

EXPULSION OF STUDENTS

5.120

The school principal may recommend, to the Superintendent, the expulsion of any student who has committed a serious breach of conduct including, but not limited to: willful disobedience; open defiance of authority of a School Board employee; violence against persons or property or any other act which substantially disrupts orderly conduct of the school; and, any Level III and/or IV violation of the *Code of Student Conduct*. The school principal or designee shall recommend to the Superintendent, the expulsion of any student who has violated School Board rules which require expulsion. Mandatory expulsion includes, but is not limited to giving or selling intoxicating beverages, controlled substances, drugs, or counterfeit drugs to any person on school grounds or at any school-sponsored activity; threatening or using a weapon against any person; any felonious act; conviction of a felony; and any second offense of possessing or under the influence of intoxicating beverages, controlled substances, drugs, or counterfeit drugs on school grounds or at any school-sponsored activity.

- I. The following 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 expelling a student from the school principal or designee who is directly charged with the supervision of the student concerned. These recommendations shall be submitted in writing to the Superintendent by the individual and shall indicate the grounds for the recommendation. The student's parent(s), as defined by Florida Statutes, or the adult student shall be notified in writing to inform them of the recommendation and to provide a reasonable opportunity to meet with the principal to discuss the recommendation and shall receive a copy of the recommendation submitted to the Superintendent. Such notification shall be sent by certified mail or by regular mail if the parent(s) or the adult student has been notified in person.
 - B. A preliminary investigation shall be conducted in accordance with the following:
 1. The Superintendent shall direct an investigation based on the school's recommendation within five (5) school days of receipt of a recommendation for expulsion. The student's parent(s) or adult student shall be informed that the investigation is being conducted in a manner reasonably calculated to notify them. The Superintendent or designee may extend an existing school suspension pending the results of the investigation when

reasonable belief exists that the student's return to school or continued attendance at school is detrimental to the student, school staff, and other students or tends to interrupt the orderly conduct of the educational process.

2. The Superintendent shall inform the student's parent(s) or adult student by certified mail of the suspension or extended suspension. If requested, the student's parent(s) or adult student shall be given a hearing with the Superintendent or his/her staff to challenge the extension or imposition of a suspension. Such hearing shall be informal in nature and shall be granted upon an oral or written request.
3. All interested parties shall be immediately informed in an appropriate manner when the Superintendent's investigation reveals that no reasonable basis exists for an expulsion recommendation to the School Board. The student shall immediately be readmitted to school with no penalty imposed for absences related to the investigation; this does not include the initial school suspension if reasonable in nature. Student records shall be properly annotated to indicate that grounds for expulsion were insufficient.
4. All necessary school personnel shall cooperate in the investigation. Inquiries shall be made into alternatives to expulsion before further proceedings are initiated. The student's parent(s) or adult student shall be informed of any feasible alternatives and appropriate changes shall be made in the student's assignment or program to avoid expulsion proceedings. Any changes shall be based upon sound educational reasons and upon a reasonable belief that such a change will alleviate the problems leading to the school expulsion recommendation.
5. The Superintendent may develop routine procedures and forms for gathering data relating to expulsions. Such forms and procedures shall be internal administrative matters.
6. Investigations shall be conducted with deliberate speed, considering the nature of the facts underlying the school's recommendation and the characteristics of the student and his/her program.

