

Disciplinary Tribunal Process

A disciplinary tribunal will be held within 10 school days of any serious violation or numerous violations of the Code of Conduct in which the Principal believes that a suspension of more than ten days or an expulsion is appropriate. These violations typically fall in the Level III category in the Code of Conduct but can also include repetitive Level I and Level II behaviors.

Hearing Officer

Disciplinary tribunals will be conducted by an independent Hearing Officer. The Hearing Officer will serve as the presiding officer and may rule on issues of procedure and admissibility of evidence presented during the tribunal. The Hearing Officer will determine if the student violated the Code of Conduct; and if the Code was violated, imposing appropriate disciplinary action. The maximum penalty that can be imposed by a Hearing Officer is permanent expulsion. Permanent Expulsion means that the student may not attend school, a school function, or be on school property (including extensions of school property).

Notice:

The School shall provide written notice of the relevant procedures to the student's parent/guardian. The notification shall include the following:

1. A brief statement of the act(s) student is alleged to have committed, along with the portion of the Code of Conduct allegedly violated.
2. The maximum penalty which may be administered for the alleged misconduct, and a recommendation for discipline.
3. A copy of this tribunal process.
4. The date, time and place of the hearing.
5. The names of witnesses expected to be called at the hearing and a short summary of evidence that may be presented.
6. A statement that a hearing is required unless the student's parent/guardian waives the hearing.
7. A statement that at the hearing the student is entitled to be represented by an advocate (spokesperson) of his/her choice, including an attorney if so desired; and that the student may subpoena witnesses and utilize other compulsory process upon request.
8. A statement that all parties are afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses.

The notice of hearing shall be delivered to the student's parent/guardian either in person, by first class mail, certified mail return receipt requested, and/or delivery confirmation, to the last known address of the parent/guardian. If notice is delivered in person, a written confirmation of delivery should be obtained by the person delivering the notice. Service shall be deemed to be perfected when the notice is deposited in the United States mail with sufficient postage addressed to the last known address of the student/parent/guardian.

Continuance:

If good and sufficient cause exists, the Principal may reschedule a hearing. Upon rescheduling, written notice of the rescheduled date and time of the hearing will be sent to the student's parent/guardian/representative either in person, by first class mail, certified mail return receipt requested, and/or delivery confirmation.

The student's parent/guardian/representative may request a continuance of the hearing from the Principal. Continuances should be requested no later than 24 hours in advance of the scheduled

hearing date and time. Extenuating circumstances should be presented for approval. If a continuance is requested or caused by the student's parent/guardian or representative, the student will continue to serve his/her recommended School level discipline during the time of the continuance and until the hearing is conducted and the Hearing Officer has rendered a decision.

Waiver of Hearing:

The formal tribunal may be bypassed if the school, the student and a parent/guardian agree that the student is guilty of the charges; that the disciplinary action proposed by the school is appropriate; and that the parent/guardian will waive the student's right to a hearing. Such agreement must be reduced to writing in a formal *Tribunal Waiver Agreement* that clearly states that the student admits guilt to the charges, that all parties agree to the consequences, and that the parent/guardian and student clearly waive the right to a hearing. A signed *Tribunal Waiver Agreement* will be presented to the Hearing Officer to determine if the Hearing Officer is willing to accept the agreement as its decision. If the tribunal adopts the agreement as its decision, the decision becomes final and cannot be appealed by the School or the student's parent/guardian. If the agreement is not adopted as the decision of the tribunal, the Tribunal Waiver Agreement will become null and void, all parental rights will be restored and a new hearing date and time will be established.

Procedural Objections:

Objection to the sufficiency of the notice and/or other procedural objections shall be waived unless written notice thereof is filed with the School no less than 24 hours prior to the time the tribunal is scheduled to begin. The tribunal may be postponed until such defects have been removed or remedied.

Hearing Process

The Hearing Officer will meet at the appointed time and place to review the case. At this time, the Principal or designee will present the facts of the case against the student as well as the reason for the recommendation. The Principal/designee, the School's attorney, the student's parent/guardian or representative, and the Hearing Officer are entitled to question witnesses about any matters which are relevant to the charges against the student or the appropriate discipline. The Hearing Officer has the authority to limit unproductively long or irrelevant questioning.

The student's parent/guardian, or other appointed representative present for the hearing, will be able to ask questions and present arguments against the recommendation. The burden of proof is a preponderance of the evidence (more likely than not) and shall be on the School. The proceedings will be tape recorded for review by the school's Governing Board in the event that the tribunal's decision is appealed.

Legal Representation at the Disciplinary Tribunal:

If the student is represented by an attorney, the School's attorney will be present. The student's parent/guardian must notify the Principal not less than 48 hours prior to the tribunal if the student may be represented by an attorney. Failure to give such notice can result in the tribunal being continued so the School's attorney may be present.

Appeals:

Any party may appeal the tribunal decision to the school's governing board by filing a written notice of appeal within twenty (20) calendar days of the date of decision. The appeal should be addressed to the attention of the school's governing board Chair and delivered to the Principal. Appeals via email alone may be accepted but appealing parties must confirm receipt with the Principal within the 20 calendar day appeal timeline. Appeals by the Principal must be approved by

the Board Chair. Upon the appeal of a decision of the Hearing Officer, the Governing Board will render its decision within 10 school days from the date the school's governing board receives notice of the appeal, unless all parties agree to a different date. The decision shall be in writing and a copy shall be provided to the student/parent/guardian, and the Principal. The Governing Board may take any action it deems appropriate, and any decision of the Board is final. The Board may not impose a punishment that is harsher than that imposed by the Hearing Officer without an explanation of the harsher punishment. Imposing a harsher penalty without stating any reasons is a denial of due process.

The tribunal and any appeals will be closed as required by state and federal law. The parties shall have the right to be represented by legal counsel during the appeal.

*Reviewed by Rob Fortson, PCA Governing Board legal counsel 7/16/18