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5 Searches and Seizure
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7 The goal of search and seizure with respect to students is meeting the educational needs of
8 children and ensuring their security. The objective of any search and/or seizure is not the
9 eradication of crime in the community. Searches may be carried out to recover stolen property,
10 to detect illegal substances or weapons, or to uncover any matter reasonably believed to be a
11 threat to the maintenance of an orderly educational environment. The Board authorizes school
12 authorities to conduct reasonable searches of school property and equipment, as well as of
13 students and their personal effects, to maintain order and security in the schools.
14

15 The search of a student, by authorized school authorities, is reasonable if it is both: (1) justified
16 at its inception, and (2) reasonably related in scope to the circumstances which justified the
17 interference in the first place.
18

19 School authorities are authorized to utilize any reasonable means of conducting searches,
20 including but not limited to the following:
21

- 22 1. ~~A “pat down” of the exterior of the student’s clothing;~~
- 23 2. A search of the student’s clothing, including pockets;
- 24 3. A search of any container or object used by, belonging to, or otherwise in the possession
25 or control of a student; and/or
- 26 4. Devices or tools such as breath-test instruments, saliva test strips, etc.
27

28 The ~~“pat down” or “search”~~ of a student, if conducted, will be conducted by a school official ~~or~~
29 ~~employee of the same gender as the student being searched.~~
30

31 School Property and Equipment and Personal Effects of Students
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33 School authorities may inspect and search school property and equipment owned or controlled
34 by the District (such as lockers, desks, and parking lots).
35

36 The Superintendent may request the assistance of law enforcement officials, including their use
37 of specially trained dogs, to conduct inspections and searches of lockers, desks, parking lots, and
38 other school property and equipment for illegal drugs, weapons, or other illegal or dangerous
39 substances or material.
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41 Students
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43 School officials may search any individual student, his/her property, or District property under
44 his/her control, when there is a reasonable suspicion that the search will uncover evidence that
45 he/she is violating the law, Board policy, administrative regulation, or other rules of the District
46 or the school. Reasonable suspicion shall be based on specific and objective facts that the search

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4 will produce evidence related to the alleged violation. The types of student property that may be
5 searched by school officials include but are not limited to lockers, desks, purses, backpacks,
6 student vehicles parked on District property, cellular phones, or other electronic communication
7 devices.
8

9 Students may not use, transport, carry, or possess illegal drugs or any weapons in their vehicles
10 on school property. While on school property, vehicles may be inspected at any time by staff, or
11 by contractors employed by the District utilizing trained dogs, for the presence of illegal drugs,
12 drug paraphernalia, or weapons. In the event the school has reason to believe that drugs, drug
13 paraphernalia, or weapons are present, including by alert-trained dogs, the student's vehicle will
14 be searched, and the student expressly consents to such a search.
15

16 Also, by parking in the school parking lots, the student consents to having his/her vehicle
17 searched if the school authorities have any other reasonable suspicion to believe that a violation
18 of school rules or policy has occurred.
19

20 Seizure of Property

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22 When a search produces evidence that a student has violated or is violating either a law or
23 District policies or rules, such evidence may be seized and impounded by school authorities and
24 disciplinary action may be taken. As appropriate, such evidence may be transferred to law
25 enforcement authorities.
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29 Legal Reference: *Safford Unified School Dist. No. 1 v. Redding*, 557 U.S. 364, 129 S.Ct.
30 2633 (2009)
31 *Terry v. Ohio*, 392 U.S. 1, 20 (1968)
32 *B.C. v. Plumas*, (9th Cir. 1999) 192 F.3d 1260
33

34 Policy History:

35 Adopted on: 11/03/1994
36 Revised on: 02/14/2001, 05/15/2003
37 **First reading on: 6/29/22**
38 **Second reading/Adopted on:**

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3 **STUDENTS**

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5 Suspension and Expulsion - Corrective Actions and Punishment

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7 The Board recognizes that every student is entitled to due process rights that are provided by law.

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9 Suspension

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11 • “Suspension” means the exclusion of a student from attending individual classes or school and
12 participating in school activities for an initial period not exceed ten (10) school days. An
13 administrator may order suspension of a student.

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15 The procedure set forth below will be followed when a proposed punishment of a student is to include
16 denial of the right of school attendance from any single class or from a full schedule of classes for at least
17 one (1) day.

18
19 Before any suspension is ordered, a building administrator will meet with a student to explain charges of
20 misconduct, and the student will be given an opportunity to respond to the charges.

21
22 When a student’s presence poses a continuing danger to persons or property or poses an ongoing threat of
23 disruption to the educational process, a pre-suspension conference will not be required, and an
24 administrator may suspend a student immediately. In such cases, a building administrator will provide
25 notice of and schedule a conference as soon as practicable following the suspension.

26
27 A building administrator will report any suspension immediately to a student’s parent or legal guardian.
28 An administrator will provide a written report of suspension that states reasons for a suspension,
29 including any school rule that was violated, and a notice to a parent or guardian of the right to a review of
30 a suspension. An administrator will send a copy of the report and notice to the Superintendent.

31
32 The Superintendent will conduct a review of any suspension on request of a parent or legal guardian. A
33 student and parent or legal guardian may meet with the Superintendent to discuss suspension. After the
34 meeting and after concluding a review, the Superintendent will take such final action as appropriate.

35
36 Upon a finding by a school administrator that the immediate return to school by a student would be
37 detrimental to the health, welfare, or safety of others or would be disruptive of the educational process, a
38 student may be suspended for one (1) additional period not to exceed ten (10) school days, if the student
39 is granted an informal hearing with the school administrator prior to the additional suspension, and if the
40 decision to impose the additional suspension does not violate the Individuals with Disabilities Education
41 Act (IDEA) or Rehabilitation Act.

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43 Students who are suspended from any class or from school entirely have the right to make up any work
44 missed according to the student handbook.

45
46 Expulsion

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48 • “Expulsion” is any removal of a student for more than twenty (20) school days without the
49 provision of educational services. Expulsion is a disciplinary action available only to the Board.

The Board, and only the Board, may expel a student from school and may do so only after following due process procedures set forth below.

The Board will provide written notice to a student and parent or legal guardian of a hearing to consider a recommendation for expulsion, which will be sent by registered or certified mail at least five (5) school days before the date of the scheduled hearing. The notice will include time and place of hearing, information describing the process to be used to conduct the hearing, and notice that the Board intends to conduct the hearing in closed session unless a parent or legal guardian waives the student's right to privacy.

Within the limitation that a hearing must be conducted during a period of student suspension, a hearing to consider expulsion may be rescheduled when a parent or legal guardian submits a request showing good cause to the Superintendent at least two (2) school days before a hearing date as originally scheduled. The Superintendent will determine if a request shows good cause to reschedule a hearing.

The student has the right to be present for the duration of the hearing. At hearing the student may be represented by counsel and ask questions, present perspectives, and provide witnesses or documentation. The Board is not bound by formal rules of evidence in conducting the hearing.

Each school shall maintain a record of any disciplinary action that is educationally related, with explanation, taken against the student. When the Board of Trustees takes disciplinary action against a student, the Board must keep a written record of the action taken, with detailed explanation, even if the disciplinary action is decided during a closed session. A disciplinary action that is educationally related is an action that results in the expulsion or out-of-school suspension of the student. This record must be maintained/destroyed consistent with Montana Local Government Records Schedule 7, and is subject to transfer to a local educational agency, accredited school, or nonpublic school pursuant to 20-1-213, MCA.

Possession, Use, and Being Under The Influence

➤ ~~First Offense~~

- ~~• Suspension (OSS) from school for 90 consecutive school days. Suspension start and end dates determined by the Board of Trustees.~~

➤ ~~First Offense – Alternative Corrective Action (in lieu of 90-day Out of School Suspension)~~

- Out of School (OSS) Suspension of 3 to 10 days
- In School Suspension (ISS) of 2 to 20 days
- ~~• Twenty (20) hours of community service as approved by the Building Principal~~
- Chemical abuse evaluation and required participation in Student Assistance Program or completion of a drug and alcohol awareness class
- Participation or attendance at any school activity is prohibited during the period of the suspension
- ~~• Presence of school campus is prohibited~~
- ~~• Loss of driving and parking privileges on school campus until all other stipulations are successfully met~~
- Behavior and attendance contract for period of 90 school days
- Montana High School Association and school district policies apply to participation in extra-curricular activities

Should the student refuse to accept any of the conditions imposed in First Offense – Alternative Corrective Action in lieu of suspension, the Board shall suspend the student for a term of 90 consecutive school days. Should the student fail to abide by any of the conditions imposed in First Offense –Alternative Corrective Action in lieu of suspension, the student shall be suspended by the administration for the balance of the 90 school days from the original date of suspension unless the term of the suspension is modified by the Board upon a request from the student for a hearing.

➤ **Second Offense:**

- ~~Permanent expulsion with right to petition the Board for readmission during a subsequent school year as determined by the Board~~ **Immediate suspension pending Board hearing**
- ~~The Board may establish criteria for readmission which may include, but not limited to, the following:~~ **Recommendation for expulsion for 90 school days.**
 - ❖ ~~Successful completion of drug and alcohol class~~
 - ❖ ~~Proof of continued successful academic work~~
 - ❖ ~~Proof of appropriate conduct~~

➤ **Third Offense:**

- **Recommendation for expulsion**

The Board is under no obligation to accept a petition for readmission or meet with the parties involved.

Criminal Distribution of Drugs

➤ **First Offense:**

- **Permanent expulsion**

Procedures for Suspension and Expulsion of Students With Disabilities

The District will comply with provisions of the Individuals with Disabilities Education Act (IDEA) and Rehabilitation Act when disciplining students. The Board will not expel any special education student when the student's particular act of gross disobedience or misconduct is a manifestation of the student's disability. The Board may expel pursuant to its expulsion procedures any special education student whose gross disobedience or misconduct is not a manifestation of the student's disability. A disabled student will continue to receive education services as provided in the IDEA or Rehabilitation Act during a period of expulsion.

A building administrator may suspend a child with a disability from the child's current placement for not more than ten (10) consecutive school days for any violation of school rules, and additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under 34 CFR 300.519(b), whether or not a student's gross disobedience or misconduct is a manifestation of a student's disabling

1 condition. Any special education student who has exceeded or who will exceed ten (10) days of

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5 suspension may temporarily be excluded from school by court order or by order of a hearing officer, if the
6 District demonstrates that maintaining the student in the student's current placement is substantially likely
7 to result in injury to the student or to others. After a child with a disability has been removed from his or
8 her placement for more than ten (10) school days in the same school year, during any subsequent days of
9 removal the public agency must provide services to the extent required under 34 CFR 300.121(d).

10
11 An administrator may remove from current placement any special education student who has carried a
12 weapon to school or to a school function or who knowingly possesses or uses illegal drugs or sells or
13 solicits the sale of a controlled substance while at school or a school function or inflicts serious bodily
14 injury on another person while at school, on school premises, or at a school function under the
15 jurisdiction. A serious bodily injury is one that involves a substantial risk of death; extreme physical
16 pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily
17 member, organ or faculty. The District will place such student in an appropriate interim alternative
18 educational setting for no more than forty-five (45) school days in accordance with the IDEA or
19 Rehabilitation Act.

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24 Legal Reference:	20 U.S.C. 1400, et seq.	Individuals with Disabilities Education Act
	34 CFR 300.519-521	Procedural Safeguards
	§ 20-1-213, MCA	Transfer of School Records
	§ 20-4-302, MCA	Discipline and punishment of pupils –definition of corporal punishment – penalty – defense
	§ 20-4-402, MCA	Duties of district superintendent or county high school principal
	§ 20-5-105, MCA	Attendance officer – powers and duties
	§ 20-5-106, MCA	Truancy
	§ 20-5-201, MCA	Duties and sanctions
	§ 20-5-202, MCA	Suspension and expulsion
	ARM 10.16.3346	Aversive Treatment Procedures
	ARM 10.55.910	Student Discipline Records
	<i>Goss v. Lopez</i> , 419 US 565 (1975)	
	Section 504 IDEA	

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40 Procedure History:

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42 Revised on: 01/07/2002, 07/10/2003, 07/14/2009, 06/11/2014
43 First reading on: 11/10/21
44 **Second reading/Adopted on:**

1 **Bigfork School District #38**

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3 **NON-INSTRUCTIONAL OPERATIONS**

8225

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5 Tobacco Free Policy

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7 The District maintains tobacco-free buildings and grounds. Tobacco includes but is not limited to
8 cigarettes, cigars, snuff, pipe smoking tobacco, smokeless tobacco, vapor product, alternative
9 nicotine product or any other tobacco or nicotine delivery innovation.

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11 Use of tobacco or nicotine products in a public school building or on public school property is
12 prohibited, unless used in a classroom or on other school property as part of a lecture,
13 demonstration, or educational forum sanctioned by a school administrator or faculty member,
14 concerning the risks associated with using tobacco products or in connection with Native
15 American cultural activities.

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17 For the purpose of this policy, “public school building or public school property” means:

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- 19 • Public land, fixtures, buildings, or other property owned or occupied by an institution for
- 20 the teaching of minor children, that is established and maintained under the laws of the
- 21 state of Montana at public expense; and
- 22
- 23 • Includes playgrounds, school steps, parking lots, administration buildings, athletic
- 24 facilities, gymnasiums, locker rooms, and school vehicles.
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27 Violation of the policy by students and staff will be subject to actions outlined in District
28 discipline policies.

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30 Use of FDA-approved cessation devices may be permitted at school buildings and on school
31 grounds with the approval of the building administrator.

32	Legal Reference:	§ 20-1-220, MCA	Use of tobacco product in public school building or on public school property prohibited
33		§ 50-40-104(4)(e), MCA	Smoking in enclosed public places prohibited – notice to public - place where prohibition inapplicable
34		ARM 37.111.825(5)	Health Supervision and Maintenance
35		42 U.S.C. 1996, 1996a	American Indian Religious Freedom Act

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