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1Ovando School District #11

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6FIREARMS AND WEAPONS

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8Firearms

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10For 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
12projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any
13firearm muffler or firearm silencer; or (D) any destructive device pursuant to 18 U.S.C. 921 (4).
14Such term does not include an antique firearm pursuant to 18 U.S.C. 921 (16).

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16It is the policy of the Ovando School District to comply with the federal Gun Free Schools Act of
171994 and state law 20-5-202 (2), MCA, pertaining to students who bring a firearm to, or possess
18a firearm at, any setting that is under the control and supervision of the school district. In
19accordance with 20-5-202 (3), MCA, a teacher, superintendent, or a principal shall suspend
20immediately for good cause a student who is determined to have brought a firearm to, or possess
21a firearm at, any setting that is under the control and supervision of the school district. In
22accordance with Montana law, a student who is determined to have brought a firearm to, or
23possess a firearm at, any setting that is under the control and supervision of the school district
24must be expelled from school for a period of not less than 1 year.

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28However, on a case-by-case basis, the Board of Trustees will convene a hearing to review the
29underlying circumstances and, in the discretion of the Board, the Board may itself either modify
30the requirement for expulsion or delegate to the County Superintendent the authority to carry out
31the Board’s decision regarding any modification of the expulsion requirement. *Note: This*
32*Option is specifically for those smaller districts that have no employed administrator.*

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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.

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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.

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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))

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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))

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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))

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41 This policy does not apply to law enforcement officers acting in his or her official capacity.

42 (45-8-361 (3a))

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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.

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5Note: Section (g) of the NCLB Section 4141 – Gun Free Requirements, carves out a very
6significant exception to the Gun Free Schools Act in that it allows a student to have “a firearm
7that is lawfully stored inside a locked vehicle on school property. . .” Montana law (20-5-202,
8MCA), on the other hand, does not provide for any exception to the expulsion requirement if a
9student has a firearm that is lawfully stored inside a locked vehicle on school property. The only
10reference to federal law in 20-5-202(2), MCA is the federal definition of a firearm. As you well
11know 20-5-202(2), MCA provides that:

12 (2) The trustees of a district shall adopt a policy for the expulsion of a student who is
13determined to have brought a firearm, as defined in 18 U.S.C. 921, to school and for referring
14the matter to the appropriate local law enforcement agency. A student who is determined to have
15brought a firearm to school under this subsection must be expelled from school for a period of
16not less than 1 year, except that the trustees may authorize the school administration to modify
17the requirement for expulsion of a student on a case-by-case basis.

18So, Montana schools are required, by state law, to expel a student from school for a period of
19not less than 1 year if it is determined that the student brought a firearm to school, subject to the
20case-by-case exception noted in the statute. Based upon the exception noted in federal law and
21in circumstances where a student is found to have a firearm on school property in a locked
22vehicle, Montana schools should be citing state law (20-5-202, MCA) and district policy to
23support any recommendation for expulsion.

24There is one significant inconsistency between the Federal Gun Free Schools Act and Montana
25is that under federal law it provides that “State law **shall** allow the chief administering officer of
26a local educational agency to modify such expulsion requirement for a student on a case-by-case
27basis if such modification is in writing,” whereas 20-5-202(2), MCA, provides that the trustees
28**may** authorize the school administration to modify the requirement for expulsion of a student on
29a case-by-case basis.

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32Cross Reference:

Policy 3310

Student Discipline

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Policy 4332

Conduct of School Property

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36Legal Reference:

§ 20-5-202, MCA

Suspension and expulsion

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§ 45-8-361, MCA

Possession or allowing possession of
a weapon in a school building

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20 U.S.C. § 7151, et seq.

Gun Free Schools Act of 1994

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18 U.S.C. § 921

Definitions

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NCLB, Section 4141

Gun Free Requirements

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43Policy History:

44Adopted on: March 10, 2014

45Reviewed on: February 10, 2014

46Revised on: February 10, 2014