

GUIDELINES FOR SUSPENSION AND EXPULSION

SUSPENSION

Suspension involves either in-school suspension or the dismissal of a student from school classes, buildings, and grounds. Suspension is indicated only in grave situations, and shall not be for more than ten days. The parent(s) of the student are to be notified promptly by the school principal that suspension has been issued.

The authority to initially determine whether or not a student shall be suspended, for a period not to exceed ten days, rests with the principal or superintendent and can be exercised AFTER the student is given:

1. Oral or written notice of the charges against him/her.
2. An explanation of the evidence against him/her.
3. An opportunity to present his/her side of the story.

There need be no delay between the time notice is given and the conduct of the above procedure. In those cases where a student's presence poses a continuing danger to persons or property or any ongoing threat of disrupting the educational process, the student may be immediately removed.

For expulsions, see the guidelines for hearings.

EXPULSION

Expulsion of a student from school is done by the school board, and, except when the behavior is bringing a firearm or other weapon to school, may not extend beyond the end of the termination of the current school year. Such action would follow only after suspension and following a conference of the parent(s) and the administration. If the student involved has a disability, see the exhibit, FFK-E2, "Suspension and Expulsion of Special Education Students"

The responsibility of the school does not end with expulsion. The guidance department shall notify other appropriate agencies when a student has been expelled. A file shall be kept and an effort made to help the student.

EXPULSION PRE-HEARING NOTICE TO STUDENT

The student and the student's parents shall be provided with the following notices, prior to the expulsion hearing outlined below:

1. Notice of Charges

The specific charges against the student shall be stated clearly enough for the student and the parent to understand the grounds of the charge and to be able to prepare a defense.

2. Notice of Nature of Testimony and Witness

The nature of the evidence against the student, and the names of any witnesses whose testimony may be used against the student, shall be provided.

3. Notice of Hearing

The date of a hearing, which shall be within a reasonable time not to exceed ten days, if the student is currently under suspension, unless a postponement is requested or agreed to by the parent, shall be provided.

4. Notice of Right to Present Evidence

The right to present witnesses or documentary evidence to rebut the charges against the student shall be explained.

5. Notice of Right to Adult Representation

The right to be represented and/or assisted at the hearing by a lawyer or other adult shall be explained. A parent or guardian who is unable to attend the hearing may provide written designation of another adult to assist the student in the parent's absence.

CONDUCTING HEARINGS FOR EXPULSION

1. Nature of the Hearing

The hearing is not a court proceeding and should not be referred to or conducted as such. The hearing should be conducted without the rigidity of court hearings, and there are no specific rules of evidence or procedure that must be followed. The thrust of the entire hearing is directed toward a determination of whether the reasons offered for the proposed expulsion are supported by substantial evidence. The evidence offered at the hearing should be directed toward attaining the truth, shall include an opportunity for the presentation of evidence as to the existence of mitigating circumstances. The key to conducting a successful hearing is to search for the truth through reasonableness and fairness.

2. The Hearing Officer

The School Board shall act as the hearing officer/body.

3. Representation of the Student

There is no definite requirement that the student must have representation at the hearing; however, if the student or his/her parent(s) request that he/she be represented by an attorney at the student's expense, his/her parents, or another adult, the request s must be granted. The school should attempt to involve the parents in the disciplinary proceedings from the outset. The school may refrain from making its presentation through an attorney if the student is not represented by counsel.

4. A Record of the Hearing

A record of the hearing should be made to substantiate that the required elements of procedural due process were afforded the student. This can be accomplished by several methods.

a. Electronic Recording Device – the preferred method at the building level is to electronically record the entire proceeding. The presence of an electronic recording device has a constructive effect on the decorum of the hearing; however, its presence can also create an atmosphere so formal that the participants may be reluctant to discuss the issue in terms that will result in a resolution of the problem.

b. Secretary – A second method is to have a secretary or other member of the staff keep, as nearly as possible, an accurate record of the proceedings.

c. Court reporter – Consideration may be given to utilizing a court reporter.

When any of these methods is used, the student and his/her parent(s) or other representative should be so advised. All evidence that is introduced in the form of written documents should be marked so as to identify the origin and order of introduction. Examples of this would be, "School Exhibit 1, 2, 3," etc., and "Student Exhibit 1, 2, 3," etc.

The electronic recordings or notes need not be transcribed until an appeal or a suit filed. All records of a hearing should be kept for several years or until the threat of a lawsuit has passed.

5. Open or Closed Hearing

Any such hearing by the School Board is subject to the Family Rights and Privacy Act (FERPA) and shall be closed unless the parent waives their rights under FERPA in writing.

6. Witnesses in the Room

At the request of the school representative or the student or his/her parents, witnesses may be excluded from the room while the others are offering testimony. The Board should make the suggestion at the beginning of the hearing, before any evidence is presented, that if either side wishes to have witnesses excluded from the room, it may do so. At no time may the student or his/her parents or representative be excluded from the room.

7. Cross-Examination

The Board should permit cross-examination if any circumstances indicate that it is necessary in order to reach the truth or to otherwise conduct a hearing which is fundamentally fair. If ever in doubt as to whether cross-examination is necessary, permit it; to do otherwise is to invite litigation. If one side is permitted to cross-examine the witnesses of the other, the opposing side must have the same privilege.

8. Sworn Witnesses

If a notary public or other officer capable of taking oaths is available, witnesses should be sworn before offering testimony.

9. Substantial Evidence

If, at the conclusion of the hearing, the reasons given for the proposed expulsion are supported by the evidence offered at the hearing, the student may be expelled. After a full and fair hearing has been conducted, it may not be necessary to expel the student because the problem has been worked out. Frequently, agreement between the Board and the student and his or her parents can be reached as to the student's future conduct at school, or as an alternative the student may be transferred to a special program or special school.

The action of the student does not have to be proven beyond a reasonable doubt as in a criminal trial, but the action must be supported by substantial evidence. There must be evidence presented upon which the Board can establish that the student did do the alleged acts. In determining whether there is substantial evidence to support a finding of misconduct, the Board may take into consideration only that evidence presented at the hearing. The Board should not consider any rumor or other suggestion heard outside the room prior to or after the hearing.

10. Making the Decision and Giving Notice to the Parties

After the Board decides whether to expel a student, the Board has the responsibility of promptly informing the student, his or her parents, the student's counsel, or his or her representative, both orally and in writing, of the decision. If the student is found guilty of misconduct, the decision should specify the misconduct in sufficient detail to inform the student fully of what he or she was found to have done. The decision must be specific enough so that a reasonable person can be advised of the finding.

