

1 **Browning Public Schools**
2

3 **Policy #3311**

4 **Policy Name:** *Firearms and Other Weapons*

5 **Regulation-----**

6
7 **Firearms**
8

9 It is the policy of the School District to comply with the federal Gun Free Schools Act of 1994 and
10 Section 20-5-202 (2), MCA, pertaining to students who bring a firearm to, or possess a firearm at, any
11 setting that is under the control and supervision of the school district.
12

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

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

29 **However, the Board of Trustees through this policy authorizes the Superintendent, or principal of a**
30 **school without a Superintendent, to use his/her discretion on a case-by-case basis and modify the**
31 **requirement of expulsion of a student if he/she deems such modification to be warranted under the**
32 **circumstances. Note: Under this Option, there is no expulsion hearing unless the administration**
33 **determines that the circumstances warrant a recommendation of expulsion of the student for a period**
34 **of one (1) year to the Board.**
35

36 A decision to change the placement of a student with a disability who has been expelled pursuant to this
37 section must be made in accordance with the Individuals with Disabilities Education Act.
38

39 Before holding a hearing to determine if a student has violated this Policy, the Board shall, in a clear and
40 timely manner, notify the student if the student is an adult or notify the parent or guardian of a student if
41 the student is a minor that the student may waive the student's privacy interest by requesting that the
42 hearing be held in public and invite other individuals to attend the hearing.
43

44 Before expelling a student under this Policy, the Board shall hold a due process hearing that includes
45 presentation of a summary of the information leading to the allegations and an opportunity for the student
46 to respond to the allegations. The student may not be expelled unless the trustees find that the student
47 knowingly, as defined in Section 1-1-204, MCA, brought a firearm to school or possessed a firearm at
48 school.
49

1 When a student subject to a hearing is found to have not violated this Policy, the student's school record
2 must be expunged of the incident.
3

4 The provisions of this Policy do not require the Board to expel a student who has brought a firearm to
5 school or possesses a firearm at school if the firearm is secured in a locked container approved by the
6 school district or in a locked motor vehicle the entire time the firearm is at school, except while the
7 firearm is in use for a school-sanctioned instructional activity.
8

9 **Possession of Weapons other than Firearms**

10 The District does not allow students to possess other weapons on District property or at any setting that is
11 under the control and supervision of the District. Any student found to have possessed, used or
12 transferred a weapon on school property will be subject to discipline in accordance with the District's
13 discipline policy. For purposes of this section, "weapon" means any object, device, or instrument
14 designed as a weapon or through its use is capable of threatening or producing bodily harm or which may
15 be used to inflict self-injury, including but not limited to air guns; pellet guns; BB guns; fake (facsimile)
16 weapons; all knives; blades; clubs; metal knuckles; numchucks (also known as nunchucks); throwing
17 stars; explosives; fireworks; mace or other propellants; stun guns; ammunition; poisons; chains; arrows;
18 and objects that have been modified to serve as a weapon.
19

20 No student shall possess, use, or distribute any object, device, or instrument having the appearance of a
21 weapon, and such objects, devices, or instruments shall be treated as weapons, including but not limited
22 to weapons listed above which are broken or non-functional, look-alike guns; toy guns; and any object
23 that is a facsimile of a real weapon. No person shall use articles designed for other purposes (i.e., lasers
24 or laser pointers, belts, combs, pencils, files, scissors, etc.) to inflict bodily harm and/or intimidate, and
25 such use will be treated as the possession and use of a weapon.
26

27 **Definitions, Exceptions and Referral to Law Enforcement**

28 The District may refer to law enforcement for immediate prosecution any student who possesses, carries,
29 or stores a weapon in a school building as specified in Section 45-8-361, MCA. In addition, the District
30 will refer for possible prosecution a parent or guardian of any minor violating this policy on grounds of
31 allowing a minor to possess, carry, or store a weapon in a school building. For the purposes of this
32 section of the policy, "school property" means within school buildings, in vehicles used for school
33 purposes, or on owned or leased school land or grounds. "Building" specifically means a combination of
34 any materials, whether mobile, portable, or fixed, to form a structure and the related facilities for the use
35 or occupancy by persons or property owned or leased by a local school district that are used for
36 instruction or for student activities as specified in Section 50-60-101(2), MCA and Section 45-8-361,
37 MCA. The term is construed as though followed by the words "or part or parts of a building" and is
38 considered to include all stadiums, bleachers, and other similar outdoor facilities, whether temporary or
39 permanently fixed.
40

41 The Board of Trustees may grant persons and entities advance permission to possess, carry, or store a
42 weapon in a school building. All persons who wish to possess, carry, or store a weapon in a school
43 building must request permission of the Board at a regular meeting. The Board has sole discretion in
44 deciding whether to allow a person to possess, carry, or store a weapon in a school building.
45

46 This section does not apply to a law enforcement officer acting in the officer's official capacity or an
47 individual previously authorized by the Board of Trustees to possess a firearm or weapon in a school
48 building.
49

50 The Board of Trustees shall annually review this policy and update this policy as determined necessary by
51 the trustees based on changing circumstances pertaining to school safety.

1 Note may be deleted from final adopted policy: Section (g) of the ESSA Section 4141 – Gun Free
2 Requirements, carves out a very significant exception to the Gun Free Schools Act in that it allows
3 a student to have “a firearm that is lawfully stored inside a locked vehicle on school property. . .”
4 Montana law (20-5-202, MCA), on the other hand, does not provide for any exception to the
5 expulsion requirement if a student has a firearm that is lawfully stored inside a locked vehicle on
6 school property. The only reference to federal law in 20-5-202(2), MCA is the federal definition of a
7 firearm. As you well know 20-5-202(2), MCA provides that:
8

9 (2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined
10 to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the
11 appropriate local law enforcement agency. A student who is determined to have brought a firearm
12 to school under this subsection must be expelled from school for a period of
13 not less than 1 year, except that the trustees may authorize the school administration to modify the
14 requirement for expulsion of a student on a case-by-case basis.
15

16 So, Montana schools are required, by state law, to expel a student from school for a period of not
17 less than 1 year if it is determined that the student brought a firearm to school, subject to the case-
18 by-case exception noted in the statute. Based upon the exception noted in federal law and in
19 circumstances where a student is found to have a firearm on school property in a locked vehicle,
20 Montana schools should be citing state law (20-5-202, MCA) and district policy to support any
21 recommendation for expulsion.
22

23 There is one significant inconsistency between the Federal Gun Free Schools Act and Montana is
24 that under federal law it provides that “State law shall allow the chief administering officer of a
25 local educational agency to modify such expulsion requirement for a student on a case-by-case basis
26 if such modification is in writing,” whereas 20-5-202(2), MCA, provides that the trustees may
27 authorize the school administration to modify the requirement for expulsion of a student on a case-
28 by-case basis.
29

30 **Cross Reference:** 3310 Student Discipline
31 4332 Conduct of School Property
32 5332 Personal Conduct
33

34 **Legal Reference:** § 20-5-202, MCA Suspension and expulsion
35 § 45-8-361, MCA Possession or allowing possession of a weapon in a school building
36 20 U.S.C. § 7151, et seq. Gun Free Schools Act of 1994
37 18 U.S.C. § 921 Definitions
38 ESSA, Section 4141 Gun Free Requirements
39

40 **Policy History:**

41 Adopted on:
42 Reviewed on: 7/13/21, 8/25/21
43 Revised on:
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