioral and substance abuse issues;
- Assurance that no school or board of education property or school or county publication may be used for the advertisement of any tobacco or alcohol product. In accordance with W. Va. §126CSR86, Policy 4321.1 - Standards for School Nutrition, county boards of education should minimize marketing other foods and beverages in the high school setting by locating their distribution in low student traffic areas and by ensuring that the exterior of vending machines does not depict commercial logos of products or suggest that the consumption of vended items conveys a health or social benefit.
- Assurance that groups using school facilities shall sign agreements with the county board of education agreeing to comply with the environmental safeguards set forth in this policy; and
- Assurance that students, parents and spectators will be informed by public address systems that this policy remains in force on evenings, weekends and any other time that school is not in session.

Partnership Development: County boards of education are encouraged to establish county agency and organization partnerships with the purpose of providing the county's schools with additional supports and resources to shape behaviors in safe and supportive schools. These partnerships may be both formal and informal as described under Section 2.

At the county board of education level, formal partnerships with community service agencies (i.e., law enforcement, behavioral healthcare providers) are essential to successful implementation of this policy. Specific attention should be given to the development of formal agreements and protocols that ensure coordination between agencies and high quality service delivery to students and their families. At the county board of education level, memoranda of understanding and/or contracts are necessary whenever partner organization representatives interact with students on school property, during the school day or on behalf of the school system. These formal agreements should clearly articulate the types of student interaction that may occur, the roles and responsibilities of all parties involved, procedural operations and resource sharing (i.e., funding, space, staff, data).

At the county board of education level, informal partnerships may be short or long-term commitments that may or may not require written agreements. These partnerships usually involve collaborative groups that form around common mission and goals (i.e., anti-drug coalitions, tobacco control coalitions) to coordinate events, initiatives, resource development/dissemination, service delivery, local partnership development and/or professional development. They do not require formal agency agreements.

Policy Dissemination and Training: To ensure understanding of the county policy for Expected Behaviors in Safe and Supportive Schools, each county board of education shall develop and implement an ongoing awareness campaign for all students, staff and parents/guardians.

- The county board of education shall ensure that all schools provide appropriate policy training.
- The county board of education shall review their policy as needed for compliance with federal and state law and WVBE policy.
- The county board of education policy shall be made readily available to the public in written or electronic format.

Implementation Plan: County boards of education shall address within the Student Support Goal of their strategic plan with objectives for policy implementation that ensures each school incorporates the following:

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

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

Evaluation of Effectiveness: The county board of education shall annually review data related to this policy that shall include:

- Summary data for incidents of inappropriate behavior and intervention responses to incidents;
- Required LSIC reports;
- Trend analysis from school climate/culture survey tools (as available);
- Impact data related to school climate/culture improvement strategies within county and school strategic plans; and
- Impact data from training and staff development offered by the county, or WVDE.

W. Va. Code Requirements for County Boards of Education:

W. Va. Code	County Board of Education Requirements
§18-2C-1, et seq. Prohibiting harassment, intimidation or bullying	<ul style="list-style-type: none"> • Establish a policy prohibiting harassment, intimidation or bullying using a process that includes representation of parents or guardians, school employees, school volunteers, students and community members. • Include the following minimum policy components: <ul style="list-style-type: none"> • 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 Chapter 4, Section 2, Level 3 of this policy; • Procedures for reporting incidents;

W. Va. Code	County Board of Education Requirements
	<ul style="list-style-type: none"> • Requirement that school personnel report incidents of which they are aware; • Requirement that parents/guardians 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 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 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 publication that sets forth the comprehensive rules, procedures and standards of conduct for the school. • Incorporated into each school’s current employee training program Information regarding the county board policy prohibiting harassment, intimidation 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.
<p>§18-5A-2 Local School Improvement Councils (LSIC)</p>	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 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 superintendent (or designee) shall respond to the LSIC in writing within 10 days of receiving the report. • The county board shall retain and file all such correspondence for public review.
<p>§18-9F-1, et seq. School Access Safety Act</p>	<p>Each county board seeking funds for school access safety projects during a fiscal year shall submit to the School Building Authority (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:</p> <ul style="list-style-type: none"> • A prescribed countywide inventory of each school facility's means of ingress to and egress from the school for students, school employees, parents, visitors and emergency personnel;

W. Va. Code	County Board of Education Requirements
	<ul style="list-style-type: none"> • The recommendations and guidelines developed by the Countywide Council on Productive and Safe Schools together with the county board's assessment of the recommendations and guidelines; • Recommendations for effective communication and coordination between school facilities, local law-enforcement agencies and local emergency services 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's safety plan, facilities plan and school major improvement plan; • Notation of the funds available for allocation and disbursement to the county board from the School Access Safety Fund; • A description of any source of local funds that the county board 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.
<p>§18-9F-9 Crisis Response Plan</p>	<p>County boards are required to:</p> <ul style="list-style-type: none"> • 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 one; 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. <p>The county board should support schools in the development and updating of school crisis prevention and response plans by providing the following guidance and support:</p> <ul style="list-style-type: none"> • 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 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

W. Va. Code	County Board of Education Requirements
	<p>response plan;</p> <ul style="list-style-type: none"> • Standardize procedures for the annual review/update of each school crisis prevention and response plan; and • Resources for training school personnel on school specific school crisis prevention and response plans.
<p>§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</p>	<ul style="list-style-type: none"> • The county board 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 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(s), guardian(s), or custodian(s) in the maintenance of school discipline. • The county board shall provide for the implementation of a preventive discipline program including student involvement. • The county board shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. • The county board 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.
<p>§18A-5-1a Possessing deadly weapons...; possessing a controlled substance...; assaults and batteries... upon teachers or other school personnel; ... sale of narcotic; expulsion; exception; alternative education</p>	<p>Students are not permitted to engage in the following conduct on school premises, on school buses or school transportation, or at school-sponsored functions:</p> <p>GROUP A</p> <ul style="list-style-type: none"> ○ 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 ○ Possess a firearm or other deadly weapon ○ Participate in the sale of a narcotic drug <p>GROUP B</p> <ul style="list-style-type: none"> ○ 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 <p>GROUP C</p> <ul style="list-style-type: none"> ○ 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

W. Va. Code	County Board of Education Requirements
	<p>intentionally deflection school property</p> <ul style="list-style-type: none"> ○ Participating in a physical altercation with another person while under the authority of school personnel ○ Habitually violating school rules or policies <ul style="list-style-type: none"> ● 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 superintendent shall recommend to the county board that the student be expelled. Upon receiving the superintendent's recommendation, the county board shall hold a hearing following the procedures outlined below. If it is determined the student did commit alleged the county board shall expel the student in accordance with Level 4, Chapter 4, 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 superintendent may recommend to the county board that the student be expelled. If the superintendent makes such recommendation, the county board may hold a hearing following the procedures outlined below. If it is determined the student did commit the conduct alleged, the county board may expel the student. <p>Hearing Procedure</p> <ul style="list-style-type: none"> ● Prior to a hearing, 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: <ul style="list-style-type: none"> ○ The date and time at which the hearing shall be held (within ten days of the beginning of the suspension); and ○ 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 shall determine: (1) if the student should be reinstated, or (2) if the student should be expelled from school. If the county board 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 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, 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. ● All hearings before the county board shall be recorded by mechanical means unless recorded by a certified court reporter. ● In all hearing, facts shall be found by a preponderance of the evidence.

W. Va. Code	County Board of Education Requirements
	<ul style="list-style-type: none"> • A hearing before the county board 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 expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. <ul style="list-style-type: none"> ○ 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. ○ During such hearings, the county board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. ○ If it is determined during any of the 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 twelve consecutive months. <ul style="list-style-type: none"> ○ 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

W. Va. Code	County Board of Education Requirements
	<p>twelve-month expulsion:</p> <ul style="list-style-type: none"> ▪ 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. <ul style="list-style-type: none"> • 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 <i>et seq.</i> • Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in WVEIS.
<p>W. Va. Code §49-2-803 Persons mandated to report suspected abuse and neglect; requirements.</p>	<p>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:</p> <ul style="list-style-type: none"> • Teachers, school personnel, volunteers, counselors, nurses, or other professionals (“Mandatory Reporters”) within a school who suspect that a student is being abused or neglected shall report the circumstances to the West Virginia Department of Health and Human Resources immediately, and within no more than 48 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, and within no more than 48 hours. • 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, and within no more than 24 hours: <ul style="list-style-type: none"> ○ 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); ○ 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 ○ 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 <i>limited</i> exception to the mandatory reporting requirement when a Mandatory Reporter receives information or observes <i>consensual</i> sexual contact, intercourse, or intrusion between students. This exception does not

W. Va. Code	County Board of Education Requirements
	<p>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:</p> <ul style="list-style-type: none"> ○ A student that is 14 or older and a student that is less than 12; ○ A mentally or physically incapacitated students; or ○ A student that is 16 or older and a student that is less than 16 when there is at least a 4 year age difference between the students. <ul style="list-style-type: none"> ● Alternatively, Mandatory Reporters may notify the school’s principal or assistant principal when receiving credible information or observing the acts described above. If a principal or assistant principal receives such information, he or she must notify the West Virginia State Police and local law enforcement immediately, and within no more than 24 hours, of receiving such information. <p>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.</p>
<p>§61-7-11a Possessing deadly weapons on premises of educational facilities...</p>	<ul style="list-style-type: none"> ● 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. ● The prohibition against possessing firearms or other deadly weapons on school premises, on school buses, or at school sponsored functions does not apply to: <ul style="list-style-type: none"> ○ Law-enforcement officers employed by federal, state, county, or municipal law-enforcement agency; ○ 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 or her duties; ○ 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 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 or her firearm to his or 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

W. Va. Code	County Board of Education Requirements
	<p>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 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;</p> <ul style="list-style-type: none"> ○ West Virginia University's official mascot, commonly known as the Mountaineer, when acting in his or her official capacity; and ○ Parkersburg South High School's official mascot, commonly known as the Patriot, when acting in his or her official capacity.

Section 4. Responsibilities of Schools

Partnership Development: In accordance with county board of education policies and protocols, schools will establish community agency and organization partnerships that serve to provide the school with a variety supports and resources to develop appropriate behaviors in safe and supportive schools. These partnerships may be both formal and informal as described under Section 2. Formal partnerships between community service agencies must be approved through the county board of education.

Policy Dissemination and Training: To ensure understanding of the county policy for Expected Behaviors in Safe and Supportive Schools and the school implementation plan, each school shall develop and implement an ongoing awareness campaign for all students, staff and parents/guardians.

- This policy shall appear in the student and staff handbooks and if no handbook is available, a copy will be distributed to all students, faculty, and staff.
- The county and/or school shall develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.

Implementation Plan: Plans for the implementation of county policies for Expected Behaviors in Safe and Supportive Schools should be included within individual school strategic plans. The implementation plan shall reflect the particular needs of students and staff to study, learn and work in a positive school climate/culture. To the maximum extent possible, the plan should be developed collaboratively with input from all stakeholders including, but not limited to parents, business leaders, community organizations and state and local agencies. The plan should articulate and incorporate the partnership supports and resources that are available to the school through the county's formal and informal partnership agreements as well as through additional school level partnerships.

As part of the implementation plan, schools, at a minimum, shall:

- Establish a leadership team (may be an existing team) to manage the design, monitoring and improvement of school climate/culture;
- Establish a process to gain school-wide input and commitment to school climate/culture improvement from students, staff, parents and community;
- Develop school-wide priorities for Policy 4373;
- Analyze school climate/culture data annually;
- Make data driven improvement decisions based on analysis of consistently tracked student behaviors;

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- Implement school-wide plans that provide appropriate interventions to support and reinforce expected behaviors;
- Implement programs/practices that promote youth asset development to support expected student behaviors, positive education and health outcomes;
- Implement comprehensive and effective intervention programs/practices that target identified behaviors that are disruptive to the educational process and that place students at higher risk of poor education and health outcomes;
- Develop appropriate and reliable referral procedures for intensive intervention that enlist school and community partnerships; and
- Evaluate school climate/culture improvement processes and revise as needed.

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

- Progress toward implementation plan goals and objectives
- Evidence of school climate/culture improvement efforts;
- Required LSIC reports (W. Va. Code §18-5A-2);
- Trend analysis from school climate/culture survey tools (as available);
- Summary data for incidents of inappropriate behavior and intervention responses to incidents; and
- Evaluation data from training and staff development provided by the county and/or WVDE.

W. Va. Code Requirements for Schools:

W. Va. Code	School Requirements
§18-5A-2 Local School Improvement Councils (LSIC)	<ul style="list-style-type: none"> • 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 parents, 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: <ul style="list-style-type: none"> ○ 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 superintendent (or designee) shall respond to the LSIC in writing within 10 days of receiving the report and the county board shall retain and file all such correspondence for public review.
§18-9F-9	Each school shall create a comprehensive School Crisis Prevention and Response

W. Va. Code	School Requirements
School crisis response plan	<p>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 Division of Homeland Security and 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.</p> <p>The Crisis Prevention and Response Plans must be developed under the following requirements:</p> <ul style="list-style-type: none"> • 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 of children attending the school. The school crisis prevention and response planning team may include one member of the county board, a school counselor, a member from local law-enforcement authorities, the local county emergency services director and one student in grade ten 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, local first response agencies including police, fire, emergency medical services (EMS), emergency management and any other local entities that 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 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; • Each School Crisis Prevention and Response Plan shall include at least the following: <ul style="list-style-type: none"> • 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 events have concluded; • disaster and emergency procedures to respond to earthquakes, fire, flood,

W. Va. Code	School Requirements
	<p>other natural disasters, explosions or other events or conditions in which death or serious injury is likely;</p> <ul style="list-style-type: none"> • crisis procedures for safe entrance to and exit from the school by students, parents, 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.
<p>§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</p>	<ul style="list-style-type: none"> • The teacher shall stand in the place of the parent(s), guardian(s) or custodian(s) 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 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 or her classroom or school bus any student who is guilty of inappropriate behavior as outlined in Chapter 4, 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(s), guardian(s) or custodian(s). • 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(s), guardian(s) or custodian(s) 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(s), guardian(s) or custodian(s) 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.
<p>§18A-5-1a Possessing deadly weapons</p>	<ul style="list-style-type: none"> • 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:

W. Va. Code	School Requirements
<p>on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and 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.</p>	<p>GROUP A</p> <ul style="list-style-type: none"> ○ 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 <p>GROUP B</p> <ul style="list-style-type: none"> ○ 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 <p>GROUP C</p> <ul style="list-style-type: none"> ○ 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 <ul style="list-style-type: none"> ● 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. The hearing must be held immediately after the conduct giving rise to the suspension occurred. 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 or her parent(s), guardian(s), or custodian(s) 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: <ul style="list-style-type: none"> ○ At the beginning of the hearing, the principal must ask the student whether he or she admits or denies the charges. ○ If 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 or her version of the incident. ● At 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:

W. Va. Code	School Requirements
	<ul style="list-style-type: none"> ○ 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. ● The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension. 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 recommend 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 State Board of Education.
<p>W. Va. Code §49-2-803 Persons mandated to report suspected abuse and neglect; requirements.</p>	<ul style="list-style-type: none"> ● Teachers, school personnel, volunteers, counselors, nurses, or other professionals (“Mandatory Reporters”) within a school who suspect that a student is being abused or neglected to report the circumstances to the West Virginia Department of Health and Human Resources immediately, and within no more than 48 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, and within no more than 48 hours. ● Mandatory Reporters that are also staff or volunteers of an entity or organization that provide services to a school or otherwise organize 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, and within no more than 24 hours: <ul style="list-style-type: none"> ○ 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);

W. Va. Code	School Requirements
	<ul style="list-style-type: none"> ○ 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 ○ 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 <i>limited</i> exception to the mandatory reporting requirement when a Mandatory Reporter receives information or observes <i>consensual</i> 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: <ul style="list-style-type: none"> ○ A student that is 14 or older and a student that is less than 12; ○ A mentally or physically incapacitated students; or ○ A student that is 16 or older and a student that is less than 16 when there is at least a 4 year age difference between the students. ● Alternatively, Mandatory Reporters may notify the school’s principal or assistant principal when receiving credible information or observing the acts described above. If a principal or assistant principal receives such information, he or she must notify the West Virginia State Police and local law enforcement immediately, and within no more than 24 hours, of receiving such information.
<p>§61-7-11a Possessing deadly weapons on premises of educational facilities; reports by school principals...</p>	<ul style="list-style-type: none"> ● 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: <ul style="list-style-type: none"> ○ Law-enforcement officers employed by federal, state, county, or municipal law-enforcement agency; ○ 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 or her duties; ○ Retiredlaw-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 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 or her firearm to his or 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;

W. Va. Code	School Requirements
	<ul style="list-style-type: none"> ○ 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 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 or her official capacity; and ○ Parkersburg South High School’s official mascot, commonly known as the Patriot, when acting in his or her official capacity. <ul style="list-style-type: none"> ● 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.

Chapter 4
INAPPROPRIATE BEHAVIOR AND MEANINGFUL
INTERVENTIONS AND CONSEQUENCES

Section 1. Addressing Inappropriate Behavior with Meaningful Interventions and Consequences

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, will implement proactive, preventative, and responsive programs, outline investigatory and reporting procedures, and delineate meaningful interventions and consequences in response to inappropriate behavior.

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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 W. Va. 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. W. Va. 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, W. Va. §126CSR16, Policy 2419, Regulations for the Education of Students with Exceptionalities 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 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, (W. Va. Code §18A-5-1) • Voluntary weekend detention (Superintendent’s Interpretation of
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 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 distracting or indecent, to the extent that it interferes with the teaching and learning process, including wearing any apparel that displays or promotes behavior and/or items prohibited by this policy.	
Inappropriate Display of Affection	Students will not engage in inappropriate displays of intimate affection, such as kissing or embracing.	
Inappropriate Language	A student will not orally, in writing, electronically, or with photographs or drawings, use profanity in general context (not directed toward any individual or group).	
Possession of	A student will not possess personal property that is prohibited by school rules	

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Behaviors	Definitions – Level 1	Interventions and Consequences
Inappropriate Personal Property	or that is disruptive to teaching and learning.	May 12, 2006) • In-school suspension • *W. Va. 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.
Skipping Class*	In accordance with W. Va. §126CSR81, 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.	

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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 • 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)
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 insubordination/unruly conduct.</p>	<ul style="list-style-type: none"> • Voluntary weekend detention (Superintendent’s Interpretation of May 12, 2006)
Leaving School Without Permission	<p>A student will not leave the school building, campus of school activity for which the student is enrolled without permission from authorized school personnel.</p>	<ul style="list-style-type: none"> • In-school suspension • Out-of-school suspension with a recommended maximum of five (5)
Physical Fight Without Injury	<p>A student will not engage in a physical altercation using blows in an attempt to harm or overpower another person or persons.</p>	

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Behaviors	Definitions – Level 2	Interventions and Consequences
Possession of Imitation Weapon	A student will not possess any object fashioned to imitate or look like a weapon.	<p>days (See guidelines in Chapter 6, Section 2) W. Va. Code §18A-5-1(d) prohibits the use of suspension solely for not attending class.</p> <ul style="list-style-type: none"> • 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.
Possession of Knife not meeting Dangerous Weapon Definition (W. Va. Code §61-7-2)	A student will not possess a knife or knife-like implement under 3½ inches in length. W. Va. 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, Educational Purpose and Acceptable Use of Electronic Resources, Technologies and the Internet.	

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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) - (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 Health and Human Resources • Daily/weekly progress reports • Behavioral contracts • Change in the student’s class schedule • School service assignment
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 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.	
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.	
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	

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Behaviors	Definitions – Level 3	Interventions and Consequences
	in accordance with W. Va. Code §61-3-13.	
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"> • 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
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 W. Va. Code §61-2-15].	<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, (W. Va. Code §18A-5-1)
Trespassing	A student will not enter upon the premises of the county school system property, other than to the location to which the student is assigned, without authorization from proper school authorities.	<ul style="list-style-type: none"> • Voluntary weekend detention (Superintendent’s Interpretation of May 12, 2006) • In-school suspension • Out-of-school suspension for up to ten (10) days (See guidelines in Chapter 6, Section 2) • The principal and/or superintendent may recommend placement in an Alternative Education program as described in Section 5 of this chapter. • Expulsion
Harassment/ Bullying/ Intimidation	<p>A student will not bully/intimidate/harass another student. According to W. Va. 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; 	<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,</p>

Behaviors	Definitions – Level 3	Interventions and Consequences
	<p>or</p> <ul style="list-style-type: none"> • 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><i>Sexual harassment</i> 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 	<p>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>environment.</p> <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. <p><i>Racial harassment</i> 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><i>Religious/ethnic harassment</i> 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 	

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Behaviors	Definitions – Level 3	Interventions and Consequences
	<p>an individual's work or academic performance; or</p> <ul style="list-style-type: none"> • otherwise adversely affects an individual's employment or academic opportunities. <p><i>Sexual violence</i> 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. • threatening or forcing exposure of intimate apparel or body parts by removal of clothing. <p><i>Racial violence</i> is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.</p> <p><i>Religious/ethnic violence</i> is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.</p>	<p>Mandatory report as outlined in W. Va. Code §§49-1-201, 49-2-803, and 49-2-812</p>
<p>Imitation Drugs: Possession, Use, Distribution or Sale</p>	<p>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.</p>	<p>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 enforce-</p>
<p>Inhalant Abuse</p>	<p>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.</p>	

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Behaviors	Definitions – Level 3	Interventions and Consequences
<p>Possession/Use of Substance Containing Tobacco and/or Nicotine</p>	<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><i>Special considerations</i> according to W. Va. 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. <p>An exception shall be made to allow possession/use of approved nicotine replacement product for tobacco cessation. W. Va. §126CSR51, 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.</p>	<p>ment 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.</p>

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Behaviors	Definitions – Level 4
	<p>LEVEL 4: Safe Schools Act Behaviors - are consistent with those addressed in W. Va. Code §18A-5-1a(a) and (b). The following Level 4 behavior definitions are aligned with W. Va. 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 W. Va. 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 W. Va. 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 W. Va. Code §18A-5-1a(b)(i). Such acts that would constitute a felony include, but are not limited to, arson (W. Va. Code §61-3-1), malicious wounding and unlawful wounding (W. Va. Code §61-2-9), bomb threat (W. Va. Code §61-6-17), sexual assault (West Virginia Code §61-8B-3), terrorist act or false information about a terrorist act, hoax terrorist act (W. Va. Code §61-6-24) and grand larceny (W. Va. 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 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 Policy 2422.8 - Medication Administration and instances of prescription drug abuse.
Possession and/or Use of Dangerous 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 “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.

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

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 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.
- 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.

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

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 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;

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- 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.
Within one school day	Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent/guardian.
Within one school day	Written documentation regarding the use of restraint must be placed in the student’s official school record. The information must be available to determine the relationship of a student’s behavior as it impacts the student’s learning and/or the creation or revision of a behavior intervention plan

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

- 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 contact and notification efforts.

Section 5. Alternative Education 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's approval of the county alternative education policies and procedures is required for authorization to operate an alternative education program under these regulations.

For the purposes of this manual, an alternative education program is a temporary 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. The purposes of these programs are to: (1) provide a safe and orderly learning environment for the education of all students in the public schools of West Virginia and (2) meet the educational needs of disruptive students through the development of alternative education programs.

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 on an alternative site;
- an afterschool class/night school program; or
- a combination academic/work-based program.

County boards of education shall have broad 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 State Board of Education 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 W. Va. §126CSR16, Policy 2419 - Regulations for the Education of Students with Exceptionalities in providing alternative education programs for students with exceptionalities or Section 504 of the Rehabilitation Act of 1973.

Program Requirements: County boards of education establishing alternative education programs shall meet the following requirements:

- Policies and Procedures - County boards of education shall adopt policies and procedures for the operation of alternative education programs. Policies and procedures shall include, but are not limited to:
 1. the goals of the program;
 2. the eligibility criteria and process for placement of students in the program including the composition of the Alternative Education Placement Team which may be an existing school team such as the Student Assistance Team;
 3. the involvement of parents and community agencies;
 4. length and time of day the after-hours/night school program operates, if applicable;
 5. plan for awarding of credits;
 6. behavioral management plan as an alternative to the county's discipline policy, if applicable;
 7. the staffing plan, personnel qualifications and class size limits;
 8. the criteria for completion of the alternative education program or reentry into regular education; and
 9. the performance measures and process for program evaluation.

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- Eligibility for Placement in Alternative Education Programs - Students may be placed in alternative education programs for:
 1. violations of the W. Va. Code §18A-5-1a;
 2. repeated violations of the county's discipline policy following documented multiple behavioral interventions by the Student Assistance Team at the referring school; and
 3. continuation of educational services during periods of suspension.
- Students who have 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.
- Students who have been suspended or expelled from a public or private school in West Virginia or another state, currently found 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.
- Placement of Students in Alternative Education Programs - Placement decisions, excluding short-term in-school suspensions, shall be made by an Alternative Education Placement Team, which may be the Student Assistance Team, as defined in the county's policy and procedures. County school districts shall provide for the opportunity for parents to participate in the placement team meeting. The placement team shall develop a student's written plan which includes academic courses and behavioral components, 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.
- Curriculum - County boards of education shall have an identified written curriculum for alternative education programs based upon State Board of Education approved instructional goals and objectives. The curriculum shall also include a component for teaching and learning responsible behavior. In addition, the county shall provide for the participation of staff certified in the core subject areas in the development of the academic curriculum and the assessment measures to determine mastery of instructional goals and objectives.
- Instruction - County school districts shall deliver instruction in accordance with the following standards:
 1. instructional activities shall be consistent with the written curriculum and appropriate for the students' developmental levels;
 2. instructional materials shall be age appropriate, functionally appropriate, and of high interest level for students;
 3. the program shall provide for individualized instruction and accommodate the entry and exit of students;
 4. curricular and instructional practices shall reflect high expectations for students;
 5. the instructional program shall be delivered in a climate/culture conducive to learning; and
 6. sufficient instructional materials, supplies, and equipment shall be available to deliver the instructional program.
- State Assessment Program - Students enrolled in alternative education programs shall participate in the State Assessment Program, in accordance with 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 home county school of referral.

- Support Services - Students in alternative education programs shall receive school counseling services and/or other support services such as school social work or psychological services as indicated in the student's written plan.
- Special Education - County boards of education shall comply with applicable state and federal laws and regulations in the education of exceptional students placed in alternative education programs.
- Personnel Selection Criteria - It is the responsibility of the county board of education to select the most qualified applicant(s) to implement the alternative education program. Classroom teachers shall be selected on the basis of the teachers' demonstration of competence in meeting the following standards:
 1. any West Virginia professional teaching certificate;
 2. ability to effect positive behavior in disruptive students;
 3. effective leadership and/or mentoring skills in working with youth;
 4. successful experience in providing education to troubled or disruptive youth;
 5. specialized training or experience in non-traditional programs; and
 6. specialized training in behavior management skills.
- Licensure - A teacher assigned to deliver the academic subjects 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(s) for the alternative education program position(s). 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.
- 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.
- 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/pro-social 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 - Assuring the Quality of Education: Regulations for Education Programs.
- Units of Credit - County boards of education shall grant units of credit for work satisfactorily completed in an alternative education program. Units of credit based upon mastery of performance criteria may be granted as an alternative to the standard units of credit.

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- Program Completion - Students may complete an alternative education program in one of the following manners:
 1. fulfillment of the criteria for re-entry into the regular school program;
 2. completion of regular high school graduation requirements and awarding of a regular high school diploma from the home county school of referral;
 3. completion of identified performance criteria leading to a high school diploma; or
 4. completion of a TASC in accordance with W. Va. §126CSR32, Policy 2444.4 – High School Equivalency Diploma.

Accountability for Results: County boards of education establishing alternative education programs shall conduct an annual evaluation of the effectiveness of the program(s). The evaluation of the effectiveness of alternative education programs shall focus upon the impact of the program 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 vocational training programs; rates of successful completion of high school graduation or attainment of a TASC; 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.

Section 6. Collaboration with Law Enforcement

Police have the responsibility to enforce laws in order to protect all citizens. Police can enter schools if they suspect a crime has been committed, if they 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 Officers (PRO): PRO are certified police officers, working as fulltime officers who have been assigned to work fulltime within a public school during the school year. The PRO duties, salary and other conditions should be determined through an agreement with the county board of education and the PRO authorized police department. The principal is the PRO immediate supervisor while the officer is present in the school. There may be a time when, during the course a PRO duties, the officer's position as a law enforcement officer would take precedence.

Police Conducting an Investigation in the School: During a criminal investigation, if a student is to be questioned by the police, or by school officials in the presence of the police, the school administration should cooperate with the police and help to ensure that the privacy of the student is protected. The police officer is responsible to ensure that the student's constitutional rights are not violated. The police officer is responsible for determining if the student's parents or guardian, or lawyer should be contacted prior to questioning. W. Va. Code §49-5-2 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 or her lawyer is present; such statements made by students who are fourteen or fifteen years old cannot be used in a court proceeding unless their lawyer is present or a parent is present and the parent has been informed of the student's rights. The police officer is responsible for

determining when the use of restraints is necessary during such questioning to control an unruly student to prevent the student from harming him/herself or others.

Chapter 5
PROCEDURES FOR ADDRESSING ALLEGATIONS
OF INAPPROPRIATE BEHAVIORS

Section 1. Procedures for Reporting Complaints of Inappropriate Behavior

All school employees are responsible for assuring a safe and supportive school climate/culture. When incidents of inappropriate behavior are witnessed by school staff, the behavior shall be address consistently in accordance with the Interventions and Consequences outlined in Chapter 4 and with the school implementation plan. However, incidents of inappropriate behavior do not always occur in the presence of school employees and are reported to school authorities after the behavior has occurred.

All inappropriate behaviors observed by students or public guests must be reported to the appropriate personnel for appropriate action to be taken as specified in the county policy and school implementation plan. Each county policy and school implementation plan shall designate the individual(s) who will receive complaints about inappropriate behaviors indicated in Chapter 4.

County boards of education shall develop procedures to assure that any person who believes he or she has been the victim of an Inappropriate Behavior as outlined in Chapter 4 or any person with knowledge or belief of conduct which may constitute a violation of Policy 4373 has an identified mechanism to report the alleged acts immediately to the appropriate official(s) designated by the county policy and school implementation plan. Nothing in this policy shall prevent any person from reporting violations directly to the county superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency. 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.

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

Complaint Procedure Considerations for Racial, Sexual, and Religious/Ethnic Harassment and Violence: County boards of education and the WVDE shall develop procedures to assure that any person who believes he or she has been the victim of religious/ethnic, racial or sexual harassment or violence by a student, teacher, administrator or other school personnel of the county board of education, or any person with knowledge or belief of conduct which may constitute religious/ethnic, racial or sexual harassment or violence toward a student, teacher, administrator or other school personnel has an identified mechanism to report the alleged acts immediately to an appropriate official designated by the agency's policy. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the county superintendent or the state superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency.

- All alleged incidents of harassment or violence observed by faculty or staff must be reported to the designated investigator and appropriate action should be taken as specified in Section 2 of this Chapter.
- Under certain circumstances, sexual harassment may constitute child and/or sexual abuse under W. Va. Code §49-6-1, et seq. In such situations, the county board of education shall comply with the provisions of law for reporting such abuse.

Section 2. Procedures for Investigating Allegations of Inappropriate Behavior

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

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

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

The principal shall:

- Determine whether the alleged conduct constitutes a violation of this policy.
- Immediately take such reasonable steps as necessary, to protect the complainant, students, teachers, administrators or other personnel pending completion of an investigation of an alleged policy violation.
- Assure that the investigation will be completed as soon as practicable but no later than ten school days following the reported violation.

Upon completion of the investigation:

- A 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 shall be determined in the county policy.
- The conclusion of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the principal or his/her designee.

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

investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

Investigation Procedure Considerations for Racial, Sexual, and Religious/Ethnic Harassment and Violence: 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 shall take the place of the Principal.

Section 3. Procedures to Prevent Reprisal

The county board of education shall develop 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 personnel who falsely reports violations of this policy.

Chapter 6 PROCEDURES FOR TAKING ACTION ON SUBSTANTIATED INAPPROPRIATE BEHAVIORS

Section 1. Interventions and Consequences of Inappropriate Behavior

It is the intent of the WVBE for schools to be pro-active and preventive in their approach to student behavior. It is also the WVBE's intent that inappropriate behavior be addressed with meaningful interventions and consequences that strive to improve future behavior. Therefore, it is the WVBE's belief that school administrators and staff shall 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 academic progress. Out-of-school suspension is not a recommended optional 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. W. Va. Code requires that the principal shall suspend a student who commits a behavior classified as Level 4 in this policy.

In determining the appropriate intervention and/or consequence in response to a substantiated Level I, II, or III inappropriate behavior, the principal, superintendent and/or local board of education should consider:

- the surrounding circumstances,
- the nature of the behavior,
- past incidents or continuing 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

Exclusion: According to W. Va. Code §18A-5-1, a teacher or bus driver may exclude from a classroom or bus any student who displays one or more of the inappropriate behaviors outlined in Chapter 4, Section 2, Levels 1, 2, 3 or 4. 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(s), guardian(s) or custodian(s). 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(s), guardian(s) or custodian(s) 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(s), guardian(s) or custodian(s) of the course of action. Thereafter, 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.

