

### **5.3 Expected Behavior in Safe and Supportive Schools**

#### **5.3.1 General Policy (Revised (09/24/02), (07/15/03), (08-28-03), (01/24/06), (08/28/07), (02/28/12 effective 07/01/12), (amended 10/22/12)**

The Marshall County Board of Education adopts this policy to promote a safe and supportive, educational environment in every school. In adopting this policy, the Board of Education emphasizes the following points as applicable:

- A. Any conflict between this policy and state or federal law will be resolved by complying with state or federal law, where required as a matter of law.
- B. This policy does not supersede the rights as covered by the Individuals with Disabilities Education Act of students by state or federal law or other West Virginia Board of Education policy.
- C. The Superintendent of Schools may institute administrative procedures and forms to implement this policy.
- D. The expectations outlined apply in Marshall County Schools 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. These expectations apply to students, staff and public guests respectively as noted within the policy. The consequences of violating these expectations are as follows:
  - 1. Students will be subject to the interventions and consequences outlined in this policy.
  - 2. School staff will be subject to disciplinary and/or licensure action in accordance with West Virginia Code §§18A-2-8, 18A-3-2a, 18A-3-3 and 18A-3-6.
  - 3. Public guests in public schools will be subject to removal from school property/events and appropriate notification of local authorities as warranted.

#### **5.3.2 Student Rights and Responsibilities**

##### **5.3.2.1 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. Marshall County Schools may charge tuition for out-of-state students and offered summer school and before/after-school programs, provided that any students 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.

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.

#### **5.3.2.2 Student Inquiry and Expression**

Marshall County Schools will 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 policies established by the 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 and substantially disrupt the work and discipline of the school or impinges 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 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.

#### **5.3.2.3 Non-Curriculum Related Student Groups**

If a school creates an open forum by allowing any student group whose purpose is not directly related to any class taught at the school to meet at the school, 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.

#### **5.3.2.4 Extra-Curricular Activities**

Students must meet all state and local attendance requirements and maintain a 2.0 grade point average in order to participate in non-academic extra-curricular activities. Eligibility is determined for each semester by a student's grade point average for the previous semester. Those students participating in a GED program whose grade point average for the last semester before entering into the program was below a 2.0 grade point average may become eligible if they achieve a 2.0 average or better the mid-point of the second semester in the same manner as students enrolled in the regular curriculum as outlined in WVBE Policy 2436.10.

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.

#### **5.3.2.5 Privacy**

Students have certain privacy rights 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.

#### **5.3.2.6 Protection from Unreasonable Searches and Seizures and Self-Incrimination**

Search and seizures of lockers or students by school officials must be reasonable and 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.

#### **5.3.2.7 Child Abuse Prevention**

Students have the right to grow up without being physically or

sexually abused at school, in the home or the community. W.Va Code §49-6A-2 requires teachers, counselors, nurses, or other professionals who suspect that a student is being abused to report the circumstances to the West Virginia Department of Health and Human Resources. 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.

### **5.3.3 Safeguards**

- A. Marshall County Schools shall provide for the implementation of a preventive discipline program.
- B. Marshall County Schools shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution.
- C. No Marshall County Schools property may be used for the advertisement of any tobacco or alcohol product.
- D. Groups using school facilities shall sign an agreement to comply with the environmental safeguards set forth in this policy.
- E. Parents and spectators will be informed by public address systems this policy remains in force on evenings, weekends and any other time that school is not in session.
- F. Corporal punishment of any student by a school employee is prohibited.
- G. In accordance with WVBE Policy [4321.1 - Standards for School Nutrition](#), Marshall County Schools will 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.

### **5.3.4 Social Skills Standards**

Marshall County Schools shall support and promote social and emotional learning in all settings. These social skill standards should serve as a framework for school-wide student behavior expectations as determined by

each school faculty. These standards should include the core areas of self-awareness and self-management, social awareness and interpersonal skills, and decision-making skills and responsible behaviors.

