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3 **STUDENTS**

5 Firearms and Other Weapons

6
7 Firearms

8
9 It is the policy of the School District to comply with the federal Gun Free Schools Act of 1994
10 and Section 20-5-202 (2), MCA, pertaining to students who bring a firearm to, or possess a
11 firearm at, any setting that is under the control and supervision of the school district.

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13 The District does not allow students to possess firearms on District property or at any setting that
14 is under the control and supervision of the District. In accordance with Section 20-5-202 (3),
15 MCA, a teacher, superintendent, or a principal shall suspend immediately for good cause a
16 student who is determined to have brought a firearm to, or possess a firearm at, any setting that is
17 under the control and supervision of the District. The Policy does not govern conduct in a
18 student's home, a locked vehicle, a parking lot, or a commercial business when the student is
19 participating in an online, remote, or distance-learning setting. In accordance with Montana law,
20 a student who is determined to have brought a firearm to, or possess a firearm at, any setting that
21 is under the control and supervision of the school district must be expelled from school for a
22 period of not less than 1 year.

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24 For the purposes of the firearms section of this policy, the term “firearm” means (A) any weapon
25 (including a starter gun) which will or is designed to or may readily be converted to expel a
26 projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any
27 firearm muffler or firearm silencer; or (D) any destructive device pursuant to 18 U.S.C. 921 (4).
28 Such term does not include an antique firearm pursuant to 18 U.S.C. 921 (16).

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30 **CHOOSE ONE OF THE FOLLOWING OPTIONS:**

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32 **OPTION 1** — ~~However, on a case-by-case basis, the Board of Trustees will convene a hearing to~~
33 ~~review the underlying circumstances and, in the discretion of the Board, may authorize the~~
34 ~~school administration to modify the requirement for expulsion of a student.~~

35
36 **OPTION 2** — ~~However, on a case-by-case basis, the Board of Trustees will convene a hearing to~~
37 ~~review the underlying circumstances and, in the discretion of the Board, the Board may itself~~
38 ~~either modify the requirement for expulsion or delegate to the County Superintendent the~~
39 ~~authority to carry out the Board’s decision regarding any modification of the expulsion~~
40 ~~requirement. Note: This Option is specifically for those smaller districts that have no employed administrator.~~

41
42 **OPTION 3** -- However, the Board of Trustees through this policy authorizes the Superintendent,
43 or principal of a school without a Superintendent, to use his/her discretion on a case-by-case
44 basis and modify the requirement of expulsion of a student if he/she deems such modification to
45 be warranted under the circumstances. *Note: Under this Option, there is no expulsion hearing unless the*
46 *administration determines that the circumstances warrant a recommendation of expulsion of the student for a period*
47 *of one (1) year to the Board.*

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4 A decision to change the placement of a student with a disability who has been expelled pursuant
5 to this section must be made in accordance with the Individuals with Disabilities Education Act.
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7 Before holding a hearing to determine if a student has violated this Policy, the Board shall, in a
8 clear and timely manner, notify the student if the student is an adult or notify the parent or
9 guardian of a student if the student is a minor that the student may waive the student's privacy
10 interest by requesting that the hearing be held in public and invite other individuals to attend the
11 hearing.

12
13 Before expelling a student under this Policy, the Board shall hold a due process hearing that
14 includes presentation of a summary of the information leading to the allegations and an
15 opportunity for the student to respond to the allegations. The student may not be expelled unless
16 the trustees find that the student knowingly, as defined in Section 1-1-204, MCA, brought a
17 firearm to school or possessed a firearm at school.

18
19 When a student subject to a hearing is found to have not violated this Policy, the student's school
20 record must be expunged of the incident.

21
22 The provisions of this Policy do not require the Board to expel a student who has brought a
23 firearm to school or possesses a firearm at school if the firearm is secured in a locked container
24 approved by the school district or in a locked motor vehicle the entire time the firearm is at
25 school, except while the firearm is in use for a school-sanctioned instructional activity.

26
27 Possession of Weapons other than Firearms

28 The District does not allow students to possess other weapons on District property or at any
29 setting that is under the control and supervision of the District. Any student found to have
30 possessed, used or transferred a weapon on school property will be subject to discipline in
31 accordance with the District's discipline policy. For purposes of this section, "weapon" means
32 any object, device, or instrument designed as a weapon or through its use is capable of
33 threatening or producing bodily harm or which may be used to inflict self-injury, including but
34 not limited to air guns; pellet guns; BB guns; fake (facsimile) weapons; all knives; blades; clubs;
35 metal knuckles; numchucks (also known as nunchucks); throwing stars; explosives; fireworks;
36 mace or other propellants; stun guns; ammunition; poisons; chains; arrows; and objects that have
37 been modified to serve as a weapon.
38

39 No student shall possess, use, or distribute any object, device, or instrument having the
40 appearance of a weapon, and such objects, devices, or instruments shall be treated as weapons,
41 including but not limited to weapons listed above which are broken or non-functional, look-alike
42 guns; toy guns; and any object that is a facsimile of a real weapon. No person shall use articles
43 designed for other purposes (i.e., lasers or laser pointers, belts, combs, pencils, files, scissors,
44 etc.) to inflict bodily harm and/or intimidate, and such use will be treated as the possession and
45 use of a weapon.
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4 Definitions, Exceptions and Referral to Law Enforcement

5 The District may refer to law enforcement for immediate prosecution any student who possesses,
6 carries, or stores a weapon in a school building as specified in Section 45-8-361, MCA. In
7 addition the District will refer for possible prosecution a parent or guardian of any minor
8 violating this policy on grounds of allowing a minor to possess, carry, or store a weapon in a
9 school building. For the purposes of this section of the policy, “school property” means within
10 school buildings, in vehicles used for school purposes, or on owned or leased school land or
11 grounds. “Building” specifically means a combination of any materials, whether mobile,
12 portable, or fixed, to form a structure and the related facilities for the use or occupancy by
13 persons or property owned or leased by a local school district that are used for instruction or for
14 student activities as specified in Section 50-60-101(2), MCA and Section 45-8-361, MCA. The
15 term is construed as though followed by the words "or part or parts of a building" and is
16 considered to include all stadiums, bleachers, and other similar outdoor facilities, whether
17 temporary or permanently fixed.
18

19 The Board of Trustees may grant persons and entities advance permission to possess, carry, or
20 store a weapon in a school building. All persons who wish to possess, carry, or store a weapon
21 in a school building must request permission of the Board at a regular meeting. The Board has
22 sole discretion in deciding whether to allow a person to possess, carry, or store a weapon in a
23 school building.
24

25 This section does not apply to a law enforcement officer acting in the officer’s official capacity
26 or an individual previously authorized by the Board of Trustees to possess a firearm or weapon
27 in a school building.
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29 The Board of Trustees shall annually review this policy and update this policy as determined
30 necessary by the trustees based on changing circumstances pertaining to school safety.
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32 *Note may be deleted from final adopted policy: Section (g) of the ESSA Section 4141 – Gun Free Requirements,*
33 *carves out a very significant exception to the Gun Free Schools Act in that it allows a student to have “a firearm*
34 *that is lawfully stored inside a locked vehicle on school property. . .” Montana law (20-5-202,*
35 *MCA), on the other hand, does not provide for any exception to the expulsion requirement if a student has a firearm*
36 *that is lawfully stored inside a locked vehicle on school property. The only reference to federal law in 20-5-202(2),*
37 *MCA is the federal definition of a firearm. As you well know 20-5-202(2), MCA provides that:*
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39 *(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a*
40 *firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement*
41 *agency. A student who is determined to have brought a firearm to school under this subsection must be expelled*
42 *from school for a period of*
43 *not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for*
44 *expulsion of a student on a case-by-case basis.*
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46 *So, Montana schools are required, by state law, to expel a student from school for a period of not less than 1 year if*
47 *it is determined that the student brought a firearm to school, subject to the case-by-case exception noted in the*
48 *statute. Based upon the exception noted in federal law and in circumstances where a student is found to have a*
49 *firearm on school property in a locked*
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4 *vehicle, Montana schools should be citing state law (20-5-202, MCA) and district policy to support any*
5 *recommendation for expulsion.*
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7 *There is one significant inconsistency between the Federal Gun Free Schools Act and Montana is that under federal*
8 *law it provides that “State law shall allow the chief administering officer of a local educational agency to modify*
9 *such expulsion requirement for a student on a case-by-case basis if such modification is in writing,” whereas 20-5-*
10 *202(2), MCA, provides that the trustees may authorize the school administration to modify the requirement for*
11 *expulsion of a student on a case-by-case basis.*
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13 Cross Reference: 3310 Student Discipline
14 4332 Conduct of School Property
15 5332 Personal Conduct
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17 Legal Reference: § 20-5-202, MCA Suspension and expulsion
18 § 45-8-361, MCA Possession or allowing possession of
19 a weapon in a school building
20 20 U.S.C. § 7151, et seq. Gun Free Schools Act of 1994
21 18 U.S.C. § 921 Definitions
22 ESSA, Section 4141 Gun Free Requirements
23

24 Policy History:
25 Adopted on:
26 Reviewed on:
Revised on: