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State Board Policy 4373 Leaves Little "Wiggle Room" for Student Discipline

West Virginia State Board of Education Policy 4373 is better known as the Student Code of Conduct ("Policy 4373"). Policy 4373 "sets the requirements for the conduct of students in West Virginia schools in order to assure a nurturing and orderly, safe, drug-free, violence-and-harassment-free learning environment that supports student academic achievement and personal-societal development."

Policy 4373 applies to all students during any education-sponsored event, which includes the classroom, school premises, school bus or other vehicle or at a school-sponsored activity or event regardless of location.

Policy 4373 has four (4) levels based on severity or repetition of violations. Level I and Level II county and school policies must address responses and/or interventions including examples contained in Policy 4373. Level III and Level IV violations must be referred directly to appropriate administrators because of the seriousness.

Policy 4373 leaves little "wiggle room" for Level IV violations. Often students, parents, board members, and administrators forget that certain Level IV violations require specific discipline and no discretion can be afforded to the principal, Superintendent and/or board members.

Specifically, Policy 4373 and the West Virginia code **requires** that the principal suspend Level IV offenders (of course after certain due process rights are offered via an informal hearing).

Policy 4373 provides that a principal **may** recommend expulsion to the Superintendent for a student who has committed a Level IV violation because of a *felony or controlled substance*.

In a situation where a student has been suspended for committing a Level IV violation for *battery on a school employee, firearm, sale of narcotic*, the principal **shall**, with 24 hours, request expulsion to the Superintendent. Upon such a request, the Superintendent **shall** recommend expulsion to the board of education.

If in fact a student is recommended for expulsion, the board of education must conduct a formal hearing to determine if a Level IV violation has occurred. If the board determines that the student has committed a Level IV violation, the student **shall** be expelled for a period not to exceed one school year. Also, there is a **mandatory expulsion** for one school year for the Level IV violations of *possession of a deadly weapon, battery on a school employee, or sale of a narcotic*, in other words, no "wiggle room".

Should you have any questions or need any assistance with student discipline issues please feel free to contact a member of Dinsmore & Shohl's [Education Law Practice Group](#).