

STUDENT SUSPENSION/EXPULSION/DENIAL OF ADMISSION REGULATIONS

I. Procedure for Suspension

The following procedures shall be followed for any suspension:

A. Notice Prior to Contemplated Action

1. At the time of the contemplated action, the principal (or his/her designee) shall give the student or the student's parent/guardian notice of the contemplated action.
2. The notice shall contain the following basic information:
 - a. A statement of what the student is accused of doing; and
 - b. A statement of the basis of the allegation, although the names of witnesses may be withheld if necessary to preserve or protect their safety or welfare.
3. The notice may be given orally or in writing with delivery by United States mail, postage prepaid, addressed to the last known address of the student or the student's parent/guardian.

B. Informal Hearing

1. The student shall be given an opportunity to explain his or her position regarding a disruption in the classroom or an incident constituting grounds for discipline.
2. The principal (or his/her designee) may allow the student to present witnesses.
3. The principal (or his/her designee) may consider the testimony of any witness, including the accuser.
4. For Level II disciplinary infractions, the principal (or his/her designee) may suspend the student. For Level III and IV disciplinary infractions, the principal shall suspend the student. Further disciplinary action shall be taken as provided by the conduct and discipline code.
5. There need be no delay between the time notice is given prior to the contemplated action and the time of the informal hearing.

C. Notice Following Suspension

1. If a student is suspended the principal (or his/her designee) shall immediately notify the student and the student's parent/guardian. The notice shall contain the following basic information:
 - a. The grounds for the suspension;

b. The duration of the suspension;

c. An explanation of the statutory alternative to suspension (the "suspension alternative") as follows: With the consent of the student's teacher or the majority of the student's teachers, if there is more than one, the parent/guardian must attend class and all related school activities during the academic day with the student for a period of time specified by the principal (or his/her designee). Teachers who disagree with allowing parents/guardians to attend class will be given the opportunity to exclude that student from that class for the period of suspension. If the student has more than one teacher, and one or more of the teachers choose to exclude the student from class, the teachers who exclude the student from class are required to provide class work for the student for the period of suspension, and a work area will be provided by the school to complete work for the classes from which the student is excluded. If the parent/guardian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the Colorado Springs School District 11 Board of Education's (the Board's) policies and procedures;

d. A time and place for the student's parent/guardian to meet with the principal (or his/her designee) to review the suspension; and

e. Whether the suspension will be counted toward declaring the student as habitually disruptive.

2. The names of witnesses may be withheld from the notice if necessary to preserve or protect their safety or welfare.

3. The notice may be given orally or in writing with delivery by United States mail, postage prepaid, addressed to the last known address of the student or the student's parent/guardian.

D. No Notice and Informal Hearing--When Allowed

Notice and an informal hearing need not be given prior to a student's removal from school where an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the student's removal as practicable.

E. During the Suspension Period

1. A student who is suspended shall be required to leave the school building and school grounds immediately after a determination by the parent/guardian and the principal (or his/her designee) as to the best way to transfer custody of the student to the parent/guardian.

2. Any student under the suspension alternative will be allowed on the school grounds during the academic day but will not be allowed to attend any school or Colorado Springs School District 11 (the District)-sponsored activities.

3. The principal (or his/her designee) shall make every reasonable effort to meet with the parent/guardian during the period of suspension. The meeting shall address whether there is a need to develop a remedial discipline plan for the student in an effort to prevent further disciplinary action.

F. Readmittance

1. No student who has been suspended shall be readmitted to school until the principal (or his/her designee) has met with the student's parent/guardian to review the suspension, or until, in the discretion of the principal (or his/her designee), the parent/guardian has substantially agreed to review the suspension with the principal (or his/her designee).

2. If the principal (or his/her designee) is unable to contact the student's parent/guardian or if the student's parent/guardian repeatedly fails to appear for scheduled meetings, the principal (or his/her designee) may, in his/her discretion, readmit the student.

3. The principal (or his/her designee) shall not extend a period of suspension because of the failure of the principal (or his/her designee) to meet with the parent/guardian during the period of suspension.

4. Suspended students shall be allowed to make up work that has been missed because of the suspension. The student's reintegration into the educational program shall be considered when establishing make up work opportunities. A student may earn full credit for all make up work completed during a suspension period

G. Length of Suspension

1. The principal (or his/her designee) may suspend a student for not more than five (5) school days per incident, except that the principal (or his/her designee) may suspend a student for not more than ten (10) school days for any serious violation in a school building or in or on school property including, but not limited to, any Level IV disciplinary infraction.

