

Related Entries: (Not identified at this time)

Student Disciplinary Hearings before School Board

The School Board is committed to a safe and orderly educational environment for all students and staff and to a fair and objective discipline procedure for all students involved in discipline hearings before the School Board.

- (1) The school principal or designee may recommend to the Superintendent the alternative assignment or expulsion of any student who has committed a serious breach of conduct including, but not limited to:
 - (a) Willful disobedience.
 - (b) Open defiance of authority of a School Board employee.
 - (c) Violence against persons or property.
 - (d) Any act which substantially disrupts orderly conduct of the school.
 - (e) The commission of a felony off school property as provided for in Florida Statute.
 - (f) Any act for which expulsion is established as an appropriate consequence in the Code of Conduct for Students.
- (2) The school principal or designee shall recommend, to the Superintendent, the expulsion of a student who has violated School Board Rules or Florida Statute, which require expulsion.
- (3) The following general procedures shall be observed when a student is suspended with a recommendation of expulsion:
 - (a) The Superintendent or designee shall receive and review recommendations for expulsion of students from the school principal or designee who is directly charged with the supervision of the students concerned. These recommendations shall be submitted in writing to the Superintendent by the individual and shall indicate the grounds for the recommendation. The Superintendent or designee shall review the principal's recommendation and supporting documentation and determine whether sufficient reason(s) exist for making a recommendation to the School Board for expulsion.

- (b) If expulsion is warranted, the Superintendent shall recommend the appropriate penalty to the School Board and shall notify the student's parent(s) or legal guardian or the adult student in writing of the recommendation. The recommendation letter shall advise the parties of the date, time and location of a Student Hearing at which the School Board shall consider the recommendation. It shall also state that the parties may request a due process hearing before an impartial hearing officer if they dispute the facts in the case. The parties shall be advised that failure to request a due process hearing within 21 days of their receipt of the recommendation letter constitutes a waiver of their right to said hearing. The parties shall also be advised that if they fail to request a due process hearing they will not be permitted to dispute the facts at the Student Hearing before the School Board.
- (c) The recommendation letter shall be served on the parent(s) or legal guardian or the adult student via process server unless waived by the parties and/or their representative. If personal service is waived, the notice may be sent via regular U.S. mail to their last known address.
- (d) The recommendation letter shall notify the parties that unless they elect to have the proceedings open to the public, the proceeding shall be closed and not subject to the open meetings law.
- (e) Any request for a due process hearing must be made in writing and must be served upon the Staff Attorney.
- (4) The following procedures apply to Student Hearings before the School Board in expulsion cases when a due process hearing has not been requested:
- (a) When a due process hearing has not been requested and neither the parent/guardian nor the student appear at the Student Hearing at which the expulsion recommendation is being addressed, the allegations made by the Superintendent shall be accepted as fact and the only matter that shall be considered is whether expulsion is appropriate and if so, the term of the expulsion.
- (b) If the parent/guardian/student has not requested a due process but does appear at the Student Hearing to speak to the recommendation for expulsion, the School Board shall accept as fact the allegations made by the Superintendent concerning the student's conduct. The parent's/guardian's/student's comments shall be restricted to the appropriateness of the recommended expulsion. The only matter the Board shall consider is whether expulsion is appropriate and if so, the term of the expulsion.
- (c) The parent/guardian/student or their representative shall be allowed 10 minutes to address the School Board. The Superintendent or representative

shall be allowed 10 minutes to respond. If the parent/guardian/student asserts that the allegations are not true, the Board Attorney shall remind the parent/guardian/student that allegations are accepted as fact because of the failure to request a due process hearing.

(5) The following procedures apply in expulsion cases when a due process hearing has been requested:

(a) In the case of a recommendation for expulsion, the Superintendent or designee shall withdraw the recommendation if the parent/guardian/student requests a due process hearing. There shall be no action upon the matter by the Board until receipt of a recommended order from the hearing officer.

(b) Upon receipt of a request for a due process hearing, the Superintendent shall file charges against the student in the form of a Petition. The basis of the charges shall be specified with the Superintendent's recommended action, including specific allegations of fact to support the recommendation.

(c) The Petition shall be served upon the student's parent(s) or legal guardian or adult student via process server unless they and/or their representative waive personal service. If personal service is waived, the Petition may be sent via regular U.S. mail to their last known address.

(d) A Notice of Hearing shall be served with the Petition setting forth the date, time and location of the due process hearing. The Notice shall set forth the following:

1. The hearing shall be conducted pursuant to Chapter 120 of the Florida Statutes.
2. The hearing shall be conducted before an impartial hearing officer.
3. The student has the right to be represented by an attorney.
4. The hearing shall be closed to the public unless the student and/or their representative elect otherwise.

