

SPECIAL SERVICES

Student Responsibilities and Rights

Procedures for Hearings and Appeals to School Board

This policy supersedes Policy 2611.8

I. PURPOSE

To establish the procedures to be used by the School Board for handling student hearings and appeals.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

A. Section III. has been revised to state expressly that the School Board will not consider appeals that challenge only peripheral matters such as “other disciplinary consequences.”

B. The type of suspension has been clarified in section III.B.

III. PROCEDURES

This policy shall be the responsibility of the School Board office.

Recommendations by the Division Superintendent for student expulsions as well as other school assignment decisions shall be handled by the School Board as outlined in section III.A.

To be reviewable by the School Board, an appeal must challenge (i) the disciplinary sanction (i.e., the exclusion, the long-term suspension, and or the recommendation for expulsion) or (ii) the disciplinary decision to assign the student to another school or alternative education program, or both. The School Board will not review an appeal that solely challenges “other disciplinary consequences,” such as probationary conditions, community or civic service, periodic drug testing, and restitution. Other appeal procedures are described in sections III.B., III.C., and III.D. The School Board may modify these procedures to accommodate unusual or emergency situations.

A. Hearing on Expulsion Recommendations of the Division Superintendent or His or Her Designee-Involving Expulsion and School Assignment Decisions.

When a recommendation to expel a student from Fairfax County Public Schools has been forwarded by the Division Superintendent or his or her designee to the School Board, that student and/or his or her parent(s), guardian(s), and/or other representative, acting in loco parentis, may request a hearing before a committee of the School Board by forwarding a written request to the clerk of the School Board

within four workdays of notification of the expulsion recommendation. The clerk's contact information is:

Clerk, Fairfax County School Board
Gatehouse Administration Center
8115 Gatehouse Road, 5th Floor
Falls Church, VA 22042
Phone: 571-423-1075
Fax: 571-423-1067

In instances when the parent, guardian, or other representative does not request a hearing, the full School Board may consider the expulsion recommendation solely on the basis of information provided by the Division Superintendent or his or her designee or staff members at a closed meeting.

Appeals of a school assignment decision by the Division Superintendent's designee resulting from a school's expulsion recommendation or from a school's recommendation for reassignment to an alternative educational program shall be considered by the School Board on the written record.

1. School Board Hearing Committee

Hearings on student expulsion recommendations shall be conducted by a hearing committee of three School Board members, one of whom shall serve as the chairman of the committee.

Following the receipt of a request for a hearing, the clerk of the School Board shall establish the specific hearing date and time.

2. Procedures for Hearing by a Three-Member Committee

The School Board hearing committee shall conduct its proceedings in accordance with the following rules, unless modified in a given case:

- a. Each hearing shall be conducted as an administrative hearing. An official record of the hearing shall be made by a court reporter or by such other means as the School Board hearing committee may determine for a specific hearing.*
- b. The Division Superintendent or his or her designee may appear at a hearing, be heard, and present testimony of witnesses or other evidence relevant to the recommendation.
- c. The student and/or his or her parent(s), guardian(s), and/or other representative may appear at the hearing with or without counsel or a

* The student and his or her parent(s), guardian(s), and/or other representative may contract with the court reporter to have a transcript of the official record prepared at their expense, if desired.

representative, be heard, and present testimony of witnesses and other evidence to the committee.

- d. The right of cross-examination of witnesses who attend the hearing shall be afforded to each party and to the School Board committee members.
- e. The student and/or his or her parent(s), guardian(s), and/or other representative may make a request that school personnel directly knowledgeable about the facts of the case be present, and such a request shall be conveyed to the requested staff member(s). Such personnel may choose to appear at the hearing, may decline the request to appear, or may, if they want, submit written statements in lieu of attending.
- f. The hearing shall be conducted by the hearing committee in closed meeting.
- g. The hearing committee shall determine whether witnesses shall be excluded from the hearing except while testifying.
- h. All questions of admissibility of evidence shall be determined by the chairman of the hearing committee and shall be binding unless overruled by a majority vote of the hearing committee.
- i. If necessary, the hearing may be continued from time to time until concluded.
- j. The parties may submit a written statement of facts to the hearing committee prior to, or at the beginning of, the hearing, and each party is encouraged to limit the presentation to 30 minutes.
- k. The procedure to be followed in the oral hearing shall be as follows:
 - (1) Opening statement by each party or his or her counsel or representative.
 - (2) Presentation of witnesses and other evidence on behalf of the Division Superintendent.
 - (3) Presentation on behalf of the student.
 - (4) Presentation of rebuttal evidence and testimony by each party if necessary.
 - (5) Closing statement on behalf of the Division Superintendent.
 - (6) Closing statement on behalf of the student.
- l. The student and his or her parent(s), guardian(s), and/or other representative shall be notified in writing of the decision of the hearing committee.

- m. The decision of the hearing committee shall be by majority vote. If the decision of the hearing committee is not unanimous, the student and his or her parent(s), guardian(s), and/or other representative shall be informed that the decision may be appealed in writing to the full School Board by using the procedures set out in section III.A.3.
- n. Failure of the student and/or his or her parent(s), guardian(s), and/or other representative to attend a scheduled hearing shall not prevent the hearing committee from considering the recommendation of the Division Superintendent or his or her designee and making a decision.

3. Written Appeals to the Full School Board From Hearing Committee Decisions

Unanimous decisions of the three-member hearing committee may not be appealed to the full School Board.

Any appeal to the full School Board from a decision of a hearing committee that has not been determined by unanimous vote shall be in writing and shall be directed to the clerk of the School Board within four workdays after notification of the committee's decision. The written appeal should briefly explain why the decision of the hearing committee should be reversed or modified and should have attached any documents that explain or support the appeal. The clerk shall record the date the appeal is received and provide copies of the appeal to the Division Superintendent or his or her designee.

The Division Superintendent or his or her designee shall present his or her position in writing to the School Board within four workdays after receiving the appeal. The clerk of the School Board shall provide a copy to the party making the appeal, who shall have three workdays to deliver to the clerk of the School Board any response to the Division Superintendent's position. The School Board, if possible, shall consider the written appeal and the written response of the Division Superintendent at its next meeting or at such other time as is practicable, shall decide the appeal within 30 days of receipt, and shall inform all parties of its decision.

B. Appeals of Long-term Suspensions

The School Board does not consider appeals of suspensions of ten school days or less, as authorized by section 22.1-277.04 of the Code of Virginia. The decision of the Division Superintendent or his or her designee regarding such suspension appeals shall be final.

An appeal resulting from a decision by the Division Superintendent or his or her designee to extend a student's suspension for more than ten school days, in conjunction with a recommendation for expulsion by the Division Superintendent, or his or her designee, shall be considered by the School Board as part of the expulsion hearing unless the School Board, at its discretion, decides to consider the extended suspension as a separate issue. An appeal resulting from a decision by the Division Superintendent or his or her designee to extend a student's suspension for more than

ten school days, when expulsion has not been recommended by the Division Superintendent, or his or her designee, will be considered by the full School Board on the written record. Such appeals shall be decided within 30 days of receipt.

C. Appeals of Exclusions From the School System

An appeal resulting from a decision by the Division Superintendent or his or her designee, after a hearing, to exclude a student as authorized by law shall be considered by the School Board on a review of the record, according to the procedures in section III.D.

D. Written Appeals From Decisions of the Division Superintendent or His or Her Designee

Appeals to the School Board pursuant to sections III.A., III.B., and III.C. resulting from decisions of the Division Superintendent or his or her designee, where permitted, shall be in writing and shall be directed to the clerk of the School Board within four workdays of notification of the decision.

The written appeal should state the reasons why the decision of the Division Superintendent or his or her designee should be reversed or otherwise modified and should have attached any documents that explain or support the appeal. The clerk of the School Board shall record the date of receipt and provide copies of the written appeal to the members of the School Board and to the Division Superintendent or his or her designee. The Division Superintendent or his or her designee shall present the administration's position in writing to the School Board within four workdays after receiving the appeal. The clerk of the School Board shall provide a copy to the party making the appeal, who shall then have three workdays to send the clerk of the School Board any response to the Division Superintendent's position. The School Board shall consider the written appeal and all written responses at the next regular business meeting or at such other time as is practicable and shall inform all parties of its decision.

E. Petitions for Readmission

Students who are expelled and who are not permitted to return to regular school or to attend any alternative education program during the expulsion may petition for readmission to be effective one year after the date of expulsion. In order to be timely, a written petition for readmission, along with a copy of the School Board's expulsion decision, must be filed with the Division Superintendent's Hearings Office no earlier than eight months, but not later than ten months, after the date of expulsion. The Hearings Office may, at the discretion of the hearing officer, hold a hearing and shall issue a decision prior to the expiration of the one-year expulsion period. An untimely petition may result in a delayed decision on readmission. Where a petition for readmission is denied by the hearing officer, the student may petition the School Board for review of such denial. A student may reapply annually in accordance with the above schedule.

Notice of the right to petition for readmission, as well as any conditions, shall accompany the expulsion decision.

F. Attendance at Hearings or Appeal Proceedings

When a discussion or consideration of admission or a disciplinary matter concerning a student occurs, that student and legal counsel and, if such student be a minor, such student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents or legal guardians so request in writing, and such request is submitted to the clerk of the School Board.

Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student or students, and the student or students involved in such matter are present, provided such teacher makes a written request to be present to the presiding School Board member or to the clerk of the School Board.

Legal Reference: Code of Virginia, sections 2.2-3711, 2.2-3712, 22.1-277.04, 22.1-277.06, and 22.1-277.2

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