

District: Tupelo Public School District
Section: J - Students
Policy Code: JCAA - Due Process

BOARD POLICY

A student who has been expelled, suspended or otherwise denied admission to attend school for a period of more than ten days has the right to due process only as provided herein and according to law. All aspects, circumstances and records of the student's case shall be confidential and available only to authorized school officials dealing with the student and to the student's parents (or legal guardians) and attorneys for the student and for the Board. The following procedures provide notice and opportunity to be heard in such matters.

Step I: INITIAL INFORMAL HEARING

Applies to: Suspensions of ten days or less (optional)

Suspensions of eleven days or more

Recommendations of expulsion,

Referral to alternative programs, or denials of admission

An initial informal hearing is required in each case where disciplinary action may be taken against a student involving a suspension, expulsion or referral to an alternative program or where an expelled student makes application or readmission following the conclusion of the minimum expulsion period. **Note: In the case of 10 days or less an informal hearing is not required.** After an initial investigation appropriate under the circumstances, the principal, superintendent or designee shall:

1. Advise the student of the charges against him or reasons for nonadmission;
2. Afford the student a full opportunity to respond; and
3. If the student denies the charges or contests the reasons for nonadmission, explain the evidence in support thereof.

After the informal hearing, the principal may take the following actions:

1. Suspension of ten days or less: The principal may suspend the student for not longer than ten consecutive school days and issue a notification of the suspension to the student and parent. The suspension is effective immediately and no further due process is required.
2. Immediate removal: The principal may immediately dismiss the student from school for the day when such is necessary to restore order, to protect the safety of the student or others and/or to resume normal school functions, ~~but when an immediate suspension is not or may not be appropriate.~~ A student sent home under these circumstances shall be instructed to return the following day with his parent. Should

the student not return as instructed, the principal shall **provide mail** a "Notice of Suspension" for ten days or less, as appropriate.

3. Immediate suspension and recommendation of expulsion: The principal shall immediately suspend a student for ten days or less and recommend expulsion when there is reason to believe that the student committed an unlawful or violent act, as defined or otherwise provided by District policy. The principal or superintendent shall give the student and parent a written notification of the disciplinary action and a statement of the district due process rights. A copy of the notice shall be hand-delivered or mailed to the parent. The suspension shall be effective immediately, pending conclusion of a due process hearing on the recommendation of expulsion.
4. Immediate suspension and recommendation of suspension of eleven days or more/Expulsion: The principal or the superintendent may immediately suspend a student for ten days or less and recommend a suspension of eleven days or more, referral to an alternative program, or expulsion, as appropriate under the circumstances. The principal or superintendent shall give the student and parent a written notification of the disciplinary action and a statement of the district due process rights. A copy of the notice shall be hand-delivered or mailed to the parent. The suspension or referral shall be effective immediately, pending the conclusion of a due process hearing (should a hearing be requested by the student and parent) on the recommendation of long-term suspension or expulsion.
5. Denial of admission: The principal or superintendent may recommend a denial of admission, which shall be effective immediately, pending the conclusion of due process. The principal or superintendent shall give the student and parent a written notification of the disciplinary action and a statement of the district due process rights. A copy of the notice shall be hand-delivered or mailed to the parent.

Step II: DISTRICT DISCIPLINARY COMMITTEE (DDC) HEARING:

Applies to: Suspension of eleven days or more
 Referrals to an alternative program
 Expulsions, or denials of admissions

Should the student and/or parent request a due process hearing, procedures for the hearing will be as follows:

1. The DDC shall be composed of a hearing officer and three panel members chosen from a list of eligible school administrators. Before being eligible to serve on the DDC, panel members will undergo training by the assistant superintendent. The composition of the DDC will be selected in such manner to contain a fair distribution of members.
2. A hearing officer will preside over the hearing and will not vote. Only the three panel members of the DDC will vote and make the recommendations for disciplinary actions.
3. The hearing will be conducted in a relatively informal manner. No person will be admitted to the hearing except members of the DDC, the principal or designee involved, the student and his parents, witnesses, and legal counsel for the District and the student (if any) who may present evidence and cross-examine witnesses presented by the other party. The purpose of the hearing will be to listen to both the student as well as the administrator from the school site and to determine whether the student has committed an act that violates school policy(ies) or state law. The standard of proof shall be substantial evidence.
4. If the DDC determines that the student did not violate school policy(ies) or state law, the student will be allowed to return to school. If the DDC determines that the student

did violate school policy(ies) or state law, then the DDC will recommend the disciplinary action to be imposed.

5. The DDC may recommend (1) the disciplinary action as determined by the principal be upheld, (2) the placement of the student on probation, (3) placement to an alternative school, (4) expulsion, or (5) that no action be taken against the student.

Step III: APPEAL

Applies to: Suspension of eleven days or more
 Referrals to an alternative program
 Expulsions, or denials of admissions

If the parent disagrees with the decision of the DDC, he/she may file a written request for appeal to the superintendent within two (2) working days after receiving the result of the DDC. The superintendent or designee will:

1. Review the information reported by the DDC hearing. This review will be of the record only, and no new testimony or evidence will be received or considered. The superintendent or designee will not be obligated to review anything other than the record.
2. Report back to the appealing party whether he/she concurs with the decision of the DDC or make other recommendations if he/she disagrees with the decision. The review and decision of the superintendent or designee will be made within five (5) working days of receipt of the request for appeal.
3. All recommendations by the superintendent of expulsions or denials of admission shall be subject to review by the Board.

Step IV: REVIEW BY THE BOARD OF TRUSTEES

Applies to: Suspension longer than ten days
 Alternative school placement
 Expulsions

If the parent disagrees with the decision of the superintendent or designee, he/she may appeal to the Board. Such request to appear for appeal must be submitted to the Board within two (2) working days after receiving the superintendent's decision.

The Board shall, at its next regular meeting or a special meeting following the recommendation, review and take final action on all recommendations for expulsions, denial of admission and any requests for review of suspensions. All considerations of student disciplinary actions shall be conducted in accordance with standard Board procedure. The standard of proof shall be substantial evidence. All decisions by the Board shall be final.

DEFINITIONS

Parent: As used in this policy, the term "parent" shall include a natural or adopted parent, a legal guardian or other person having custody of a compulsory-school-age student. Upon reaching age eighteen, a student acquires all the due process rights of parents listed in this policy.

Last Review Date: 5.9.2017

Review History:

Adopted Date: 12/9/2013

Approved/Revised Date: