

TABLED

Cherokee Council House
Cherokee North Carolina

Date: OCT 17 2022

Ordinance No.: 407 (2022)

An ordinance to amend C.C. § 115-5 to give the Cherokee School Board greater flexibility in effectively maintaining student discipline, safety, and orderly administration of the Cherokee Central Schools.

WHEREAS, pursuant to C.C. § 115-8, the Cherokee School Board is responsible for determining, formulating, and defining general and administrative policies for the Cherokee Central Schools; and

WHEREAS, pursuant to C.C. § 115-5, the Cherokee School Board is directed to adopt and publish policies governing the conduct of students, but is prohibited from instituting long-term suspensions beyond the current school year, and is not authorized to impose a lesser sanction than expulsion in the event that a student brings a firearm or other destructive device onto school property; and

WHEREAS, the Cherokee School Board finds that certain amendments to C.C. § 115-5 would provide greater flexibility and effectiveness in administering student discipline, and better allow Cherokee Central Schools administration to ensure a safe and orderly school environment; and

WHEREAS, the Cherokee School Board respectfully requests that the Tribal Council amend C.C. § 115-5 as provided herein.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians in Council assembled at which a quorum is present, that C.C. § 115-5 is amended to read as follows

Sec. 115-5. ~~School Expulsion~~ Student Discipline.

(a) The Cherokee School Board shall adopt policies governing the conduct of students and shall cause these policies to be published and made available at the beginning of each school year to each student and his parents. The School Board shall also adopt policies establishing procedures to be followed by school officials in suspending or expelling any ~~pupil~~ student from school and shall cause such procedures to be published and made available at the beginning of each year to each student and his parents.

(b) The principal of a school, or his delegate, shall have authority to suspend for a period of ten days or less any student who willfully violates policies of conduct established by the School Board, provided that a student suspended pursuant to this subsection shall be provided an opportunity to take any quarterly, semester or grading period examinations missed during the suspension period.

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(c) The principal of a school, with the prior approval of the Superintendent, shall have the authority to suspend for periods of time in excess of ten school days, but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the School Board. Provided, however, that is the policy violation leading to such suspension occurs during the last quarter of the school year, the suspension may extend through the end of the fall semester first quarter of the following school year. The ~~pupil~~ student or his ~~the student's~~ parents may appeal the decision of the principal ~~to the School Board~~ consistent with Cherokee School Board policies.

(d) The School Board may adopt a policy prohibiting possession of a firearm or destructive devise on school property or at a school-sponsored event off school property. The principal shall recommend to the Superintendent the 365-day suspension of any student believed to have violated such board policy. The Superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies and applicable laws. The Superintendent may instead has authority to modify the student's 365-day suspension on a case-by-case basis. The Superintendent shall not impose a 365-day suspension if the Superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or school employee and had no intent to use such firearm or destructive device in a harmful or threatening way. The student or the student's parents may appeal the decision of the Superintendent consistent with Cherokee School Board policies to the School Board. For purposes of this section, the following definitions shall apply:

- (1) "Destructive device" shall mean explosive, incendiary, or poison gas bombs; grenade; rocket having a propellant charge of more than four ounces; missile having an explosive or incendiary charge of more than one-quarter ounce; mine; or device similar to nay of the devices listed in this subdivision.
- (2) "Firearm" shall mean a 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, including the frame or received of any such weapon, and any firearm muffler or firearm silencer. The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.
- (3) "Parent" includes a biological parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under applicable law.
- (4) "School property" shall mean any Cherokee Central Schools building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of the Cherokee Board of Education.

(e) The School Board may, upon recommendation of the principal and the Superintendent, expel any student 14 years of age or older who has been convicted of a felony and whose continued presence in school constitutes a clear threat to the safety and health of other students or employees. ~~Notwithstanding~~ Except as required by any other provision of law, the School Board

92 shall have no duty to continue to provide a child with special needs, expelled pursuant to this
93 subsection, with any special education or related services during the period of expulsion.

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95 (f) The School Board shall adopt a policy pursuant to which a student who is expelled or
96 suspended for 365 days may, not sooner than 180 days after the beginning of the period of
97 expulsion or suspension, appeal to the Superintendent for readmission to school.

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99 **BE IT FINALLY ORDAINED**, that all resolutions and ordinances inconsistent with this
100 ordinance are rescinded, and this ordinance shall become effective upon ratification by the
101 Principal Chief.

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104 *Submitted by: T.W. Saunooke, Tribal Council Member, and the Cherokee School Board.*