Social and emotional learning is the process through which individuals acquire the knowledge, attitudes and skills they need to recognize and manage their emotions, demonstrate caring and concern for others, establish positive relationships, make responsible decisions and handle challenging situations constructively. Socially competent students are skilled in three core areas:

1. **Self-awareness and Self-management** – students are able to recognize their emotions, describe their interests and values and accurately assess their strengths. They have a well-grounded sense of self-confidence and hope for the future. They are able to manage stress, control impulses and express their emotions appropriately in a wide range of situations. They can persevere in overcoming obstacles as well as set and monitor progress toward the achievement of personal and academic goals.
2. **Social awareness and Interpersonal Skills** – students are able to take the perspective of and empathize with others and recognize and appreciate individual and group similarities and differences. They are able to seek out and appropriately use family, school and community resources in age-appropriate ways. They can establish and maintain healthy and rewarding relationships based on cooperation. They resist inappropriate social pressure; constructively prevent, manage and resolve interpersonal conflict; and seek and provide help when needed.
3. **Decision-making Skills and Responsible Behaviors** – students consider ethical standards, safety concerns, social norms, respect for others and the likely consequences of various courses of action when making decisions at school, at home and in the community. They apply these decision-making skills in academic and social situations and are motivated to contribute to the well-being of their schools and communities.

A variety of models may be used to provide instruction in and opportunities to practice, apply and be recognized for social and emotional learning skills. Competence in the use of these skills is promoted in the context of safe and supportive school, family and community learning environments in which students feel valued, respected, connected to and engaged in learning. Social and emotional learning is fundamental not only to social and emotional development but to health, ethical development, citizenship, motivation to achieve and academic achievement.

#### **5.3.5 Alternative Discipline**

The Board of Education supports the use of preventive discipline strategies and alternatives to punishment for student misconduct. It also values the involvement of parents/guardians in maintaining school discipline.

In support of these goals;

- A. Marshall County Schools shall create 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.
- B. Marshall County Schools shall provide training, technical assistance in research-based, effective models for violence prevention education (including the prevention of bullying, harassment, and intimidation), substance abuse prevention, as well as other programs and initiatives that include, but are not limited to, conflict resolution, peer mediation, responsible students program, positive behavior supports, and character education. Training, technical assistance and other support shall also be provided in the effective use of student assistance teams to identify students who are at risk and to develop interventions to assist such at-risk students in achieving school success.

#### **5.3.6 Expected Student Behaviors Violations and Responses**

This policy classifies student violations of expected student behaviors in four levels. Specific violations may be reclassified as Level I II, III or IV depending on the severity or repetition of the violation. W.Va. Code requires that the principal shall suspend a student who commits a violation classified as a Level IV in this policy. Level III and IV violations are to be referred directly to the appropriate administrator because of the serious and/or unlawful nature of the misconduct. Each school may identify interventions that include, but are not limited to, examples provided in this policy to address Level I and II violations. The school principal or designee will receive complaints of violations of the Expected Behavior in Safe and Supportive Schools, and develop a procedure for acting upon those complaints. When a school employee observes any violations of the Expected Behavior in Safe and Supportive Schools outlined in this policy he/she shall immediately intervene and report the incident to the Principal or designee.

##### **5.3.6.1 Level I Violations**

- 1. **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.
- 2. **Deceit.** A student will not deliberately conceal or misrepresent the truth, deceive another or cause another to be deceived by false or misleading information.

3. **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
4. **Failure to Serve Detention.** A student will not fail to serve an assigned detention of which students and/or parents/guardian have been notified.
5. **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.
6. **Vehicle parking violations.** A student will not engage in improper parking of a motor vehicle on school property.
7. **Inappropriate Display of Affection.** Students will not engage in inappropriate displays of intimate affection, such as kissing or embracing.
8. **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 distractive 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.
9. **Possession of inappropriate personal property.** A student will not possess personal property that is prohibited by school rules or that is disruptive to teaching and learning.
10. **Tardiness.** A student will not fail to be in his/her place of instruction at the assigned time without a valid excuse.
11. **Skiping class.** In accordance with 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.

12. **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.

#### **5.3.6.1.1 School Responses to Level I Violations**

School administrators and staff may use appropriate intervention strategies, as determined by local policies, including, but not limited to, staff and student/parent conferences, auxiliary staff intervention and counseling programs, student programs for conflict resolution and peer mediation, and programs for anger management and violence prevention.

Any of the following intervention strategies and disciplinary actions may be used as appropriate in response to the violation:

- 1) Administrator/ student conference or reprimand
- 2) Administrator and teacher-parent/ guardian conference
- 3) Academic sanctions may be used to deny credit for work resulting from cheating; however, previously earned grades/credits may not be reduced.
- 4) Counseling referrals and conference to support staff or agencies
- 4) Daily/weekly progress reports
- 5) Behavioral contracts
- 6) Change in the student's class schedule
- 7) School service assignment
- 8) Confiscation of inappropriate item
- 9) Revocation of privileges
- 10) Restitution/ restoration
- 10) Detention (lunch, before and/or after-school)
- 12) Denial of participation in class and/or school activities
- 13) Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion.
- 14) Voluntary weekend detention
- 15) In-school suspension
- 16) Out-of-school suspension for up to three days (West Virginia Code §18A-5-1 (d) prohibits the use of suspension solely for not attending class. 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

17) Law enforcement notification if warranted.

#### **5.3.6.2 Level II Violations**

1. **Gang Related Activity.** 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:
  - 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.
2. **Habitual Violation of School Rules or Policies.** 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.
3. **Insubordination.** 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.
4. **Leaving School Without Permission.** A student will not leave the school building, campus of school activity for which the student is enrolled without permission from authorized school personnel.
5. **Physical Fight Without Injury.** A student will not engage in a physical altercation using blows in an attempt to harm or overpower another person or persons.

6. **Possession of Imitation Weapon.** A student will not possess any object fashioned to imitate or look like a weapon.
7. **Possession of Knife not meeting Dangerous Weapon Definition (West Virginia Code §61-7-2).** A student will not possess a knife or knife-like implement under 3½ inches in length. West Virginia 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.
8. **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.
9. **Technology Misuse.** A student will not violate the terms of WVBE Policy 2460, Safety and Acceptable Use of the Internet by Students and Educators.

#### **5.3.6.2.1 School Responses to Level II Violations**

Any of the following intervention strategies and disciplinary actions may be used as appropriate in response to the violation:

- 1) Administrator/ student conference or reprimand
- 2) Administrator and teacher-parent/ guardian conference
- 3) Referrals and conference to support staff or other therapeutic services
- 4) Daily/weekly progress reports
- 6) Behavioral contracts
- 7) Change in the student's class schedule
- 8) School service assignment
- 9) Confiscation of inappropriate item
- 10) Restitution/ restoration
- 11) Before and/or after-school detention
- 12) Denial of participation in class and/or school activities

- 13) Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1)
- 14) Voluntary weekend detention
- 15) In-school suspension
- 16) Out-of-school suspension with a recommended maximum of five (5) days. (West Virginia Code §18A-5-1 (d) prohibits the use of suspension solely for not attending class. 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
- 17) The principal and/or superintendent may recommend placement in an Alternative Education program.
- 18) Law enforcement notification if warranted.

#### **5.3.6.3.Level III Violations**

Violations in the Level III category are consistent with those addressed in W.Va. Code §18A-5-1a I and shall be reported immediately to the principal of the school in which the student is enrolled. The principal will address the violation following the procedures outlined in W.Va. Code §18A-5-1a, subsections (d) through (h).

1. **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.
2. **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.
3. **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.

4. **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; causes another person or persons to destroy, damage, 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 organization or activity, including both curricular, co-curricular ~~or~~ and extra-curricular activities.
5. **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.
6. **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 in accordance with West Virginia Code §61-3-13.
7. **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.
8. **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.
9. **Harassment/Bullying/Intimidation.** A student will not bully/intimidate/harass another student. According to West Virginia 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:
  - 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; or

- Disrupts or interferes with the orderly operation of the school.

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.

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.

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:

Sexual harassment 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:

- 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 environment.

Amorous relationships between county board employees and students are prohibited.

Sexual harassment may include but is not limited to:

- 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.

Racial harassment consists of physical, verbal or written conduct relating to an individual's race when the conduct:

- 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.

Religious/ethnic harassment consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:

- 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.

Sexual violence 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:

- 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.

Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

Religious/ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.

10. **Battery against a student.** A student will not unlawfully and intentionally injure another student.
11. **Threat of injury/Assault Against an Employee, a Student.** A student will not threaten (verbal or written) or attempt to injure, another student, a teacher, administrator or other school personnel. This included assault on a school employee defined in West Virginia Code §61-2-15-
12. **Fire alarm**  
A student will not knowingly and willingly set off a fire alarm without cause.
13. **Imitation drugs: Possession, Use, Distribution or Sale.** 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.
14. **Inhalant Abuse.** 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.
15. **Possession/Use of Substance Containing Tobacco and/or Nicotine.** 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.

Special considerations according to West Virginia Code §16-9A-4.

- 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.

An exception shall be made to allow possession/use of approved nicotine replacement product for tobacco cessation. 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.

#### **5.3.6.3.1 School Responses to Level III Violations.**

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.

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:

- 1) Administrator/student conference or reprimand
- 2) Administrator and teacher-parent/guardian conference
- 3) Referral to support staff or agencies for counseling or other therapeutic services
- 4) Notification of appropriate Health and Human Resources
- 5) Daily/weekly progress reports
- 6) Behavioral contracts
- 7) Change in the student's class schedule
- 8) School service assignment
- 9) Confiscation of inappropriate item(s)
- 10) Revocation of privileges
- 11) Restitution/restoration
- 12) Before and/or after-school detention

- 13) Denial of participation in class and/or school activities
- 14) Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1)
- 15) Voluntary weekend detention
- 16) In-school suspension
- 17) Out-of-school suspension for up to ten (10) days  
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
- 18) The principal and/or superintendent may recommend placement in an Alternative Education program.
- 19) Expulsion

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, 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.

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 enforcement 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.

#### **5.3.6.4 Level IV Violations**

Violations in the Level IV category are consistent with those addressed in W.Va. Code §18A-5-1(a) and (b). Level IV violations in this policy are aligned with definitions in W.Va. Code §61-6-17, 61-6-24, 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 West Virginia Code §18A-5-1a.

1. **Battery against 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 West Virginia Code §61-2-15b)
2. **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 West Virginia Code §18A-5-1a(b)(i). Such acts that would constitute a felony include, but are not limited to, arson (West Virginia Code §61-3-1), malicious wounding and unlawful wounding (West Virginia Code §61-2-9), bomb threat (West Virginia Code §61-6-17), sexual assault (West Virginia Code §61-8B-3), terrorist act or false information about a terrorist act, hoax terrorist act (West Virginia Code §61-6-24) and grand larceny (West Virginia Code §61-3-13).
3. **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 West Virginia 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 WVBE Policy 2422.8 - Medication Administration and instances of prescription drug abuse.
4. **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, or any device that is used primarily for self-protection. Dangerous weapons include, but not be limited to, blackjack, gravity knife, knife, knife-like implement, switchblade knife, nunchuka, 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.

#### **5.3.5.6.1 School/County Responses to Level IV Violations**

- a. Level IV violations in this policy are those violations addressed in W.Va. Code §18A-5-1a-subsection (a), (b) that require the mandatory suspension of the student by the principal from school, or from transportation to or from the school on any school bus, after an informal hearing pursuant to subsection (d) of W.Va. Code §18A-5-1a.
- b. When a principal has notified the superintendent of a student's suspension for battery on a school employee, possession of a deadly weapon, or sale of a narcotic drug pursuant to W.Va. Code §60A-1-101, on a school bus, on the premises of an educational facility or at a school-sponsored function, the principal shall recommend the student's expulsion to the superintendent. The superintendent, in turn, shall recommend to the county board that the student be expelled.
- c. Upon such recommendation ~~to the county board~~ by the superintendent, the county board shall conduct a hearing in accordance with W.Va. Code §18A-5-1a subsections(e),(f),and (g),to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall act as prescribed for each respective Safe Schools violation delineated in Chapter 5, Section 2, Level 4 of West Virginia State Policy 4373.

#### **5.3.7 Use of Physical Punishment Prohibited**

West Virginia 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.

### **5.3.8 Use of Restraint:**

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.

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:

- 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;

- 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.

The following guidelines for documentation/notification of the use of restraint must be followed:

- Within one hour immediately following the use of restraint, 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.
- A good faith effort shall be made to verbally notify the parents/guardian regarding the use of restraint that same 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 within one school day.

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.

#### **5.3.9 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 this policy.

##### **A. Exclusion**

Exclusion occurs when the teacher or a bus driver excludes from a classroom or bus any student who displays one or more of the inappropriate behaviors outline in this policy and places the student under the control of the school principal or the principal's designee. The principal or designee in each school should establish procedures for alerting the principal or designee of the exclusion, and for physically transferring control of a student from the teacher or bus driver.

1. If, while a student is excluded and under the control of the principal or designee, the principal or designee finds that disciplinary action is warranted, the principal or designee shall give to the student's parent/guardian written notice and, if possible, telephonic notice, of the disciplinary action. Except in the case of suspension or expulsion from school, the notice needn't precede the discipline.
2. An excluded student may not be readmitted to the classroom or school bus until the principal or designee:
  - a. certifies to the teacher, in writing, that the student may be readmitted, and
  - b. specifies the specific type of disciplinary action, if any, that was taken.
3. When a teacher or school bus driver excludes the same student from the classroom 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 teacher's classroom only after:
  - a. the principal, the teacher, and, if possible, the student's parent/guardian have held a conference to discuss the student's disruptive behavior patterns;
  - b. the teacher and the principal agree on a course of discipline for the pupil; and
  - c. the student's, parent/guardian is informed of the course of action.
4. If, after following these steps, a student's disruptive behavior persists, the teacher may request that the principal transfer the student to another educational setting.
5. Bus drivers must follow the guidelines outlined in WVBE 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.

6. A student must be given the opportunity to make up any classroom work missed by reason of exclusion from class.

**B- Suspension**

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 (1) to three (3) school days, but may extend to ten (10) school days. If suspension is warranted the following procedures shall be followed:

1. The student is entitled to an informal hearing when faced with a suspension of ten (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 he/she should not be suspended. However, a student whose conduct is detrimental to the progress and general conduct of the school may be suspended immediately and a hearing held as soon as practical after the suspension.
3. If the principal decides to suspend the student from school, or from transportation to or from school on any school bus, the principal must:
  - a. promptly notify the parent(s)/guardian(s)
  - b. give written notice of the time and conditions of the suspension to the Superintendent of Schools;
4. A student must be given an opportunity to make up schoolwork missed by reason of suspension.
5. A student may not be suspended from school solely for not attending class.
6. A student may not participate in any school-sponsored activities, or be permitted on school grounds during the period of suspension.
7. A 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 ten (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.
8. 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 as outlined in W.Va. Code 18A-5-1a subsection (b),(c). 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.

#### C. Expulsion

Upon recommendation by the superintendent for expulsion, the Marshall County Board of Education shall conduct a hearing to determine if the student committed the alleged violation. If the board finds that the student did commit the violation, the board shall act as prescribed for each respective Safe Schools violation delineated in Chapter 4, Section 2, Level 4 of West Virginia Board Policy 4373.

1. 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:
  - a. The date and time at which the hearing shall be held (within ten days of the beginning of the suspension);
  - b. If the county board will 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.
2. The county board shall hold the scheduled hearing to determine if the student should be reinstated or expelled from school and if to determine if the student is a dangerous student.
3. At any hearing before the 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.

4. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter.
5. The hearing may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing.
6. At the conclusion of the hearing the county board shall either order the student reinstated immediately at the end of his or her initial suspension; suspend the student for a further designated number of days; or expel the student from the public schools of the county.
7. A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.
8. A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, 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.
9. 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.
10. The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents in a proceeding related to a recommended student expulsion or dangerous student determination. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both.
11. 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.
12. Marshall County Schools Board of Education must report the number of students determined to be dangerous students to the State Board of Education. The state board will compile the county boards' statistics and shall report its findings to the Legislative Oversight Commission on Education Accountability.
13. Students may be expelled for a period not to exceed one school year,

except that if a student is determined to have violated the provisions of §18A-5-1a(a) (battery on a school employee, possession of deadly weapons, or sale of a narcotic drug on a school bus, on the school premises or at a school-sponsored function, the student shall be expelled for a period of not less than twelve consecutive months.

14. The 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 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 superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council. The superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:
  - a. The extent of the student's malicious intent;
  - b. The outcome of the student's misconduct;
  - c. The student's past behavior history; and
  - d. The likelihood of the student's repeated misconduct.
15. In all hearings, facts shall be found by a preponderance of the evidence.
16. All actions taken must be in compliance with the federal provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq.
17. Each expulsion imposed upon a student shall be recorded in WVEIS.
18. A student may not participate in any school-sponsored activities, or be permitted on school grounds during the period of expulsion.

West Virginia 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.

The Superintendent will determine the appropriate educational placement for students who have been suspended or expelled from a public or private school, who are residing in Marshall County, unless they have been determined to be a “dangerous student” under the procedures set forth in West Virginia Code §18A-5-1a.

**5.3.10 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 WVBE 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.

### **5.3.11 Alternative Education for Disruptive Students**

The purpose of the alternative education program is to provide a safe and orderly learning environment and meet the educational needs of disruptive students. Marshall County Schools shall adopt policies and procedures concerning the alternative education program including but not limited to:

- Goals of the program;
- Eligibility criteria and process for placement of students in the program including the composition of the Alternative Education Placement Team;
- Involvement of parents and community agencies;
- Length and time of day the after-hours/night school program operates; if applicable;
- Plan for awarding of credits;
- Behavioral management plan as an alternative to the county's discipline policy, if applicable;
- Staffing plan, personnel qualifications and class size limits;
- Criteria for completion of the alternative education program or reentry into regular education; and
- Performance measures and process for program evaluation.

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 West Virginia Code §18A-5-1a.

Placement decisions, excluding short-term in-school suspensions, shall be made by an Alternative Education Placement Team. Marshall County Schools 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.

#### **5.3.11.1 Curriculum**

Marshall County Schools 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, Marshall County Schools 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.

#### **5.3.11.2 Instruction**

Marshall County Schools 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.

#### **5.13.11.3 State Assessment Program**

Students enrolled in alternative education programs shall participate in the State Assessment Program, in accordance with WVBE Policy. The test scores for these students shall be counted in the results of the home county school of referral.

#### **5.13.11.4 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.

#### **5.13.11.5 Special Education**

Marshall County Schools shall comply with applicable state and federal laws and regulations in the education of exceptional students placed in alternative education programs.

#### **5.13.11.6 Personnel Selection Criteria**

Marshall County Schools will 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, **and alternative education endorsement;**
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

#### **5.13.11.7 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 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.

#### **5.13.11.8 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.

#### **5.13.11.9 After-Hours/Night School Classes**

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 Marshall County Schools.

#### **5.13.11.10 Home-Based Programs for Disruptive Students**

Marshall County Schools may provide home-based programs solely for students expelled under the Productive and Safe Schools Act (West Virginia Code §18A-5-1a) or for disruptive students who meet the eligibility criteria for Home/Hospital Instruction under WVBE Policy 2510.

#### **5.3.11.11 Units of Credit**

Marshall County Schools 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.

#### **5.3.11.12 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 GED in accordance with WVBE Policy 2444.4

#### **5.3.11.13 Accountability for Results**

Marshall County Schools 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 GED; and rates of successful job placement and job retention.

#### **5.3.12 Persistently Dangerous School**

Any Marshall County School will be classified as a persistently dangerous school if the school has, for two consecutive years, substantiated specific violations that exceed 5% of the total number of students enrolled in the school based on the school's second month enrollment. Violations used in determining persistently dangerous school status are; battery on a school employee as defined in West Virginia 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 West Virginia Code §61-7-2 on the premises of an educational facility, at a school sponsored function or on a school bus, or sale of a narcotic drug as defined in West Virginia Code §60A-1-101 on the premises of an educational facility, at a school sponsored function or on a school bus.

Marshall County Schools will provide targeted assistance for any school that for two consecutive years has substantiated Level 4 behaviors that exceed 3% of the total number of students enrolled based on the school's second month

enrollment.

Marshall County Schools will immediately develop a corrective action plan for any school that is identified as persistently dangerous school, submit it to the West Virginia Department of Education, and implement the plan in a timely manner.

Marshall County Schools will 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.

The West Virginia Department of Education will provide targeted assistance for any school that for two consecutive years has substantiated violations of the level classifying a school as a persistently dangerous school that exceeds 3.75% of the total number of students enrolled based on the school's second month enrollment.

#### **5.3.13 Dissemination of Policy and Training**

- A. 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.
- B. This policy shall be made readily available to the public in written and electronic format.
- C. Marshall County Schools and/or each School-will develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy. The training must include the different types of harassment, intimidation, bullying, cyber-bullying, "sexting" or assault, how it manifests itself, the devastating emotional and educational consequences, and its legal consequences.
- D. Marshall County Schools will implement multicultural education programs for faculty, staff and students to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds.
- E. The county shall review this policy at least bi-annually for compliance with state and federal law and West Virginia Board of Education policy.

#### **5.3.14 Implementation of Policy**

Marshall County Schools shall address within the Student Support Goal of the



strategic plan objectives for policy implementation that ensures each school incorporates the following:

1. Use of pro-active strategies to develop and support positive behavior in students;
2. 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
3. Application of appropriate and consistent interventions for all forms of inappropriate behaviors.

Each school shall:

1. establish a leadership team (may be an existing team) to manage the design, monitoring and improvement of school climate/culture;
2. establish a process to gain school-wide input and commitment to school climate/culture improvement from students, staff, parents and community;
3. develop school-wide priorities for Policy 4373;
4. analyze school climate/culture data annually;
5. make data driven improvement decisions based on analysis of consistently tracked student behaviors;
6. implement school-wide plans that provide appropriate interventions to support and reinforce expected behaviors;
7. implement programs/practices that promote youth asset development to support expected student behaviors, positive education and health outcomes;
8. 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;
9. develop appropriate and reliable referral procedures for intensive intervention that enlist school and community partnerships; and
10. evaluate school climate/culture improvement processes and revise as needed.

#### **5.3.15 Procedures for Reporting Action on Substantiated Incidents**

All inappropriate behaviors as described in this policy, shall be reported through:

1. Teacher level documentation that shall include inappropriate behavior leading to interventions, consequences and/or referrals to the principal.
2. Principal level documentation that 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.
3. Superintendent level documentation that shall include actions by the

Marshall County Board of Education resulting from expulsion hearings. This data shall be entered into WVEIS by the superintendent and/or other authorized staff.

4. The incidents of inappropriate behaviors reported into WVEIS

#### **5.3.16 Evaluation of Effectiveness**

Marshall County Schools shall annually review data related to this policy that shall include:

1. summary data for incidents of inappropriate behavior and intervention responses to incidents;
2. required LSIC reports;
3. trend analysis from school climate/culture survey tools (as available);
4. 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, RESA and/or WVDE.
5. Each school shall annually review data to determine the effectiveness of their implementation plan.
6. 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:
  - a. 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.
  - b. 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.
  - c. The superintendent (or designee) shall respond to the LSIC in writing within 10 days of receiving the report
  - d. The county board shall retain and file all such correspondence for public review.
7. In the event that Marshall County Schools seeks funding for school access safety projects during a fiscal year, Marshall County Schools 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:

- 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;
- 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 Marshall County Schools safety plan, facilities plan and school major improvement plan;
- Notation of the funds available for allocation and disbursement to the Marshall County Schools from the School Access Safety Fund ;
- A description of any source of local funds that Marshall County Schools 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.

Marshall County Schools will:

- Keep the current crisis response plan of each school in the county on file and, unless otherwise provided for, provide a copy of each school's crisis 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;
- Make available to the public, upon request, a redacted copy of a school crisis response plan with any information removed that is necessary for compliance with the necessary safeguards.

Marshall County School administration will support schools in the development and updating of school crisis response plans by providing the following guidance and support:

- Standardized procedures, developed in collaboration with local emergency agencies and service providers, that can be used in each school crisis plan as appropriate when one agency or service provider serves all schools within the county;
- Standardized lists of existing Marshall County Schools policies that support the requirements of the school crisis response plan;
- Standardized local procedures for document safeguards and technical support to schools regarding the appropriate filing of the school crisis response plan;
- Standardize procedures for the annual review/update of each school crisis response plan.
- Resources for training school personnel on school specific crisis response plans.