Bus drivers must follow the guidelines outlined in W. Va. §126CSR92, Policy 4336 – West Virginia School Bus Transportation Policy and Procedures Manual. When the bus driver excludes a student from the school bus, the driver shall notify the student and the student's principal. The principal/designee shall notify the student's parent/guardian. All students shall be transported until the parent/guardian has been properly notified of the exclusion. The principal/designee shall notify the parent/guardian when their 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 student body, school personnel and property, the educational environment, and the orderly process of the school. Suspension is considered a temporary solution to 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 extend to ten school days.

Suspension typically takes one of two forms:

- **In-School Suspension:** Instances in which a student is temporarily removed from his/her classroom(s) for disciplinary purposes 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 students 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 in direct supervision of school personnel.
- **Out-of-School Suspension:** Instances in which a student is temporarily removed from his/her school for disciplinary purposes to another setting pursuant to W. Va. Code §18A-5-1a (e.g., home, community setting). This includes both removals in which no 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 s/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:

- a. Parent(s)/guardian(s) must be notified promptly in all cases of suspension.
- b. The county superintendent of schools or designee must be notified and preferably in writing of the time and conditions pertaining to the suspension.
- c. A student that is suspended from school may not participate in any school-sponsored activities, and is not permitted on school grounds during the period of suspension.
- d. A student may not be suspended from school solely for not attending class.

An out-of-school suspension of more than ten (ten) days requires a formal hearing before the county board of education. Procedures the school and county must follow when dealing with suspensions of more than 10 days are outlined in W. Va. Code §§18A-5-1 and 18A-5-1a and include:

- a. Parent(s)/guardian(s) must be informed in writing of the charges against their child, including a summary of the evidence upon which the charges are based.
- b. Upon the student's/parent/guardian's request, a formal hearing must be scheduled before the county board of education.
- c. Students are entitled to be represented or advised during the proceedings by a person or persons of their choosing, including legal counsel.
- d. 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 if the county board of education agrees to act upon recommendations to expel a student from school. These procedures are outlined in W. Va. Code §§18A-5-1 and 18A-5-1a.

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 twelve (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:

- a. The student and parent(s)/guardian(s) must be given a written statement of the specific charges against the student.
- b. The county board of education must hold a hearing regarding the recommended expulsion.
- c. The student and parent(s)/guardian(s) must be given a written notice of the time and place of the 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.
- d. The student and parent(s)/guardian(s) have the right to be present at the board hearing and to defend against the charges.
- e. The student has the right to be represented by an attorney at the hearing at their own expense.
- f. The student has the right to present witnesses in their behalf, to hear the testimony of witnesses against them, and to question the witnesses against them.

- g. If the board of education decides that the charges against a student do not warrant his or her expulsion from school, the student may remain in school or return to school without being subjected to punishment or harassment.
- h. In all expulsion hearings, fact shall be found by a preponderance of the evidence.
- i. Expulsion by the board of education is final. However, if a student or parent/guardian believes that the student was not given procedural due process, they may appeal to the State Superintendent of Schools. If the State Superintendent finds that the board's decision to expel the student was properly made, then the expulsion will stand unless overturned by a court.

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 found within the county, may not be denied enrollment in the county school system unless determined to be a “dangerous student” under the procedures set forth in W. Va. Code §18A-5-1a. Superintendents may, in their discretion, determine the appropriate educational placement, including alternative education services, for these students (Superintendent’s 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

When considering exclusion from the bus or suspension or expulsion from school or the bus 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, refer to W. Va. §126CSR16, Policy 2419 - Regulations for the Education of Students with Exceptionalities, Chapter 7 for specific guidelines related to protections which may be warranted for these students.

Section 5. Procedures for Reporting Action on Substantiated Incidents

It is essential that schools accurately track incidents of inappropriate behavior in order to utilize data for school climate/culture improvement efforts and to create documentation to support actions taken to intervene in inappropriate behavior patterns. 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 implementation plans. Therefore, all inappropriate behaviors as described in Chapter 4, Section 2, Levels 1, 2, 3 and 4 shall be reported through:

- Teacher level documentation – shall include inappropriate behavior leading to interventions, consequences and/or referrals to the principal.
- Principal level WVEIS data entry – shall include all teacher level documentation as well as additional entry for administrative disciplinary actions. This data shall be entered into WVEIS by the principal and/or other authorized staff.
- Superintendent level WVEIS data entry – shall include county board actions resulting from expulsion hearings. This data shall be entered into WVEIS by the 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. In order to assure accuracy of data, all districts shall verify their data monthly.

Section 6. Conflict Resolution Process

If someone believes that a county board of education has violated the procedural rights set forth in this policy, they may avail themselves of the appeal procedures outlined in W. Va. 126CSR188, Policy 7211 - Conflict Resolution Process for Citizens. However, this policy does not address personal complaints against a school employee. The procedures set forth in W. Va. §126CSR188, Policy 7211, are not deemed to be a precondition to seeking relief in some other forum.