

STUDENT EXPULSION

JKE-R

General

- A. A suspension pending either an Alternative School Placement meeting or a student disciplinary hearing shall be based on the published disciplinary rules and regulations contained in the Board Policy and Parent/Student Handbook which each student receives. (It should be noted that the Disciplinary Guidelines do not limit the discretion of administrators, and nothing in the Disciplinary Guidelines limits an administrator's authority to deal with offenses not listed.)
- B. A student who has been unsuccessful at the alternative school shall be subject to a student disciplinary hearing before the Board of Education, or before a hearing officer selected by the Board.
- C. The school principal (or his/her administrative designee) shall suspend the student pending a student disciplinary hearing before the Board of Education, or before a hearing officer selected by the Board.
- D. The Board of Education has the right to select a hearing officer who shall listen to the statements and testimony of witnesses and collect any evidence presented as exhibits in the absence of the Board. In such a situation, the hearing officer will generate a report and recommendations to be acted upon by the Board.

Alternative Placement

- A. Alternative Placement
 - 1. Building administrators can refer a student to the Director of Student Services for consideration of an alternative educational placement when a student's behavior is a major disruption to the daily operations of the building. Alternative placement can also be considered for a student if the student is involved in an off campus offense which may have an impact to the safety of the students in school. Alternative placement is in lieu of expulsion from regular programming and is designed to be an intervention as it continues the student's education and provides courses in anger management as well as drug and alcohol counseling. The Sussex County Opportunity Program for Education (SCOPE) is the educational setting for any student who is placed in an alternative program, and the placement shall be for a minimum of 90 days.
 - 2. Building administrators shall suspend the student pending a meeting with the Director of Student Services. At this meeting, the Director shall review the student's offense, attendance, grades, and behavioral history in order to make a determination. The student is expected to be present at the meeting to explain his/her actions.
 - 3. If parents or student (if 18 yrs. old) disagree with the placement in the alternative program, they the Director of Student Services. may appeal the decision to the Superintendent. The appeal shall be made in writing within 3 days of the meeting with the Director of Student Services.

Student Disciplinary Hearings

- A. Scheduling of the Student Disciplinary Hearing
 - 1. After suspending the student and notifying the parents/guardians (if the student is under 18 years of age) of the suspension and the intent to have a student disciplinary hearing, the school principal (or his/her designee) shall notify the Superintendent. Such notification shall include information as to whether police testimony will be requested.
 - 2. The Superintendent (or his/her designee) shall schedule the hearing after consultation with Board members and the Board's attorney.
 - 3. The student disciplinary hearing shall be scheduled no less than ten school or teacher work days nor more than fifteen school or teacher work days after the principal's (or his/her designee's) initial letter notifying parents of the suspension and the pending hearing has been mailed and/or hand-delivered. (The first school or teacher work day after the date on the letter will be day number one of the ten-to-fifteen day time period.) If there is to be police testimony, the Superintendent (or his/her designee) shall notify the Chief of Police as to the

JKE-R

scheduled date, time, and location of the hearing. This is to be done as soon as the hearing has been scheduled.

4. Once scheduled, there shall be no deviation in the date and time of the hearing unless by mutual agreement of the Board's attorney and the student/parent(s)/guardian(s) or their respective attorney (or advisor). Continuances (i.e., postponements) shall not be granted unless upon a showing of good cause by the student/parent(s)/guardian(s) (such as illness, unavailability of legal representative, etc.). The Board also retains the right to postpone the hearing for good cause (such as lack of a quorum, unavailability of legal representative, etc.).
- B. Notice of Student Disciplinary Hearing
1. As soon as the hearing date has been determined, the school principal (or his/her designee) shall cause a dated letter to be mailed by Certified Mail (Return Receipt Requested) and also to be hand-carried by the Visiting Teacher to the student's parent(s)/guardian(s) or to the student, if he/she is 18 years of age or older. The Visiting Teacher shall endeavor to obtain proof of delivery via a written receipt. (The letter shall be mailed on the same date that appears on the letter.)
 2. The letter shall contain:
 - a. a statement of the specific charges (i.e., the specific reasons for recommending expulsion) being made against the student;
 - b. the student's rights (as outlined below);
 - c. the date, time, and location of the hearing; and
 - d. the fact that the hearing will be before the Board of Education (or the Board's attorney who would act as the hearing officer).
 3. Enclosed with the letter will be a copy of these regulations.
 4. The date, time, and location of the hearing shall be posted on the front doors of the Board Room (located in the District Office, 390 North Market Street Extended) and at each of the schools.
 5. The Superintendent shall receive a copy of the letter.
- C. Student's Rights
1. The right to be represented by legal counsel or advisor.
 - a. If the student and/or his/her parent(s)/guardian(s) cannot afford an attorney, they may qualify for free legal services provided by the Community Legal Aid Society, Inc., at Georgetown, Delaware (telephone: 856-0038).
 - b. If the student and/or his/her parent(s)/guardian(s) do not qualify for free or low-cost legal representation but wish to retain an attorney knowledgeable of school law matters, they may contact the Delaware Bar Association's Sussex County Lawyer Referral Service (telephone: 1-800-773-0606).
 2. If the student chooses to be represented by legal counsel, this decision must be communicated in writing at least five school/school district workdays prior to the scheduled hearing. If the student is represented by legal counsel, the principal and/or his/her designee may also choose to be represented by legal counsel. The Board reserves the right to reschedule the hearing to accommodate legal counsel for both the student and the principal/designee.
 3. The right to a public hearing. If the student and/or his parent(s)/guardian(s) choose to have a public hearing, this request must be communicated in writing to the principal at least five school days or teacher workdays prior to the scheduled hearing. If no such request is made, then the hearing will be held in private. Further, where it is anticipated that sensitive matters will be discussed, the Board or hearing officer may still decide to close the hearing.
 4. In the case of a student with a disability, the right to be accompanied and advised by individuals with special knowledge or training with respect to students with disabilities.
 5. The right to make an opening statement
 6. The right to testify in his/her own behalf.
 7. The right to present other witnesses to testify in your behalf.
 8. The right to present evidence.
 9. The right to cross-examine complaining witnesses. An exception to this will be when a particular student witness, in good faith, indicates to the principal, or his/her designee,

that he/she fears reprisal by the person(s) involved in the hearing. In such situations, the principal, or his/her designee, may decide to introduce only the written testimony of the student witness. The Board may exercise its discretion and request that the principal or the designee of the principal provide testimony describing the nature of the particular objections of a potential student-witness.

10. The right to call and examine school officials, including administrative personnel, teachers, and other staff members who participated in the investigation and/or the decision/recommendation for expulsion.
 11. The right to make a closing statement.
- D. Responsibilities of Parents/Guardians and/or Students (if 18 years of age or older)
1. The parents/guardians or students 18 years of age or older must notify the principal in a timely fashion (i.e., at least five school/school district workdays prior to the scheduled hearing) and in writing of their intent to have the student represented by legal counsel or advisor. If the student is represented by legal counsel, the principal and/or his/her designee may also choose to be represented by legal counsel. The Board reserves the right to reschedule the hearing to accommodate legal counsel for both the student and the principal/designee.
 2. The parents/guardians or students 18 years of age or older must notify the principal in a timely fashion (i.e., at least five school/school district workdays prior to the scheduled hearing) and in writing of their intent to request an open, or public, hearing.
- E. Roles and Responsibilities of Those Affiliated with the School District
1. Board of Education: To be an impartial body which listens to the statements and testimony, considers the evidence, asks questions, or to review the report and recommendations of an appointed hearing officer who listened to statements and testimony, etc., in the place of the Board and generated the report and recommendations. Then, in executive session, decides to accept, modify, or reject the recommendations of the school administration or, as appropriate, those of the hearing officer.
 2. President of the Board of Education: To be the presiding hearing officer and conduct the hearing or to designate someone to fill that role.
 3. Attorney of the Board of Education: To provide legal advice to the Board and act as the presiding hearing officer if requested to do so by the Board President. The Board's attorney is not a decision maker relative to an expulsion.
 4. Superintendent: To provide educational advice to the Board and to act as presiding officer if requested to do so by the Board President. The Superintendent is not a decision maker relative to an expulsion.
 5. School Administration: To present evidence (including, as appropriate, the testimony of witnesses) that supports the recommendation for expulsion. To make appropriate recommendations in addition to the one regarding the length of expulsion.
 6. Presiding Hearing Officer
 - a. Conduct the hearing
 - b. Announce that the hearing is being conducted under the provisions stipulated in this regulation.
 - c. Declare the hearing to be open and will inquire as to whether the principal has met the requirements for giving notice of the hearing as stipulated in this regulation.
 - d. Inquire as to whether the principal has received a written request from the student for a public hearing. If not, the hearing shall be a private one.
 - e. Inquire as to whether the student is represented by an attorney or has chosen a representative.
 - f. Explain the student's rights to the student and/or parent/guardian and/or student's attorney/representative, if present.
 - g. Make rulings on the admissibility of evidence.
 - h. Ask each witness: "Do you swear, or affirm, that the testimony you are about to give is true and correct to the best of your knowledge?"
 - i. Make rulings as to the testimony of witnesses when objections are raised.

- j. May limit or refuse to admit cumulative or repetitious evidence and may curtail redundant questioning.
- k. Advise the student and/or parent/guardian and/or the student's attorney/representative, if present that the Board of Education will render a decision and endeavor to provide oral notification of that decision within twenty-four hours if a decision has been reached within such period. Within fifteen school days, a written decision will be forwarded to the student and the student's parent(s)/guardian(s) by Certified Mail (Return Receipt Requested).
- l. Declare when the hearing has ended.
- 7. Principal (or His/Her Designee, as appropriate):
 - a. Provide proper written notification to the student's parent/guardian regarding the suspension pending a student disciplinary hearing.
 - b. Provide proper written notification of the date, time, and location for the student disciplinary hearing to the student's parent/guardian.
 - c. Present the school administration's case against the student.
 - d. Make written as well as oral recommendations regarding the duration of expulsion as well as other conditions.
- F. Conduct of the Hearing
 - 1. The hearing will be conducted under the provisions stipulated in this regulation ("Student Expulsion" [JGE-R]).
 - 2. Where it is obvious that sensitive and private matters concerning staff and students (other than the student who is the subject of the hearing) will be discussed, the final decision as to whether to conduct a hearing in executive session shall rest with the Board.
 - 3. Witnesses may be sequestered at the sole discretion of the Board upon request by a party or upon motion of the Board. An order of sequestration does not apply when a parent or guardian of a student-witness requests permission to be present in the hearing room while his or her child is testifying.
 - 4. Record of the Hearing
 - a. A record of the hearing will be made by a court reporter. This record will be preserved for a period of sixty days (or longer if there is an appeal).
 - b. Upon written request to the Superintendent by the student or his/her parent(s)/guardian(s), a transcript of the hearing will be made available. The cost for the transcript shall be entirely the responsibility of the student or his/her parent(s)/guardian(s). The school district shall bear no expense for the transcript unless the district requests that it be prepared.
 - 5. Evidence
 - a. All evidence is admissible which is relevant, material, reliable, and probative but which is not unduly repetitious or cumulative.
 - b. Any documents introduced into evidence shall be marked and shall be made a part of the record of the hearing. Documents introduced by the school administration shall be marked as "School Exhibit" and all exhibits introduced by the student shall be marked as "Student Exhibit", with the exhibits for each side bearing consecutive numerical designations, such as "School Exhibit 1".
 - c. Strict judicial rules of evidence shall not be applicable and, in each case, the test of admissibility shall be whether the offered evidence is reasonable, relevant to a material factual issue, and whether it has substantial probative value with respect to such material issue.
 - d. Objections to the admission of evidence shall be brief and shall state the ground for such objections. Objections with regard to the form of a question will be considered.
 - e. The presiding officer may limit or refuse to admit cumulative or repetitious evidence and may curtail redundant questioning.
 - 6. Testimony
 - a. All testimony shall be given under oath or affirmation.

- b. Opportunity will be given at the conclusion of the testimony of each witness for the student or the student’s representative or attorney to cross-examine each witness against the student.
 - c. Each Board member, the Board’s attorney, and the Superintendent will have the opportunity to examine each witness.
 - d. The principal and/or his/her designee will be given an opportunity to present any rebuttal to that offered by or on behalf of the student, including the calling or recalling of witnesses to testify in rebuttal.
 - e. Opportunity will be given for cross-examination of each witness by the student or his/her parent/guardian and/or his/her attorney/representative.
 - f. Each Board member, the Board’s attorney, and the Superintendent will have the opportunity to question any rebuttal witnesses.
7. Order of Procedure
- a. School Administration’s Case
 - (1) Charges or evidence against the student will be presented by the principal and/or his/her designee who may make an opening statement, testify to matters within his/her knowledge, introduce evidence, or present other witnesses who will testify regarding the occurrence of the alleged violation or acts.
 - (2) The principal and/or his/her designee shall have the burden of proving by a preponderance of the evidence whether the student is guilty of the conduct charged or alleged.
 - b. Student’s Case

The student or the student’s designated representative or attorney may make an opening statement, testify to matters within his/her knowledge, introduce evidence, or present other witnesses concerning the charges or alleged violation.
 - c. Closing Statements
 - (1) The principal and/or his/her designee will have the first opportunity to make a closing statement which summarizes the evidence. The principal and/or his/her designee will include his/her recommendations regarding the duration of expulsion as well as any other conditions in the closing statement; a written copy of those recommendations is to be presented to the presiding officer.
 - (2) The student or his/her representative or attorney shall have an opportunity (after the school administration) to make a closing statement which summarizes the evidence.

G. Post-Hearing Procedure

- 1. Each decision and order of the Board of Education shall be delivered in writing, with copies to each Board member, the student (if he/she is 18 years of age or older), or if the student is less than 18 years of age, the student’s parent(s)/guardian(s), the student’s representative or attorney, the school principal, and the Superintendent. (A copy of the Board’s decision shall be mailed to the student (if he/she is 18 years of age or older), or if the student is less than 18 years of age, the student’s parent(s)/guardian(s) by Certified Mail, Return Receipt Requested.) Each decision and order shall state the specific disposition of the case with the penalties imposed in the event of a finding of guilt.
- 2. In the event of a finding of guilt and where expulsion is ordered as the penalty, in addition to providing a copy of the Board’s decision to the student or the parent(s)/guardian(s), as appropriate, the Board shall also provide the student or the parent(s)/guardian(s), as appropriate, with information concerning alternative instructional programs not operated by the Seaford School District and shall provide information relating to when and how the student can apply for readmission following expulsion. The student or his/her parent(s)/guardian(s) shall be advised of the student’s right to appeal the decision of the Seaford Board of Education to the State Board of Education by filing a notice of appeal with the Secretary of the State Department of Education within thirty calendar days after receipt of the Board’s decision.

JKE-R

3. In the event of a finding of innocence, the student shall be reinstated without academic penalty in accordance with Seaford School District policies and regulations, as well as school rules and procedures.
- H. Re-Entering
A student who has been expelled from a Seaford School District school must comply with the various parts of the Board's decision during the period of expulsion and will not be considered for re-entry unless he/she does comply. If he/she has complied, then he/she may re-enter school at the end of the period of expulsion by applying to the school principal and adhering to a behavior contingency contract mutually agreed upon by the principal, the student, and his/her parents/guardians. If such contract cannot be mutually agreed upon, then the principal has the authority to create one.
- I. Students Expelled from Non-Seaford School District Schools
Students expelled from non-Seaford School District schools and who have not completed the period of expulsion shall not be enrolled.
- J. Students Who Are Unsuccessful at the Alternative School
A student who has been unsuccessful at the alternative school shall be subject to a student disciplinary hearing before the Board of Education, or before a hearing officer selected by the Board.

EFFECTIVE DATE: 3/17/72

REVISED: 12/21/82, 9/1/85, 2/12/91, 8/28/91, 10/15/91, 4/29/94, 7/1/00, 6/11/01, 12/8/03, 5/13/04, 4/4/06, 6/19/08, 3/08/16