

Cascade School District

FINANCIAL MANAGEMENT

7405

Procurement Card Use

The Board of Trustees permits the use of procurement cards for actual and necessary expenses incurred in the performance of work-related duties for the District. A list of those individuals that will be issued a District procurement card will be maintained in the business office and reported to the Board each year at its meeting in June.

The District has 37 procurement cards, with a A procurement card's credit limit will not to exceed \$20,000.

Procurement cards may only be used for legitimate District business expenditures. The use of procurement cards is not intended to circumvent the District's policy on purchasing.

Users must take proper care of District credit cards and take all reasonable precautions against damage, loss, or theft. Any damage, loss, or theft must immediately be reported to the business office and to the appropriate financial institution. Failure to take proper care of credit cards or failure to report damage, loss, or theft may subject the employee to financial liability.

Purchases that are unauthorized, illegal, represent a conflict of interest, are personal in nature, or violate the intent of this policy may result in procurement card revocation and discipline of the employee.

Users must submit detailed documentation, including itemized receipts for commodities, services, travel, and/or other actual and necessary expenses which have been incurred in connection with school-related business for which the procurement card has been used.

The Superintendent shall establish regulations governing the issuance and use of procurement cards. Each cardholder shall be apprised of the procedures governing the use of the procurement card, and a copy of this policy and accompanying regulations shall be given to each cardholder.

The District Clerk shall monitor the use of each procurement card every month and report any serious problems and/or discrepancies directly to the Superintendent and the Board.

Cross Reference: 7320 Purchasing
 7335 Personal Reimbursement
 7336 Travel Allowances and Expenses

Legal Reference: §2-7-503, MCA Financial reports and audits of local government entities

Policy History:

Adopted on: December 17,
2013 Reviewed on: Revised on:

1 **School District**

2
3 **PERSONNEL**

5120

4
5 Hiring Process and Criteria

6 The Superintendent/administrator will determine the screening and hiring process upon the
7 existence of each vacancy. The District will hire personnel appropriately licensed and endorsed in
8 accordance with state statutes and Board of Public Education rules, consistent with budget and staffing
9 requirements and will comply with Board policy and state law on equal employment opportunities and
10 veterans' preference. All applicants must complete a District application form to be considered for
11 employment.

12
13 Every applicant must provide the District with written authorization for a fingerprint/criminal background
14 investigation. The Superintendent will keep any conviction record confidential as required by law and
15 District policy. The district will create a determination sheet from the criminal history record. The
16 determination sheet will be kept on file at the District Office. The Criminal History Record with no
17 disqualifiers will be shredded on site immediately after review. The Criminal History Record with
18 disqualifiers will be retained on file at the District Office according to law. Every newly hired employee
19 must complete an Immigration and Naturalization Service form, as required by federal law.

20
21 Certification

22 The District requires contracted certified staff to hold valid Montana teacher or specialist certificates
23 endorsed for the roles and responsibilities for which they are employed. Failure to meet this requirement
24 shall be just cause for termination of employment. No salary warrants may be issued to a staff member,
25 unless a valid certificate for the role to which the teacher has been assigned has been registered with the
26 county superintendent within sixty (60) calendar days after a term of service begins. Every teacher and
27 administrator under contract must bring their current, valid certificate to the personnel office at the time
28 of initial employment, as well as at the time of each renewal of certification.

29
30 The custodian of records will register all certificates, noting class and endorsement of certificates, and
31 will update permanent records as necessary. The custodian of records also will retain a copy of each valid
32 certificate of a contracted certified employee in that employee's personnel file.

33
34 Reference Checks

35 The Board authorizes the Superintendent or the Superintendent's designee to inquire of past employers
36 about an applicant's employment on topics including but not limited to: title, role, reason for leaving,
37 work ethic, punctuality, demeanor, collegiality, putting the interests of students first, and suitability for
38 the position in the District. Responses to these inquiries should be documented and considered as part of
39 the screening and hiring process.

