

**DISCIPLINE HEARINGS and APPEALS GUIDE**  
**SCHOOL YEAR 19-20**



Every student is expected to follow rules and regulations of the school's behavior guidelines as outlined in the District Handbook.

When a student is believed to have violated school's behavior guideline, the school administration will conduct an investigation into the alleged misconduct. If the school administration determines that the student has violated a rule and has sufficient evidence to charge the student for the misconduct, the administrator will issue a consequence. In some cases, the administration will refer the student to a disciplinary hearing. Student disciplinary hearings are conducted when the school believes a student has violated the behavior guidelines and a suspension or expulsion should be considered.

If this is the case, the administration will attempt to contact the student's parent or guardian to discuss the incident and advise of the date and time of the scheduled hearing.

**Suspension days while awaiting hearing:** Students may be suspended from school until the time of the hearing (normally 7-10 school days) and will not be allowed to attend class connects, small group sessions, learner conferences, or any school related events. Student's account will be locked at the time of suspension.

**Why a hearing:** According to state law, the school principal can only suspend a student for up to ten days. However, some offenses warrant a suspension of longer than ten days. Only the GCA Board of Education (BOE) can issue a suspension of greater than ten days. As such, the hearing scheduled will be heard by a hearing officer (on behalf of the BOE) who will decide the appropriate consequence for the rule violation(s). If the student is found in violation of the rule(s) at the discipline hearing, student/parent will be informed of the length of the suspension at that time. Also, after the hearing, student will receive a letter of hearing decision.

**Hearing Officers:** Disciplinary Hearings may be conducted by the designated hearing officer or designated hearing panel (which may include the cross section of school administration/leadership. If conducted by a hearing panel, the panel will be composed of three (3) school officials. Panel members and Hearing Officer will be selected from a list prepared by the BOE.

The Hearing Officer/Panel will serve as the presiding officer and will rule on issues of procedure and admissibility of evidence presented during the hearing. The Hearing Officer/Panel, after conducting the hearing and receiving all evidence, shall render a decision based solely on the evidence received at the hearing and shall determine what, if any, disciplinary action shall be taken. Such action may include, but is not limited to, suspension and expulsion.

**Who attends the hearing:** The principal and/or assistant principal will attend the hearing. Additionally, the school may bring witnesses to testify. It is important that both the legal guardian and student attend the hearing so that the student has an opportunity to provide his or her version of the incident. Witnesses are allowed to come and testify on your student's behalf. The names for all witnesses must be provided along with a written summary of evidence that will be presented. An attorney is allowed if the legal guardian decides to choose one. If an attorney is chosen to attend, the hearing officer must be notified not later than 48 hours prior to the date of the discipline hearing in order for the school system to schedule an attorney to be present on its behalf.

**Legal Representation/Involvement of an Attorney:** If the student is represented by an attorney, the Board attorney may be present. The Board attorney shall advise the Hearing Officer as necessary. The student/parent/guardian must notify the designated school official not less than 48 hours prior to the hearing if the student may be represented by an attorney. Failure to give such notice can result in the hearing being continued so the Board's attorney may be present.

**Presentation of Evidence:** The evidence for the school and student/student representative (if present) shall be presented to the Hearing Officer. The administrator representing the school, the Board attorney, the student's 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.

**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 designated school official. Discipline no less than 24 hours prior to the time the hearing is scheduled to begin. The hearing may be postponed until such defects have been removed or remedied.

**How does this begin:** When a major rule violation occurs, the principal (or assistant principal) schedules a discipline hearing through the Office of the Head of School. The principal or assistant principal will attempt to contact legal guardian to discuss the incident and notification of the date and time of the hearing. Shortly after that, the school will forward (e-mail and certified mail with return receipt) information including the following:

- Notice of suspension
- Location of the Hearing
- A copy of the Behavior Guidelines
- Procedures/phases that will be followed for conducting the discipline hearing including rights involving the hearing

The hearing is conducted in three phases.

- **Phase I** is the evidentiary phase. The school and the student may present evidence and/or call witnesses to testify concerning the alleged misconduct. The hearing officer will

determine if the student has violated school rules. If the student has not violated any school rules, the student would return to school the next day. However, if the student has violated school rules, the hearing will move to Phase II.

- **Phase II** is the records phase where the school's representative presents any relevant records such as, the student's grades, attendance, and discipline history.
- **Phase III** is the final stage where the student, parent/guardian, and school staff have the opportunity to make final comments and then the hearing officer renders a decision for a consequence.

**Consequences:** Hearing officers have a wide range of consequences available to them such as community service, restitution, and additional days of out-of-school suspension. In the most serious cases, a hearing officer may submit a recommendation to the BOE for permanent expulsion. The BOE would then review the case and determine if permanent expulsion is merited. After a student's third disciplinary hearing, most cases are typically submitted with a recommendation to the BOE for permanent expulsion.

**What if one is not in agreement:** Georgia state law affords the principal the authority to suspend a student for up to ten school days. If one disagrees with the initial pending suspension, they should discuss concerns or perspective with the principal or head of schools. If a hearing decision is not agreed upon, an appeal may be submitted to the BOE in writing within 20 calendar days of the hearing. Information regarding your right to appeal will be included in the decision letter.

**Waiver of Hearing:** If the parent/guardian/representative/attorney/student age 18 or older waives the hearing, they may do so by requesting a waiver from the designated hearing officer prior to the notified date and time of the hearing. If no waiver request is received, or if the hearing may not be waived by the student's parent/guardian/representative/attorney/student age 18 or older, the hearing will be held as scheduled, whether or not the student/parent/guardian/representative/ attorney chooses to participate.

**Appeals:** Any party may appeal the hearing decision to the BOE 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 Superintendent and delivered to the designated hearing officer.

Appeals by administration must be approved by the Head of School. The Head of School shall have the authority to suspend the decision of the disciplinary hearing officer during the period of appeal by the student to the BOE. Upon the appeal of a decision of the disciplinary hearing officer to the BOE, the BOE will render its decision within 10 days, excluding weekends and public and legal holidays, from the date the Board receives notice of the appeal. The decision shall be in writing and a copy shall be provided to the student/parent/guardian, the Principal, and Head of School.

The BOE will discuss the appeal in Executive Session. The parties shall have the right to be represented by legal counsel during the appeal. The BOE's review will be based solely on the record and written arguments submitted by the student and the principal (school administration), if briefs are submitted. The BOE shall not hear any oral arguments as part of any

appeal nor shall it consider any evidence that was not presented at the disciplinary hearing. The BOE may take any action it deems appropriate. Any party may appeal the BOE's decision to the State Board of Education pursuant to O.C.G.A. §20-2-1160 (b) through (f) and regulations of the Georgia Board of Education governing such appeals. If an appeal to the State Board is requested, a written transcript of the disciplinary hearing will be prepared and submitted to the State Board as provided in this Rule. The decision of the BOE will not be suspended during the State Board appeal period.

**Record of Proceedings:**

- a. A verbatim record of the hearing shall be made and shall be available to all parties upon request. The cost of recording shall be borne by the School. Parents/guardians/student's legal counsel may request a copy of the recording.
- b. A written transcript will be prepared by the School if the BOE so requests; or if the decision of the BOE is appealed to the State Board of Education.

**Burden of Proof:** The burden of proof is a preponderance of the evidence (more likely than not) and shall be on the school.

**Students with Disabilities:**

Nothing in this Code of Conduct shall be construed to infringe on any right provided to students pursuant to the Federal individuals with Disabilities Education Act, Section 504 of the Federal Rehabilitation Act of 1973, or the Federal Americans with Disabilities Act of 1990.

Any student who is receiving special education services or has been identified as a student with a disability under the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act, and whose acts are determined by the, Disciplinary Hearing Officer to have violated any of the rules, regulations or laws as alleged, shall be referred to an IEP or Section 504 committee. The IEP or Section 504 committee is responsible for determining if the student's conduct is a manifestation of his/her disability and whether such conduct warrants a change in placement or amendments to the Individual Education Plan (IEP) or 504 Plan.

If the IEP or Section 504 committee determines that the student's conduct is a manifestation of the student's disability, the discipline ordered by the disciplinary hearing officer will not be carried out.

If the IEP or Section 504 committee determines that the student's conduct is not a manifestation of the student's disability, it shall determine what services the student shall receive during the student's discipline as determined by the disciplinary hearing officer. If the Section 504 committee determines that the student's conduct is not a manifestation of the student's disability, the student's 504 Plan will be implemented at the new location of educational services if the Disciplinary Hearing Officer recommends alternative school placement. The IEP or Section 504 committee shall also have the authority to consider, recommend and implement any changes in the student's IEP or 504 Plan or educational

placement. Nothing in this rule shall alter or adversely affect the rights of students with disabilities under applicable federal and state laws.

Resource contributions: Gwinnett & Fulton County Schools disciplinary references.