

Policy Code: 7305 Employee Conduct Away from School

It is the desire of the Board of Education that all employees conduct themselves appropriately both on and off school grounds and at all hours. While the Board respects and honors the privacy of its employees, some misconduct that occurs off campus and after school hours could have a detrimental impact on the schools if there is a reasonable and adverse relationship between the misconduct and the teacher's or employee's continuing ability to perform his or her duties in an effective manner.

Misconduct can be defined as those acts that constitute a "criminal history" referred to in [G.S. 115C-332](#) or any felony under state or federal law. [G.S. 115C-332](#) subsection 1 contains the following definition:

1. "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of [Chapter 14 of the General Statutes](#): [Article 5A](#), Endangering Executive and Legislative Officers; [Article 6](#), Homicide; [Article 7A](#), Rape and Kindred Offenses; [Article 8](#), Assaults; [Article 10](#), Kidnapping and Abduction; [Article 13](#), Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; [Article 14](#), Burglary and Other Housebreakings; [Article 15](#), Arson and Other Burnings; [Article 16](#), Larceny; [Article 17](#), Robbery; [Article 18](#), Embezzlement; [Article 19](#), False Pretense and Cheats; [Article 19A](#), Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; [Article 20](#), Frauds; [Article 21](#), Forgery; [Article 26](#), Offenses Against Public Morality and Decency; [Article 26A](#), Adult Establishments; [Article 27](#), Prostitution; [Article 28](#), Perjury; [Article 29](#), Bribery; [Article 31](#), Misconduct in Public Office; [Article 35](#), Offenses Against the Public Peace; [Article 36A](#), Riots and Civil Disorders; [Article 39](#), Protection of Minors; and [Article 60](#), Computer-Related Crime. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, [Article 5 of Chapter 90 of the General Statutes](#), and alcohol-related offenses such as sale to underage persons in violation of [G.S. 18B-302](#) or driving while impaired in violation of [G.S. 20-138.1 through G.S. 20-138.5](#). In addition to the North Carolina crimes listed in this subparagraph, such crimes also include similar crimes under federal law or under the laws of other states.

FELONY MISCONDUCT

If an employee is charged with any felony misconduct listed above, or any other state or federal felony, the following steps will be taken.

1. The employee or another party representing the employee will report the misconduct to the administrator in charge.
2. The administrator in charge will report the incident to the Superintendent or his designee
3. The Superintendent or his designee will suspend the employee with pay pending an internal investigation into the charges.
4. The Superintendent or his designee will make a determination if there is a reasonable and adverse relationship between the misconduct and the teacher's or employee's continuing ability to perform his or her duties in an effective manner.
5. If the Superintendent determines that the misconduct does affect the teacher's or employee's continuing ability to perform his or her duties, the Superintendent may continue the suspension with pay until criminal proceedings are complete, suspend the employee without pay for a determined amount of time, make a recommendation to the Board of Education after completing an internal investigation, or begin termination proceedings. The Board recognizes that [General](#)

[Statute 115-325](#) provides additional safeguards for certified employees and will apply those standards as called for by each individual case.

6. If the Superintendent determines that the misconduct does not affect the teacher's or employee's ability to perform or that the charges levied are not supportable, the Superintendent may rescind the suspension with pay and return the employee to work. If the Superintendent determines that the charges do not rise to the felonious level, but could be considered a misdemeanor, the Superintendent may follow the procedures outlined for misdemeanors detailed in the following section.

MISDENEANOR MISCONDUCT

If an employee is charged with any misdemeanor misconduct listed above, or any other state or federal misdemeanor, the following steps will be taken. Misdemeanor violations do not include minor traffic violations.

1. The employee or another party representing the employee will report the misconduct to the administrator in charge.
2. The administrator in charge will report the incident to the Superintendent or his designee.
3. The Superintendent or his designee may suspend the employee with pay pending an internal investigation into the charges.
4. The Superintendent or his designee will make a determination if there is a reasonable and adverse relationship between the misconduct and the teacher's or employee's continuing ability to perform his or her duties in an effective manner.
5. If the Superintendent determines that the misconduct does affect the teacher's or employee's continuing ability to perform his or her duties, the Superintendent may continue the suspension with pay until criminal proceedings are complete, suspend the employee without pay for a determined amount of time, make a recommendation to the Board of Education after completing an internal investigation, or begin termination proceedings. The Board recognizes that [General Statute 115-325](#) provides additional safeguards for certified employees and will apply those standards as called for by each individual case.
6. If the Superintendent determines that the misconduct does affect the teacher's or employee's continuing ability to perform his or her duties, whenever possible, the Superintendent may continue the suspension with pay and refer the employee to the appropriate counseling or rehabilitation services if warranted. The Superintendent may allow the teacher or employee to return to work while counseling or rehabilitation services are continuing. Upon successful completion of those programs, the Superintendent may rescind the suspension and return the employee to work. Failure to complete the services as required could result in suspension without pay or the initiation of termination proceedings.
7. If the Superintendent determines that the charge is not supported and/or does not affect the teacher's or employee's ability to perform, the Superintendent may rescind the suspension and return the employee to work.

This policy also pertains to international law including commonwealth provinces.

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