(e) When the recommended order is received, the Superintendent or designee shall prepare an agenda item for presentation to the School Board and shall advise the parent/guardian/student of the date and time of the Student Hearing at which the recommended order shall be considered.

(f) At the Student Hearing, the parent/guardian/student or their representative shall be allowed 10 minutes to speak to the School Board concerning the matter and the Superintendent or representative shall be allowed 10 minutes to respond to those remarks.

- (g) When a recommended order is being presented to the School Board for action and no exceptions have been filed, the findings of fact made by the hearing officer shall be considered as fact in the case and the only issues remaining for the School Board to decide are whether expulsion is appropriate and for what term based on the findings of the hearing officer. The Board may, in its sole discretion, modify the findings of fact of the hearing officer despite the failure of both parties to file exceptions.

(6) Exceptions:

- (a) Written exceptions to a recommended order of a hearing officer and any proposed final order shall be filed with the Staff Attorney and served on the opposing party no later than 15 days from the date the recommended order was issued, unless the parties specifically agree to a different time period. The opposing party shall have 10 days from the date the exceptions were served to file a response. Failure to timely file exceptions shall constitute a forfeiture of the ability to do so.
- (b) The transcript shall be filed with the School Board Office at the time exceptions are filed. The party submitting exceptions is responsible for the cost of preparation of the transcript.
- (c) In all cases, all portions of the transcript requested by any party, the hearing officer's recommended order, any exceptions filed thereto, and each side's proposed findings of fact and proposed final orders shall be distributed to the Board members no later than the two business days before the student hearing.
- (d) The official record in a case shall consist of the following:
1. All notice, pleadings, motions, and intermediate rulings.
 2. Evidence admitted.
 3. A statement of matters officially recognized.
 4. Proffers of proof and objections and rulings thereon.
 5. Proposed findings and exceptions.
 6. Any decision, opinion, proposed or recommended order or report by the hearing officer.
 7. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties.

- 184 8. All matters placed on the record after an ex parte communication
185 pursuant to Section 120.66(2).
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- 187 9. The official transcript, if submitted by either party.
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- 189 (e) Options Concerning Recommended Orders of hearing officers:
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- 191 1. The School Board may adopt the recommended order as the final order
192 of the School Board.
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- 194 2. The School Board may reject or modify the conclusions of law and
195 interpretation of administrative rules over which it has substantive
196 jurisdiction in the recommended order. In doing so, the School Board
197 need not have reviewed the entire record, but must state with particularity
198 its reasons for such rejection or modification.
199
- 200 3. The School Board may not reject or modify the findings of fact contained
201 in a recommended order unless the School Board first determines, from
202 a review of the complete record, and states with particularity in the order,
203 that the findings of fact were not based upon competent substantial
204 evidence or that the proceedings on which the findings were based did
205 not comply with essential requirements of the law.
206
- 207 4. The School Board may accept the recommended penalty in a
208 recommended order, but may not reduce or increase it without a review
209 of the complete record. If the School Board increases or decreases the
210 recommended penalty, it must state with particularity its reasons for doing
211 so and cite to the record justifying the action.
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- 213 (f) The decision of the School Board shall be based solely on the record and no
214 School Board member shall consider any matters not contained in the record
215 as a basis for deciding the case.
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- 217 (7) Final Order:
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- 219 (a) The School Board shall enter a final order that rules upon all exceptions filed
220 by a party.
- 221 (b) The Board member presiding over the meeting at which the order is adopted
222 shall execute final orders.
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- 224 (c) Each final order shall contain a statement that judicial review is available under
225 Section 120.68, Florida Statutes, and that the appeal may be taken by filing a
226 notice of appeal with the School Board Office within 30 days of the rendition of
227 the final order.
228
- 229 (d) The Superintendent or designee shall notify the student's parent(s) or legal
230 guardian or the adult student of the official School Board action by certified

mail with reasonable speed and include a copy of the School Board's final order. The notice shall inform the student's parent(s) or legal guardian or the adult student of their right to appeal the School Board's final order to the District Court of Appeal.

(8) This rule shall prevail over any District procedure, which is contrary to or conflicts with these rule provisions.

(9) Students shall not be treated differently with regard to suspensions or expulsions on the basis of their race, color, gender, religion or national origin.

STATUTORY AUTHORITY: 120.57(1), 120.57(2), 1001.41, 1001.42, 1001.43, 1003.31, 1006.08, 1006.09, 1012.28(5), F.S; and SBER 6A-6.0331

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