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41
42 Cross Reference: 5122 Fingerprints and Criminal Background Investigations

43
44 Legal Reference: § 20-4-202, MCA Teacher and specialist certification registration
45 § 39-29-102, MCA Point preference or alternative preference in initial hiring
46 for certain applicants - substantially equivalent selection
47 procedure

48 Policy History:

49 Adopted on:

50 Reviewed on:

51 Revised on:



Dissemination Log

For national criminal history fingerprint-based background checks under

Date	Person Making Dissemination	Name and Date of Birth on Disseminated Information	Receiving Entity (Name, Phone Number, Person)	Disseminated by Telephone, Fax, Mail or E-mail?	Date Qualified Entity Status Verified by ID

Instructions: A log entry must be made every time you share with another qualified entity any information you obtained from a criminal history records check through the Montana Department of Justice (MDOJ) or the FBI. This includes the sharing of "No Record" information. The Dissemination Log must be retained for four (4) years from the date of the entry, and it must be made available to MDOJ and FBI auditors.

Reminder: Criminal history record information received from MDOJ or the FBI under NCPA/VCA and/or Public Law 92-544, shall be used or shared only for the screening of current or prospective Montana employees, volunteers, contractors, and/or vendors of QUALIFIED ENTITIES, pursuant to these laws.

[School District]
Determination of Eligibility for Hire

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Fingerprint/Criminal History Check

Name	Date of Birth	Position applied for	Date Received	Meets Eligibility criteria	Does NOT meet Eligibility	Date Determination Completed

Determination of Eligibility has been completed by:

_____ Signature Printed Name

_____ Title

Date

CONFIDENTIAL

NOTICE OF FEDERAL BACKGROUND CHECK DETERMINATION

TO: _____ DATE: _____
(EMPLOYING AGENCY)

BASED ON THE RESULTS OF THE FEDERAL CRIMINAL HISTORY RECORD
INFORMATION (CHRI)

TYPE OF NOTICE Original Notice Amended Notice

NAME OF SUBJECT _____ DOB _____

DETERMINATION: No disqualifiers present on the CHRI
 Disqualifiers are present on the CHRI

Authorized Designee Printed Name and Phone Number _____

Authorized Designee Signature _____

Re-dissemination of Criminal History to the Individual

If your fingerprint result is on file with the Office of Public Instruction, a Montana public school or public school district, or a unit of the Montana university system, those results can be distributed from the requesting Agency to the individual.

I authorize _____

The Office of Public Instruction; or

A Unit of the Montana Public University System; or

Montana Public School or Public School District

To share the results of my fingerprint based background check with myself for challenge or disputing incorrect information with Montana Criminal Records.

Authorized Agency _____

Signature of Applicant _____

Date of Birth _____

Printed or typed name of applicant _____

Date _____

Recipient Phone _____

1 _____ School District

2
3 **PERSONNEL**

5120P
Page 1 of 2

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5
6 Fingerprint Background Handling Procedure

- 7
- 8 1. Who needs to be fingerprinted: All individuals 18 years of age or older to be volunteers or
9 recommended for hire by _____ School District need to be fingerprinted.
 - 10
11 2. _____ School District will obtain a signed waiver from all applicants and provide
12 written communication of applicant rights (Applicant Rights and Consent to Fingerprint Form
13 5122F). The Applicant Rights and Consent to Fingerprint Form will be kept on file for 5 years or
14 for the length of employment, which ever is longer. The form will be filed in the employees
15 Personnel File.

16
17 Authority to Fingerprint

18
19 The _____ School District will [**OPTION 1**] send candidates recommended for hire to
20 _____ to obtain fingerprinting; [**OPTION 2**] process candidates recommended for hire
21 fingerprints.

22
23 Applicants will complete two (2) fingerprint cards following instructions on the card to fill out the
24 information. District office personnel will add information in the box regarding reason to be
25 fingerprinted.

26
27 A spreadsheet of those fingerprinted is kept by _____ School District to identify the
28 individual, position being hired for, date of fingerprint, date print received and date print billed.

29
30 _____ School District staff that have received training by CRISS will process the fingerprints
31 and send them to the DOJ.

32
33 Determination Procedures

34
35 Personnel staff that have been trained by CRISS and granted access to criminal history record information
36 will receive the background results through their Montana State File Transfer account.

- 37 a. Results are reviewed for determination of eligibility to hire.
- 38 b. Any adverse reports are presented to the appropriate administrator for final approval.
- 39 c. Determination is noted on a determination form and kept in a locked file cabinet.

40
41 Storage Procedure

42
43 Printed background is stored in a locked file cabinet in a sealed envelope marked “confidential”. This file
44 cabinet is only accessible to staff that have received CRISS training.

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5 Dissemination Procedure

6 **[OPTION 1]**

7 Dissemination can only be authorized to personnel within an authorized school district for the purpose
8 which is consistent with the original request of the CHRI.

- 9 a. Requesting individual must submit a completed dissemination request form.
10 b. Requesting individual must have worked at least five (5) days prior to the request.
11 c. All disseminated copies shall be marked with "Copy".
12 d. The dissemination must be recorded on a dissemination log.
13 i. The log will be maintained for three (3) years from date of entry.
14 ii. The information on the dissemination log will include:
15 1. Date record was shared
16 2. Who sent the request (personnel name and district; only
17 CRISS trained personnel can disseminate information)
18 3. How the request was fulfilled.
19 iii. Dissemination requests are mailed, faxed or emailed to the requesting representative of
20 the district.

21
22 **[OPTION 2]**

23 The _____ School District will not disseminate any fingerprint information.
24

25 Destruction Procedure

- 26
27 • Criminal history record information will be stored with the personnel file in a sealed envelope
28 marked "confidential" for two (2) years or the length of employment, whichever comes first.
29 _____ School District utilizes shredding for destruction of information no longer needed.
30 • Dissemination logs are destroyed 3 years from date of entry.
31

32 Training Procedure

- 33
34 • Local Agency Security Officer (LASO)
35 ○ Signed user agreement between district and CRISS
36 • Privacy and Security Training
37 ○ CRISS training on CHRI required to receive background reports
38
39

40 Policy History:

41 Promulgated on:

42 Reviewed on:

43 Revised on:

1 _____ **School District**

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3 **PERSONNEL**

5121

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5 Applicability of Personnel Policies

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7 Except where expressly provided to the contrary, personnel policies apply uniformly to the
8 employed staff of the District. However, where there is a conflict between terms of a collective
9 bargaining agreement and District policy, the terms of the collective bargaining agreement shall
10 prevail for staff covered by that agreement.

11

12 Board policies will govern when a matter is not specifically provided for in an applicable
13 collective bargaining agreement.

14

15 Each personnel position in the District will be directed by a position description that delineates
16 the responsibilities of the employee. The employee will receive the position description with the
17 employment contract. Position descriptions are available upon request. The Board of Trustees
18 will regularly review the position descriptions.

19

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21

22 Legal Reference: § 39-31-102, MCA Chapter not limit on legislative authority
23 ARM 10.55.701(d) Board of Trustees

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26 Policy History:

27 Adopted on:

28 Reviewed on:

29 Revised on:

2
3 **PERSONNEL**

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5 Fingerprints and Criminal Background Investigations

6
7 It is the policy of the Board that any finalist recommended for hire to a paid or volunteer position
8 with the District involving regular unsupervised access to students in schools, as determined by the
9 Superintendent, shall submit to a name-based and fingerprint criminal background investigation
10 [federal fingerprint-based criminal history record check] conducted by the appropriate law
11 enforcement agency prior to consideration of the recommendation for employment or appointment
12 by the Board.

13
14 Any requirement of an applicant to submit to a fingerprint background check shall be in compliance
15 with the Volunteers for Children Act of 1998 and applicable federal regulations. If an applicant has
16 any prior record of arrest or conviction by any local, state, or federal law enforcement agency for an
17 offense other than a minor traffic violation, the facts must be reviewed by the Superintendent, who
18 shall decide whether the applicant shall be declared eligible for appointment or employment in a
19 manner consistent with the expectations and standards set by the board.

20
21 The following applicants for employment, as a condition for employment, will be required, as a
22 condition of any offer of employment, to authorize, in writing, a name-based and fingerprint criminal
23 background investigation:

- 24
25 • A certified employee seeking full- or part-time employment with the District;
26 • A non-certified or classified employee seeking full- or part-time employment with the
27 District;
28 • An employee of a person or firm holding a contract with the District, if the employee is
29 assigned to the District;
30 • A volunteer assigned to work in the District, who has regular unsupervised access to
31 students; and
32 • Substitute teachers.