C. Charges and the notice of the right to a hearing shall be governed by the following:

1. Charges shall be made when a preliminary investigation is completed and there is reason to believe grounds exist for expulsion. The basis of the charges shall be specified with the Superintendent's recommended action, including specific allegations of fact to support the recommendation.
2. Charges shall be served upon the student's parent(s) or adult student in a manner reasonably calculated to inform him/her of the charges. Certified mail addressed to the last known address of the parent(s) or adult student shall be considered sufficient notice.
3. The student's parent(s) or adult student shall be notified, in writing, of a proposed hearing date and of the right to an administrative hearing, in accordance with the provisions of Chapter 120.57(1), Florida Statutes, before the School Board, if they desire to dispute the material allegations of fact contained in the charges and the recommendation of expulsion. To request a hearing, the parent(s) or adult student shall file a written request for a hearing with the Superintendent's office at the specified address and before a certain date and time identified in the notice. Failure to request a hearing within the specified time, in writing, shall be considered a waiver of the student's right to a hearing to contest the charges.
4. The student's parent(s) or adult student who timely requests a hearing shall be notified in a manner calculated to inform him/her of the time, place, and nature of the hearing, including a statement of the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of the Florida Statutes and State Board of Education rules involved, and specific references to School Board rules.

D. A hearing shall be conducted pursuant to the following:

1. The hearing shall be governed by Florida Statutes relating to administrative procedures.
2. The School Board chairperson may direct the Superintendent, an administrative staff member, or the School Board attorney to present the evidence and testimony to the School Board in support of the Superintendent's recommendation for expulsion.

3. Reasonable flexibility in method or order of presentation shall be permitted. No parent or adult student shall be prohibited from presenting reasonable matters to the School Board because of unsubstantiated procedural irregularities.
 4. No parent or adult student shall be prohibited from being represented at the hearing by an adult, whether as legal counsel or qualified representative.
 5. The School Board shall be the finders of fact and shall make conclusions of law based on competent substantial evidence presented at the hearing. Nothing herein shall prevent the School Board from seeking the advice of counsel of the attorney assisting it at the hearing. The School Board may indicate its finding of facts and conclusions of law to a School Board employee who shall write a final order for submission to the School Board for approval or modification.
- E. Any student who is being considered for dismissal shall be accorded due process of law prior to dismissal. This shall include the following:
1. A written copy of the charges against the student;
 2. The offer of a hearing at which the student may call witnesses and present evidence in the student's own behalf;
 3. The right to cross-examine witnesses;
 4. The right to defend the student's actions;
 5. Legal counsel at the student's expense to assist the student in presenting a defense; and,
 6. A written copy of the School Board's findings or action.
- F. The following shall apply to informal proceedings on undisputed facts:
1. The student's parent(s) or the adult student may request, in writing, that an informal proceeding be conducted before the School Board when the facts alleged in the charges, upon which the Superintendent's recommendation is based, are not disputed. The student's parent(s) or the adult student shall file a written request for

informal proceeding before a date and time certain with the Superintendent's office as provided in the notice. Failure to timely file a written request for an informal proceeding shall be deemed a waiver of the student's rights to an informal proceeding before the School Board.

2. Notification of the right to informal proceedings shall be given in the same manner as in the notice of right of hearings of disputed fact. The Superintendent, acting for the School Board, may establish a date for the informal proceeding to provide timely information on proceedings of the charges. Acceptance of the informal proceeding date by the student's parent(s) or the adult student shall be deemed waiver of the notice requirements as to time. The hearing shall not be held in a manner calculated to cause inadequate preparation time. Fourteen (14) days shall be deemed sufficient preparation time unless an objection is timely raised; the days shall be calculated from the day immediately following the actual personal notice or posting of the notice by certified mail.
 3. An informal proceeding shall be held before the School Board on the date proposed in the notice of right of informal proceeding when a timely request for an informal proceeding is filed. At the informal proceeding before the School Board, the student's parent(s), the adult student, or the legal counsel or representative may present written or oral evidence in opposition to the Superintendent's recommendation for expulsion. The School Board shall consider any oral testimony or written statements submitted by the parties and render a final order in the same manner as in formal hearings of disputed fact.
- G. The Superintendent shall notify the student's parent(s) 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 the adult student of his/her right to appeal the School Board's final order to the District Court of Appeal.
- H. Other provisions for dismissal proceedings shall include the following:
1. The School Board may establish a set hearing time for routine consideration of matters of expulsion.
 2. No student shall be allowed to make up work missed for credit while under suspension except for nine (9) weeks and semester

examinations. These examinations shall be made up within five (5) days at a time designated by the principal.

