

Washington West Supervisory Union Model Policy

Policy F21-Rⁱ

F21-R: FIREARMS

Policy

It is the policy of the member district schools of the Washington West Supervisory Union: Fayston Elementary School, Harwood Union High School, Moretown Elementary School, Waitsfield Elementary School, Warren School District, and the Waterbury/Duxbury Union School District (Crossett Brook Middle School and Thatcher Brook Primary School) to comply with the federal Gun Free Schools Act of 1994ⁱⁱ and state lawⁱⁱⁱ requiring school districts to provide for the possible expulsion of students who bring firearms to or possess firearms at school. It is further the intent of the school board to maintain a student discipline system consistent with the requirements of the federal Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Vermont State Board of Education rules.^{iv}

Definitions

The term “firearm” means:

- (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- (B) the frame or receiver of any such weapon;
- (C) any firearm muffler or firearm silencer; or
- (D) any destructive device. Such term does not include an antique firearm.

The term “destructive device” means:

- (A) any explosive, incendiary, or poison gas—
 - (i) bomb,
 - (ii) grenade,
 - (iii) rocket having a propellant charge of more than four ounces,
 - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (v) mine, or
 - (vi) device similar to any of the devices described in the preceding clauses;

(B) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

For the purposes of this policy, the terms “school” and “expelled” shall be defined in administrative procedures developed by the superintendent. The definitions shall be consistent with definitions required by state and federal law.^v

Sanctions

Any student who brings a firearm to school, or who possesses a firearm at school, shall be brought by the superintendent to the school board for an expulsion hearing.

A student found by the school board after a hearing to have brought a firearm^{vi} to school shall be expelled for at least one calendar year. However, the school board may modify the expulsion on a case by case basis when it finds circumstances such as, but not limited to:

1. The student was unaware that he or she had brought a firearm to school.
2. The student did not intend to use the firearm to threaten or endanger others.
3. The student is disabled and the misconduct is related to the disability.
4. The student does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.^{vii}

At the discretion of the school board and administration, an expelled student may be afforded limited educational services at a site other than the school during the period of expulsion under this policy.^{viii}

Policy Implementation

An expulsion hearing conducted under this policy shall afford due process as required by law and as developed by the superintendent or his or her designee.

The superintendent shall refer to appropriate law enforcement agency any student who brings a firearm to a school under the control and supervision of the school district. The superintendent may also report any incident subject to this policy to the Department of Social and Rehabilitative Services.^{ix}

The superintendent shall annually provide the Commissioner of Education with descriptions of the circumstances surrounding expulsions imposed under this policy, the number of students expelled and the type of firearms involved.^x

ⁱ This policy is required by 16 V.S.A. §1166(b).

ⁱⁱ The Gun Free Schools Act (GFSA) was enacted under Congress' spending power to prevent students from bringing weapons to school. The GFSA is different than the Gun-Free School Zones Act of 1990, which the U.S. Supreme Court struck down in 1995, holding that it exceeded Congress' power under the Commerce Clause of the U.S. Constitution. The Gun-Free School Zones Act was amended in 1996 to restrict its application to possession of firearms that have moved in or that otherwise affected interstate or foreign commerce and are at a place that the individual knows, or has reasonable cause to believe, is a school zone. 18 U.S.C. § 922(q)(2)(A). The Gun Free Schools Act of 1994 was amended and incorporated into the No Child Left Behind Act at 20 U.S.C. § 7151 et seq.

ⁱⁱⁱ 16 V.S.A. §1166

^{iv} The U.S. Department of Education's "Guidance Concerning State and Local Responsibilities Under the Gun Free Schools Act (GFSA)" states that "compliance with the GFSA may be achieved consistent with the requirements that apply to students with disabilities, so long as discipline of those students is determined on a case-by-case basis..."

^v See definitions in the administrative procedures section accompanying this policy. Note that the GFSA exempts from its coverage firearms that are "...lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local education agency and the local education agency adopts appropriate safeguards to ensure student safety." 20 U.S.C. §7151(g).

^{vi} See footnotes 1 and 4.

^{vii} 16 V.S.A. § 1166(b)(2) stipulates that "...the school board may modify the expulsion on a case by case basis..." and includes the "...such as but not limited to..." examples listed here.

^{viii} 20 U.S.C. §7151(b)(2).

^{ix} 16 V.S.A. § 1166(b)(1); 20 U.S.C. § 7151(h)(1). The Gun Free Schools Act stipulates that "no (federal) funds shall be made available to any local education agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency."

^x This requirement is imposed by 16 V.S.A. § 1166(c).

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Date Adopted: FES: 06.17.14; HUHS: 06.18.14; MES: 06.09.14; W-D: 06.10.14; WES: 06.05.14; WS: 06.03.14
Legal Reference(s): 16 V.S.A. §1166 (State law pursuant to Federal law)
13 V.S.A. §§4004, 4016 (Criminal offenses)
20 U.S.C. §7151(Gun Free Schools Act)
18 U.S.C. §921 (Gun Free School Zones Act of 1990)
20 U.S.C. §§1400 et seq.(IDEA)
29 U.S.C. §794 (Section 504, Rehabilitation Act of 1973)
Vt. State Board of Education Manual of Rules & Practices, §§4311, 4312
Cross Reference: Interrogations or Searches of Students (F5)
Search and Seizure (F3)
Student Conduct and Discipline (F1)