

### **Zero-tolerance and school discipline policies**

Although it would be inappropriate for The Rutherford Institute to provide you with legal advice at this time and under these circumstances, we are pleased to provide you with the following comments and information which may be useful to you.

These are the policies that are required by state law, individual school districts may have more stringent guidelines. The majority of these listings were derived from the work of the Civil Rights Project at Harvard entitled "Opportunities Suspended"<sup>1</sup>

The first major zero-tolerance law nationwide was the Gun-Free Schools Act of 1994. This required states to adopt regulations providing for year-long expulsions for students possessing firearms.<sup>2</sup> Many states have added on to these regulations on their own and the state law varies greatly.

As legislation on the state level is constantly changing, it is advised to check with your local school district or state representative as to the current state of the law on this issue.

Additionally, many states offer alternative educational programs for those expelled.

**Alabama**: Suspension required for possession of drugs, alcohol, weapons, or the committing of or threat of physical harm towards another. Expulsion is required for possession of a firearm. Alabama Code 16-1-24.1 (1995)

**Alaska**: Suspension for willful disobedience, open and persistent defiance of authority, and any felony conviction. Expulsion for possession of a firearm or deadly weapon. AK St § 14.03.160

**Arizona**: Expulsion for continued open defiance of authority, continued disruptive or disorderly behavior, use or display of a dangerous instrument or deadly weapon, use or possession of a gun, or excessive absenteeism. Ariz. Rev. Stat Ann. 15-841

**Arkansas**: Suspension for assault or threat; using, offering or selling alcoholic beverages or illegal drugs; possession of paging device; willful or intentional damage or destruction or stealing of school property. Expulsion for hazing, possession of firearm or other weapons; illegal drugs or other contraband. Ark. A.C.A. 6-18-502, 507

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<sup>1</sup> [http://www.law.harvard.edu/groups/civilrights/conferences/zero/zt\\_report2.html](http://www.law.harvard.edu/groups/civilrights/conferences/zero/zt_report2.html)

<sup>2</sup> Gun-Free Schools Act of 1994, 20 U.S.C. § 8921(b)(1) (1995)

**California**: Suspension for possession or selling of a firearm, terrorist threats, hate violence, threat to cause physical harm, property damage, extortion, and habitual profanity. Expulsion for possession or selling of firearm, assault with a deadly weapon, terrorist threats, hate violence, threats to cause physical harm, property damage, extortion, habitual profanity. Cal. Educ. Code 48915

**Colorado**: Suspension or expulsion for continued willful disobedience or open and persistent defiance of proper authority and willful destruction or defacing of school property. Expulsion for carrying, bringing, using, or possessing a dangerous weapon; sale of a drug or controlled substance; robbery; and assault. Col. Rev. Stat. 22-33-106

**Connecticut**: Suspension for assault, possession of firearm, offer of sale and distribution of controlled substances, and disruptive behavior. Expulsion for possession of firearm, deadly weapon or dangerous instrument, and an offer of sale and distribution of a controlled substance. Conn. Gen. Stat. Ann. 10-233d

**Delaware**: Expulsion or suspension for possession of a weapon or illegal drugs. DE ST TI 14 § 4112

**District of Columbia**: Expulsion for possession of a weapon. D.C. CODE 1981 § 31-451

**Florida**: Suspension for violence against any school district personnel; violation of a school's sexual harassment policies; or being formally charged with a felony or delinquent act. Expulsion can occur for violence against any school district personnel or school property; violation of school's sexual harassment policies; possession of a firearm; willful disobedience; open defiance of authority; being charged with a felony; and unlawful possession or use of controlled dangerous substances Fla. Stat. Ann. 230.23

**Georgia**: Suspension for assault and battery. Expulsion for weapon possession. Ga. Code Ann. 20-2-751.1

**Hawaii**: Suspension or Expulsion occurs for possession of a dangerous weapon and the possession of liquor or illegal drugs. Haw. Rev. Stat. Ann. 302A-1134.5

**Idaho**: Suspension for the disruption of good order. Expulsion for carrying a weapon or firearm. I.C. 33-205

**Illinois**: Suspension for gross disobedience and misconduct. Expulsion for possession of a weapon. IL ST CH 105 § 5/10-22.6

**Indiana**: Suspension can occur for misconduct, substantial disobedience, or other unlawful activity. Expulsion for possession of firearm or deadly weapon, misconduct, substantial disobedience, or other unlawful activity. Ind. Code Ann. 20-8.1-5.1-10

**Iowa**: Suspension for possession of a dangerous weapon or possession of alcoholic beverages. Expulsion for possession of a dangerous weapon. IA ST § 280.21B

**Kansas**: Suspension for willful violation of student conduct regulation, disruptive conduct, conduct which endangers the safety of others, commission of a felony or misdemeanor, disobedience of an order of school official, possession of a weapon, and possession or use of illegal drugs. Expulsion for possession of a weapon, possession of drugs, willful violation of student conduct regulation, disruptive conduct, conduct which endangers safety of others; commission of a felony or misdemeanor, and disobedience of an order of school official. KS ST § 72-8901-8908

**Kentucky**: Suspension for willful disobedience or defiance of authority, use of profanity or vulgarity; assault or battery, threat or force of violence, possession of alcohol and drugs, and possession of weapons or dangerous instruments. Expulsion for possession of a weapon or dangerous instrument, possession of prescription drugs with the intent to distribute, and assault or battery. K.Y. Rev. Stat. Ann. 158.150

**Louisiana**: Suspension for willful disobedience, intentional disrespect toward school official, use of unchaste or profane language, use of tobacco or possession of alcoholic beverages or controlled dangerous substances, cuts or defaces school property, possession of firearm, habitual tardiness and absenteeism, and other serious offenses. Expulsion for possession of a weapon. LSA-R.S. 17:416

**Maine**:. Expulsion for deliberate disobedience or deliberate disorder, possession of firearm, or possession and trafficking of drugs. ME ST T. 20-A § 1001

**Maryland**: Expulsion for possession of a firearm. MD EDUC, § 7-305 (e)

**Massachusetts**: Suspension or expulsion for possession of dangerous weapon, possession of illegal drugs, alcohol, or some legal drugs absent prescription, hitting or pushing a teacher or school official, or a felony complaint or conviction. Mass. Gen. Laws Ann. ch. 71, 37 H

**Michigan**: Suspension for gross misdemeanor or persistent disobedience. Expulsion for possession of dangerous weapon, arson, criminal sexual conduct, physical assault by student in grade 6 or above, and gross misdemeanor or persistent disobedience. Mich. Comp. Laws Ann. 380.1311

**Minnesota**: Expulsion for possession of a firearm. M.S.A. § 121A.44

**Mississippi**: Expulsion for possession of a dangerous weapon or firearms and possession of controlled substances. Miss. Code Ann. § 37-11-18 Suspension or Expulsion for defacing of school property. Miss. Code Ann. § 37-11-19

**Missouri**: Suspension or expulsion for possession of a weapon. Mis. Rev. Stat. 160-261

**Montana**: Suspension or expulsion for possession of a firearm. MCA 25-5-202.2

**Nebraska**: Suspension or expulsion for violence, force, coercion, threat, intimidation; willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property; causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student, threatening or intimidating any student for the purpose of or

with the intent of obtaining money or anything of value from such student, possession of a firearm, engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance or alcoholic liquor, being under the influence of a controlled substance or alcoholic liquor, public indecency, and sexually assaulting or attempting to sexually assault any person. Neb.Rev.St. § 79-263 Neb.Rev.St. § 85-601 Neb.Rev.St. § 79-2,102

**Nevada**: Suspension or expulsion for possession of a firearm, possession and sale of a controlled substance, membership in a gang; and battery on a school official. Nev. Rev. Stat. Ann. 392.466

**New Hampshire**: Suspension for gross misconduct. Expulsion for gross misconduct, theft, destruction; violence, and possession of a pellet or BB gun or rifle. N.H. Rev. Stat. § 193:13

**New Jersey**: Suspension or expulsion for possession of a firearm, assault with weapon, continued and willful disobedience, open defiance of authority, physical assault upon another student, taking or attempting to take personal property or money from another student, willfully causing damage to school property, unauthorized occupancy of school grounds, and knowing possession or consumption of alcohol or dangerous substances. N.J.S.A. 18A:37-2 and N.J. Stat. Ann. 18A: 37-8

**New Mexico**: Expulsion for possession of a weapon. N.M. Stat. Ann. 22-5-4.7

**New York**: Suspension for insubordinate or disorderly conduct. Expulsion for possession of a weapon. NY EDUC § 3214

**North Carolina**: Suspension for willful violation policies of conduct, physical assault or serious injury to another student or to a teacher, and false bomb threats to a school or its personnel. Expulsion for possession of a weapon or presenting a clear threat to school safety. N.C.G.S.A. § 115C-391

**North Dakota**: Suspension for insubordination, habitual indolence, disorderly conduct, or possession of a weapon. Expulsion for possession of a firearm. N.D. Cent. Code 15-49-13

**Ohio**: Suspension for disruptive behavior. Expulsion for possession of a weapon or a bomb threat. OH ST § **3313.66**

**Oklahoma**: Suspension for violation of school regulation and immorality. Expulsion for possession of a firearm. 70 Okl.St. Ann. § 24-101.3

**Oregon**: Suspension or expulsion for assaults or menaces against a school employee or another student, willful disobedience and defiance of authority, use or display or profane or obscene language, property damage, or possession of a weapon. O.R.S. § 339.250

**Pennsylvania**: Suspension for disobedience or misconduct. Expulsion for possession of a weapon. 24 P.S. § 13-1317.2 and 24 P.S. § 13-1318

**Rhode Island**: Suspension for disruptive behavior or possession of a firearm (or a realistic replica of a firearm). Expulsion can occur for possession of a weapon or firearm. RI ST § 16-60-4 (21)

**South Carolina**: Suspension for commission of any crime, gross immorality, gross misbehavior, or persistent disobedience. Expulsion for possession of firearm, commission of any crime, gross immorality, gross misbehavior, or persistent disobedience. SC ST § 59-63-210 and SC ST § 59-63-217

**South Dakota**: Suspension for insubordination or misconduct, aggressive violent behavior; consumption or possession of alcoholic beverages, use or possession of a controlled dangerous substance, use or possession of a firearm, and property damage. Expulsion for consumption or possession of alcoholic beverages, use or possession of a controlled dangerous substance, and use or possession of a firearm SDCL § 13-32-4 and SDCL § 13-32-5

**Tennessee**: Suspension for immoral or disreputable conduct, violence or threat of violence, property damage, assault of school official with vulgar language, possession of a firearm, or drug use. Expulsion for battery upon school official or possession of narcotics or weapons. Tenn. Code Ann. 49-6-4216

**Texas**: Expulsion for possession of firearm, illegal knife, club or weapon. Tex. Educ. Code Ann. 37.006-7

**Utah**: Suspension for frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language; willful destruction or defacing of school property; possession, control, or use of an alcoholic beverage; the possession, control, or actual or threatened use of a real, look alike, or pretend weapon, explosive, or noxious or flammable material; or the sale, control, or distribution of a drug or controlled substance, an imitation controlled substance defined, or drug paraphernalia; commission of an act involving the use of force or the threatened use of force. Expulsion for possession of a firearm; aggravated assault; arson; possession, use and distribution of marijuana or controlled substance. U.C.A. 1953 § 53A-11-904

**Vermont**: Suspension for ongoing threats, disruptive behavior, possession of a firearm. 16 V.S.A. § 1162 and 16 V.S.A. § 1166

**Virginia**: Expulsion for possession of a firearm. Va. Code 22.1-257

**Washington**: Suspension for gang activity or defacing of property. Expulsion for possession of firearm or deadly weapon or gang activity. Wash. Rev. Code. Ann. 9.41.280

**West Virginia**: Suspension for use, sale or possession of narcotics, felonious act, threat to injure, willful disobedience, possession of alcohol, use of profane language directed at school employee or pupil, intentionally defacing any school property; participation in any physical altercation, habitual violations of school rules or policies. Expulsion for use, sale or possession of narcotics, possession of firearm or deadly weapon; felonious act, threats to injure, willful disobedience, possession of alcohol, use of profane language directed at

school employee or pupil, intentionally defacing any school property, participation in any physical altercation, and habitual violation of school rules or policies. WV ST § 18A-5-1a

**Wisconsin**: Suspension or expulsion for disobeying school rules, conveying a threat or false information concerning the destruction of school property, and possession of a firearm. Expulsion for disruptive conduct. W.S.A. 119.25 and W.S.A. 120.13

**Wyoming**: Expulsion for possession, use or carrying of a deadly weapon. W.S. 1977 § 21-4-306

### **For More Information**

If you would like to order other educational materials, or need legal assistance, please contact The Rutherford Institute at P.O. Box 7482, Charlottesville, VA 22906-7482, (434) 978-3888 or visit our website at [www.rutherford.org](http://www.rutherford.org).