3. Any student who commits an act on school grounds or on a school bus which results in suspension during the last week of school shall be suspended for the remaining number of days of the suspension period when school opens the following year.
 4. Any student who is suspended for the fourth (4th) time in a school year may be referred to the Superintendent for possible expulsion. After a student receives the third (3rd) suspension, the principal shall notify the parent(s) or legal guardian by telephone, conference, or by certified letter and explain the next suspension may result in a recommendation for dismissal. In all cases, telephone conferences shall be documented in writing.
- I. A student who is expelled from the District by School Board action shall not be afforded a rehearing before the School Board unless prior evidence is proven to be false or new evidence is substantiated that was omitted from the original hearing. A request for rehearing shall be made by the parent(s) to the Superintendent or designee. The Superintendent's office shall determine whether the expulsion shall be reheard by the School Board.
 - II. The Superintendent may recommend to the School Board expulsion of a student who is found guilty of a felony. Provided, however, any student subject to discipline or expulsion for the unlawful possession or use of any substance controlled under chapter 893, Florida Statutes, shall be entitled to a waiver of the discipline or expulsion if he/she divulges information leading to the arrest and conviction of the person who supplied such controlled substance or if he/she voluntarily discloses the unlawful possession of such controlled substance prior to arrest.
 - III. Provisions for the expulsion of exceptional education students shall be described and set forth in the *Code of Student Conduct*.
 - A. The dismissal of an exceptional education student shall not result in a complete cessation of educational services; the District is responsible for providing the dismissed student's education during the expulsion in accordance with a revised Individual Education Plan (IEP).
 - B. The following procedures shall be followed for the expulsion of exceptional education students:

1. The principal shall adhere to State Board of Education rules when recommending expulsion of exceptional students and shall be responsible for convening a disciplinary review committee. The disciplinary review committee membership shall comply with State Board of Education Rule 6A-6.0331(2) and shall include, but not be limited to, the District administrator of exceptional students or designee, the school psychologist, the exceptional student education teacher, and the principal or designee. The disciplinary review committee shall review the student's IEP and shall determine whether the student's behavior bears a relationship to his/her exceptionality. A disciplinary review committee that determines the student's behavior is in relation to his/her exceptionality may modify the student's IEP in accordance with current needs and expulsion may not be applied. Procedures in section III.B.3., herein shall apply when a student's conduct does not bear a relationship to his/her exceptionality.
2. An IEP meeting shall be conducted in compliance with State Board of Education Rule 6A-6.0331(3) and in conjunction with the disciplinary review committee meeting. The decision of the disciplinary committee shall be recorded on the IEP and shall be used in determining the adequacy of the current special program and related services. The student's IEP may be revised to reflect:
 - a. A modification of the current special program or an alternative placement;
 - b. An indication that the exceptionality is not a precipitating factor and the student is expected to behave in accordance with the rules established in the District's *Code of Student Conduct*.
3. The principal is responsible for taking appropriate action consistent with School Board rules and the *Special Programs and Procedures for Exceptional Student Education Manual*.
4. The parent(s) or custodian of an exceptional education student shall be provided a copy of the suspension and expulsion procedures regarding discipline of exceptional education students at the initial placement meeting or at the first IEP meeting held in the District.

C. Additional requirements for the expulsion of exceptional education students may be set forth in the *Special Programs and Procedures for Exceptional Student Education Manual*.

IV. This rule shall prevail over any District procedure which is contrary to or conflicts with these rule provisions.

STATUTORY AUTHORITY: 1001.41, 1001.42, F.S.

LAW(S) IMPLEMENTED: 120.57(1), 1000.21, 1001.43, 1001.54, 1003.31, 1006.07, 1006.08, 1006.09, 1012.28, F.S.

STATE BOARD OF EDUCATION RULE(S): 6A-6.0331

HISTORY: ADOPTED: _____
REVISION DATE(S): _____
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