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36 Legal Reference: § 44-5-301, MCA Dissemination of public criminal justice information
37 § 44-5-302, MCA Dissemination of criminal history record information
38 that is not public criminal justice information
39 § 44-5-303, MCA Dissemination of confidential criminal justice
40 information – procedure for dissemination through
41 court
42 10.55.716, ARM Substitute Teachers
43 Public Law 105-251, Volunteers for Children Act

44 Policy History:
45 Adopted on:
46 Reviewed on:
47 Revised on:

Applicant Rights and Consent to Fingerprint

As an applicant who is the subject of a national fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for employment or a license, an immigration or naturalization matter, security clearance, or adoption), you have certain rights which are discussed below.

- You must be provided written notification⁸ by (insert appropriate agency) that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared.
- If you have a criminal history record, the officials making a determination of your suitability for employment, license, or other benefit must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.
- If you have a criminal history record, you should be afforded a reasonable amount of time to correct or complete the record (or decline to do so) before the officials deny you the employment, license, or other benefit based on information in the criminal history record.⁹

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council.¹⁰

If agency policy permits, the officials may provide you with a copy of your FBI criminal history record for review and possible challenge. If agency policy does not permit it to provide you a copy of the record, you may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <http://www.fbi.gov/about-us/cjis/background-checks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI at the same address as provided above. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency.

If a change, correction, or update needs to be made to a Montana criminal history record, or if you need additional information or assistance, please contact Montana Criminal Records and Identification Services at dojitsdpublicrecords@mt.gov or 406-444-3625.

Your signature below acknowledges this agency has informed you of your privacy rights for fingerprint-based background check requests used by the agency.

Signed:

Name

Date

⁸ Written notification includes electronic notification, but excludes oral notification.

⁹ See 28 CFR 50.12(b).

¹⁰ See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d).

NCPA/VCA Applicants

To _____:

You have applied for employment with, will be working in a volunteer position with, or will be providing vendor or contractor services to (write in Agency or Entity name) _____ for the position of (please be specific) _____.

The National Child Protection Act of 1993 (NCPA), Public Law (Pub. L.) 103-209, as amended by the Volunteers for Children Act(VCA), Pub. L. 105-251 (Sections 221 and 222 of Crime Identification Technology Act of 1998), codified at 42 United States Code (U.S.C.) Sections 5119a and 5119c, authorizes a state and national criminal history background check to determine the fitness of an employee, or volunteer, or a person with unsupervised access to children, the elderly, or individuals with disabilities.

1. Provide your name, address, and date of birth, as appears on a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals. 18 U.S.C. §1028(D)(2).
2. Provide a certification that you (a) have not been convicted of a crime, (b) are not under indictment for a crime, or (c) have been convicted of a crime. If you are under indictment or have been convicted of a crime, you must describe the crime and the particulars of the conviction, if any.
3. Prior to the completion of the background check, the entity may choose to deny you unsupervised access to a person to whom the entity provides care.

The entity shall access and review State and Federal criminal history records and shall make reasonable efforts to make a determination whether you have been convicted of, or are under pending indictment for, a crime that bears upon your fitness and shall convey that determination to the qualified entity. The entity shall make reasonable efforts to respond to the inquiry within 15 business days.

Your Name: _____

First

Middle

Maiden

Last

Date of Birth: _____

Address: _____

City

State

Zip

I have been convicted of, or am under pending indictment for, the following crimes [include the dates, location/jurisdiction, circumstances and outcome]:

I have not been convicted of, nor am I under pending indictment for, any crimes

I authorize Montana Department of Justice, Criminal Records and Identification Services Section to disseminate criminal history record information to (Insert name of qualified entity).

Signature of Applicant

Date

2
3 STUDENTS

5
6 FIREARMS AND WEAPONS

7
8 Firearms

9
10 For the purposes of the firearms section of this policy, the term “firearm” means (A) any weapon
11 (including a starter gun) which will or is designed to or may readily be converted to expel a
12 projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any
13 firearm muffler or firearm silencer; or (D) any destructive device pursuant to 18 U.S.C. 921 (4).
14 Such term does not include an antique firearm pursuant to 18 U.S.C. 921 (16).
15

16 It is the policy of the Cascade School District to comply with the federal Gun Free Schools Act
17 of 1994 and state law 20-5-202 (2), MCA, pertaining to students who bring a firearm to, or
18 possess a firearm at, any setting that is under the control and supervision of the school district. In
19 accordance with 20-5-202 (3), MCA, a teacher, superintendent, or a principal shall suspend
20 immediately for good cause a student who is determined to have brought a firearm to, or possess
21 a firearm at, any setting that is under the control and supervision of the school district. In
22 accordance with Montana law, a student who is determined to have brought a firearm to, or
23 possess a firearm at, any setting that is under the control and supervision of the school district
24 must be expelled from school for a period of not less than 1 year.
25

26
27 ~~However, on a case-by-case basis, the Board of Trustees will convene a hearing to review the~~
28 ~~underlying circumstances and, in the discretion of the Board, the Board may itself either modify~~
29 ~~the requirement for expulsion or delegate to the County Superintendent the authority to carry out~~
30 ~~the Board’s decision regarding any modification of the expulsion requirement.~~
31

32 A decision to change the placement of a student with a disability who has been expelled pursuant
33 to this section must be made in accordance with the Individuals with Disabilities Education Act.
34

35 Possession of Weapons other than Firearms

36 The District does not allow weapons on school property. Any student found to have possessed,
37 used or transferred a weapon on school property will be subject to discipline in accordance with
38 the District’s discipline policy. For purposes of this section, “weapon” means any object, device,
39 or instrument designed as a weapon or through its use is capable of threatening or producing
40 bodily harm or which may be used to inflict self-injury, including but not limited to air guns;
41 pellet guns; BB guns; fake (facsimile) weapons; all knives; blades; clubs; metal knuckles;
42 numchucks; throwing stars; explosives; fireworks; mace or other propellants; stun guns;
43 ammunition; poisons; chains; arrows; and objects that have been modified to serve as a weapon.
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4 No person shall possess, use, or distribute any object, device, or instrument having the
5 appearance of a weapon, and such objects, devices, or instruments shall be treated as weapons,
6 including but not limited to weapons listed above which are broken or non-functional, look-alike
7 guns; toy guns; and any object that is a facsimile of a real weapon. No person shall use articles
8 designed for other purposes (i.e., lasers or laser pointers, belts, combs, pencils, files, scissors,
9 etc.) to inflict bodily harm and/or intimidate, and such use will be treated as the possession and
10 use of a weapon.

11
12 The District will refer to law enforcement for immediate prosecution any person who possesses,
13 carries, or stores a weapon **in a school building**, and the District may take disciplinary action as
14 well in the case of a student. In addition the District will refer for possible prosecution a parent
15 or guardian of any minor violating this policy on grounds of allowing a minor to possess, carry,
16 or store a weapon in a school building. (45-8-361 (1) (2))

17
18 For the purposes of this section only, “school building” means all buildings owned or leased by a
19 local school district that are used for instruction or for student activities. (45-8-361 (5a))
20

21 The Board may grant persons and entities advance permission to possess, carry, or store a
22 weapon in a school building. All persons who wish to possess, carry, or store a weapon in a
23 school building must request permission of the Board at a regular meeting. The Board has sole
24 discretion in deciding whether to allow a person to possess, carry, or store a weapon in a school
25 building. (45-8-361 (3b))
26

27 This policy does not apply to law enforcement officers acting in his or her official capacity.
28 (45-8-361 (3a))
29

30 The trustees shall annually review this policy and update this policy as determined necessary by
31 the trustees based on changing circumstances pertaining to school safety.
32

33 *Note: Section (g) of the NCLB Section 4141 – Gun Free Requirements, carves out a very*
34 *significant exception to the Gun Free Schools Act in that it allows a student to have “a firearm*
35 *that is lawfully stored inside a locked vehicle on school property. . .” Montana law (20-5-202,*
36 *MCA), on the other hand, does not provide for any exception to the expulsion requirement if a*
37 *student has a firearm that is lawfully stored inside a locked vehicle on school property. The only*
38 *reference to federal law in 20-5-202(2), MCA is the federal definition of a firearm. As you well*
39 *know 20-5-202(2), MCA provides that: (2) The trustees of a district shall adopt a policy for the*
40 *expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921,*
41 *to school and for referring the matter to the appropriate local law enforcement agency. A student*
42 *who is determined to have brought a firearm to school under this subsection must be expelled*
43 *from school for a period of*
44 *not less than 1 year, except that the trustees may authorize the school administration to modify*
45 *the requirement for expulsion of a student on a case-by-case basis.*
46

So, Montana schools are required, by state law, to expel a student from school for a period of not less than 1 year if it is determined that the student brought a firearm to school, subject to the case-by-case exception noted in the statute. Based upon the exception noted in federal law and in circumstances where a student is found to have a firearm on school property in a locked vehicle, Montana schools should be citing state law (20-5-202, MCA) and district policy to support any recommendation for expulsion.

There is one significant inconsistency between the Federal Gun Free Schools Act and Montana is that under federal law it provides that “State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing,” whereas 20-5-202(2), MCA, provides that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis.

Cross Reference: Policy 3310 Student Discipline
Policy 4332 Conduct of School Property

Legal Reference: § 20-5-202, MCA Suspension and expulsion
§ 45-8-361, MCA Possession or allowing possession of
a weapon in a school building
20 U.S.C. § 7151, et seq. Gun Free Schools Act of 1994
18 U.S.C. § 921 Definitions
NCLB, Section 4141 Gun Free Requirements

Policy History:
Adopted on: June 21, 2011
Reviewed on:
Revised on:

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STUDENTS

FIREARMS AND WEAPONS

Firearms

For the purposes of the firearms section of this policy, the term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device pursuant to 18 U.S.C. 921 (4). Such term does not include an antique firearm pursuant to 18 U.S.C. 921 (16).

It is the policy of the _____ School District to comply with the federal Gun Free Schools Act of 1994 and state law 20-5-202 (2), MCA, pertaining to students who bring a firearm to, or possess a firearm at, any setting that is under the control and supervision of the school district. In accordance with 20-5-202 (3), MCA, a teacher, superintendent, or a principal shall suspend immediately for good cause a student who is determined to have brought a firearm to, or possess a firearm at, any setting that is under the control and supervision of the school district. In accordance with Montana law, a student who is determined to have brought a firearm to, or possess a firearm at, any setting that is under the control and supervision of the school district must be expelled from school for a period of not less than 1 year.

CHOOSE ONE OF THE FOLLOWING OPTIONS:

OPTION #1 – However, on a case-by-case basis, the Board of Trustees will convene a hearing to review the underlying circumstances and, in the discretion of the Board, may authorize the school administration to modify the requirement for expulsion of a student.

OPTION #2 – However, on a case-by-case basis, the Board of Trustees will convene a hearing to review the underlying circumstances and, in the discretion of the Board, the Board may itself either modify the requirement for expulsion or delegate to the County Superintendent the authority to carry out the Board’s decision regarding any modification of the expulsion requirement. *Note: This Option is specifically for those smaller districts that have no employed administrator.*

OPTION #3 -- However, the Board of Trustees through this policy authorizes the Superintendent, or principal of a school without a Superintendent, to use his/her discretion on a case-by-case basis and modify the requirement of expulsion of a student if he/she deems such modification to be warranted under the circumstances. *Note: Under this Option, there is no expulsion hearing unless the administration determines that the circumstances warrant a recommendation of expulsion of the student for a period of one (1) year to the Board.*

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4 A decision to change the placement of a student with a disability who has been expelled pursuant
5 to this section must be made in accordance with the Individuals with Disabilities Education Act.
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7 **Possession of Weapons other than Firearms**

8 The District does not allow weapons on school property. Any student found to have possessed,
9 used or transferred a weapon on school property will be subject to discipline in accordance with
10 the District’s discipline policy. For purposes of this section, “weapon” means any object, device,
11 or instrument designed as a weapon or through its use is capable of threatening or producing
12 bodily harm or which may be used to inflict self-injury, including but not limited to air guns;
13 pellet guns; BB guns; fake (facsimile) weapons; all knives; blades; clubs; metal knuckles;
14 numchucks (also known as nunchucks); throwing stars; explosives; fireworks; mace or other
15 propellants; stun guns; ammunition; poisons; chains; arrows; and objects that have been modified
16 to serve as a weapon.
17

18 No person shall possess, use, or distribute any object, device, or instrument having the
19 appearance of a weapon, and such objects, devices, or instruments shall be treated as weapons,
20 including but not limited to weapons listed above which are broken or non-functional, look-alike
21 guns; toy guns; and any object that is a facsimile of a real weapon. No person shall use articles
22 designed for other purposes (i.e., lasers or laser pointers, belts, combs, pencils, files, scissors,
23 etc.) to inflict bodily harm and/or intimidate, and such use will be treated as the possession and
24 use of a weapon.
25

26 The District will refer to law enforcement for immediate prosecution any person who possesses,
27 carries, or stores a weapon **in a school building**, and the District may take disciplinary action as
28 well in the case of a student. In addition the District will refer for possible prosecution a parent
29 or guardian of any minor violating this policy on grounds of allowing a minor to possess, carry,
30 or store a weapon in a school building. (45-8-361 (1) (2))
31

32 For the purposes of this section only, “school building” means all buildings owned or leased by a
33 local school district that are used for instruction or for student activities. (45-8-361 (5a))
34

35 The Board may grant persons and entities advance permission to possess, carry, or store a
36 weapon in a school building. All persons who wish to possess, carry, or store a weapon in a
37 school building must request permission of the Board at a regular meeting. The Board has sole
38 discretion in deciding whether to allow a person to possess, carry, or store a weapon in a school
39 building. (45-8-361 (3b))
40

41 This policy does not apply to law enforcement officers acting in his or her official capacity.
42 (45-8-361 (3a))
43

44 The trustees shall annually review this policy and update this policy as determined necessary by
45 the trustees based on changing circumstances pertaining to school safety.
46

Note: Section (g) of the NCLB Section 4141 – Gun Free Requirements, carves out a very significant exception to the Gun Free Schools Act in that it allows a student to have “a firearm that is lawfully stored inside a locked vehicle on school property. . .” Montana law (20-5-202, MCA), on the other hand, does not provide for any exception to the expulsion requirement if a student has a firearm that is lawfully stored inside a locked vehicle on school property. The only reference to federal law in 20-5-202(2), MCA is the federal definition of a firearm. As you well know 20-5-202(2), MCA provides that:

(2) The trustees of a district shall adopt a policy for the expulsion of a student who is determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring the matter to the appropriate local law enforcement agency. A student who is determined to have brought a firearm to school under this subsection must be expelled from school for a period of not less than 1 year, except that the trustees may authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis.

So, Montana schools are required, by state law, to expel a student from school for a period of not less than 1 year if it is determined that the student brought a firearm to school, subject to the case-by-case exception noted in the statute. Based upon the exception noted in federal law and in circumstances where a student is found to have a firearm on school property in a locked vehicle, Montana schools should be citing state law (20-5-202, MCA) and district policy to support any recommendation for expulsion.

*There is one significant inconsistency between the Federal Gun Free Schools Act and Montana is that under federal law it provides that “State law **shall** allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing,” whereas 20-5-202(2), MCA, provides that the trustees **may** authorize the school administration to modify the requirement for expulsion of a student on a case-by-case basis.*

Cross Reference:	Policy 3310	Student Discipline
	Policy 4332	Conduct of School Property

Legal Reference:	§ 20-5-202, MCA	Suspension and expulsion
	§ 45-8-361, MCA	Possession or allowing possession of a weapon in a school building
	20 U.S.C. § 7151, et seq.	Gun Free Schools Act of 1994
	18 U.S.C. § 921	Definitions
	NCLB, Section 4141	Gun Free Requirements

Policy History:
Adopted on:
Reviewed on:
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