### **5.3.17 Complaint Procedures**

- A. All violations of the Expected Behavior in Safe and Supportive Schools observed by school employees, public guests, or by students must be reported to the principal or appropriate personnel for appropriate action to be taken as specified in this policy. Employee failure to report a violation is addressed in West Virginia Board of Education Policy 5310, W.Va. Code §126CSR142 (Performance Evaluation of School Personnel).
- B. A person who believes he or she has been the victim of inappropriate behavior as outlined in this policy violation or any person with knowledge or belief of conduct, which may constitute a violation of the the Expected Behavior in Safe and Supportive Schools policy, may report the alleged acts immediately to the appropriate officials. 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.
- C. Nothing in this policy shall prevent any person from reporting racial, sexual, religious/ethnic harassment or violence; bullying, harassment, or intimidation; or assault directly to the county superintendent, RESA executive director or the state superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency.
- D. Marshall County Schools will implement procedures for investigating, reporting, responding, and devising consequences for the failure of the employee to appropriately respond to violations of West Virginia Board of

Education Policy 4373, W.Va. Code §126CSR99 (Expected Behavior in Safe and Supportive Schools) are in accordance with West Virginia Board of Education Policy 5310, W.Va. Code §126CSR142 (Performance Evaluation of School Personnel) in a manner that promotes understanding and respect.

#### **5.3.18 Right to Alternative Complaint Procedures**

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.

#### **5.3.19 Investigation Procedures**

- A. The principal shall upon receipt of a report or complaint of a violation of the Expected Behavior in Safe and Supportive Schools shall immediately conduct an investigation of the alleged violation. The school system may also designate a third party to investigate in accordance with W.Va. state policy 4373 and procedures developed therein.
- B. 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 III or IV violation, 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 Level II and discretionary at Level I.
- C. The principal shall 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.
- D. The principal shall determine whether the alleged conduct constitutes a violation of this policy or W.Va. Code §18A-5-1a.
- E. In determining the appropriate response and/or consequences for a Level I, II, or III violation, the principal, superintendent or local board of education should consider the surrounding circumstances, the nature of the behavior,

past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

- F. The investigation will be completed as soon as practicable but no later than 10 school days following the reported violation. The investigator shall make a written report to the principal upon completion of the investigation. The report shall include 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 school level. The result 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.
- G. 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.

#### **5.3.20 County Board of Education Action and Reporting**

- A. Upon receipt of a report substantiated by staff observation or by the investigation, the principal, superintendent or local board of education will take appropriate action against those found to have violated §126-99-6 pursuant to W.Va. Code §18A-1-1 and §18A-5-1a.
- B. The principal or superintendent shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding
- C. The principal, superintendent or designee shall promptly enter the required disciplinary data into the West Virginia Education Information System (WVEIS) in order to file the required information with the West Virginia Department of Education of all substantiated reports of all violations of the Expected Behavior in Safe and Supportive Schools.
- D. School Rates of specified Level IV violations will be used by the state to determine persistently dangerous schools as required by H.R. 1, Title IX, Part E, Subpart 2 (9531) (No Child Left Behind). Beginning with the 2003-2004 school year, Marshall County Schools shall allow any student

attending a Persistently Dangerous School, as defined by the state, or who becomes a victim of a violent criminal offense, as determined by State Law, while on the grounds of a public school, to attend an alternate safe public school.

#### **5.3.21 Confidentiality**

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. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. Any information related to a reported incident of racial, sexual, religious/ethnic harassment or violence; bullying, harassment, or intimidation; or assault is exempt from disclosure under West Virginia Code §29B-1-1, et seq.

#### **5.3.22 Reprisal**

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, will be subject to disciplinary procedures. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

Any student, administrator or other school personnel who falsely reports violations of this policy will be subject to disciplinary procedures.

#### **5.3.23 Law Enforcement Referral**

Nothing in this policy shall be construed to prohibit the district from reporting a crime committed by a student with disabilities to appropriate law enforcement authorities. Any report shall be accompanied with copies of special education and disciplinary records to the extent permitted by FERPA and Policy 4350: Procedures for the Collection, Maintenance and Disclosure of Student Records.

#### **5.3.23 Appeals Procedures**

If someone believes that Marshall County Schools has violated the procedural rights set forth in this policy, they may avail themselves of the appeal procedures outlined in WVBE Policy 7211 - Appeals Procedure for Citizens. However, this policy does not address personal complaints against a school employee. The procedures set forth in Policy 7211 are not deemed to be a precondition to seeking relief in some other forum.