2. If a principal (or his/her designee) refers a student to the Superintendent (or his/her designee) for further disciplinary action following a suspension, the Superintendent (or his/her designee) may suspend the student for not more than an additional ten (10) school days except as provided below.

3. The Superintendent (or his/her designee) may extend a suspension ten (10) school days in addition to the ten (10) school days provided above if the extension is necessary in order to present the matter to the Superintendent (or his/her designee) or to the next meeting of the Board, although the total period of suspension per incident shall not exceed 25 school days except as otherwise provided.

4. A student who is suspended for less than 10 days may request an informal review of the suspension by the principal's supervisor. A student who is suspended for more than

10 days may request an informal review of the suspension by the reviewing officer (described below).

5. The student and his/her parent/guardian may consent to a longer period of suspension pending further disciplinary action. Consent may be implied based upon the actions or inactions of the student or his/her parent/guardian.

6. Where a student and his/her parent/guardian have not consented to a longer period of suspension and, through no action or inaction of the student or his/her parent/guardian, the Superintendent is unable to render a decision regarding further disciplinary action within twenty-five (25) school days, as provided for in Section G below, the District may, at its discretion, return the student to school, provide the student with alternative educational services, or take such other action as it may deem appropriate, until the Superintendent's decision is rendered. In no event shall the District be required to provide such services for a longer period of time than is necessary for the Superintendent to render his decision.

II. Procedure for Level III and Level IV Disciplinary Infractions

If a student is suspended for a Level III disciplinary infraction, the student may be referred to the Superintendent (or his/her designee) for further disciplinary action. If a student is suspended for a Level IV disciplinary infraction, the student shall be referred to the Superintendent (or his/her designee) for further disciplinary action. The following procedures shall be followed for all Level IV disciplinary infractions, and for any Level III disciplinary infraction for which expulsion is a possible disciplinary action:

A. Notice

1. Not less than ten (10) days prior to the date of contemplated action, the Superintendent's designee (the "hearing officer") shall cause written notice of a due process hearing to be delivered to the student and the student's parent/guardian.

2. The notice must be given in writing, with hand delivery to the student or the student's parent/guardian or delivery by United States mail, postage prepaid, to the last known address of the student or the student's parent/guardian. Placement of the notice in the United States mail, postage prepaid, shall constitute delivery as of the date of mailing.

3. In the event that a shorter period of notice is necessary, notice may be given in writing as provided above less than ten (10) days prior to the date of contemplated action as long as the student or the student's parent/guardian has actual notice of the hearing prior to the time of the hearing and as long as the hearing officer believes in good faith that the student has a reasonable amount of time under the circumstances to prepare for the hearing.

B. Contents of Notice

The notice shall contain the following basic information:

1. A statement that the hearing officer will conduct a hearing on whether further disciplinary action, including expulsion, should be taken;
2. A summary of what the student is accused of doing;
3. A statement of the date, time, and place of the hearing;
4. A statement that the student may be present at the hearing and hear all evidence against him/her, and that the student may be accompanied and/or represented by his/her parent/guardian or an attorney or both;
5. A statement that (a) if the student fails to appear personally but is represented by his/her parent/guardian or attorney, the student waives further rights to participate personally in the matter; (b) if the student appears, but his/her parent/guardian or attorney fails to appear personally, the parent/guardian or attorney waives further rights to participate personally in the matter; and (c) the student's failure to appear either personally or through his/her parent/guardian or attorney at a scheduled hearing shall constitute a waiver of further rights of the student and his/her parent/guardian and attorney to a hearing in the matter; and
6. A statement that regardless of who may or may not appear on the student's behalf at a scheduled hearing, the hearing officer may conduct a hearing and take action based on all information that is made available to the hearing officer, which action may include expulsion of the student or other disciplinary action in accordance with the conduct and discipline code.

C. Purpose of Hearing

The purpose of a due process hearing shall be for the hearing officer to determine, based on a preponderance of the evidence, whether further disciplinary action is permissible and, if such action is permissible, to make a recommendation to the Superintendent regarding the appropriate disciplinary action.

D. Conduct of Hearing

1. The hearing shall be conducted by the hearing officer.
2. Technical rules of evidence and procedure shall not apply.
3. In no event shall a hearing be considered public. Further, in the discretion of the hearing officer, the hearing may be closed except to those individuals deemed advisable by the hearing officer, except that the student, the student's parent/guardian, the student's attorney, at least one school official, and the District's attorney shall be allowed to be present at the hearing at all times. Witnesses shall be admitted to a closed hearing to the extent necessary to testify.
4. The hearing officer shall impress upon witnesses that they are to testify truthfully. In the discretion of the hearing officer, testimony may be presented under oath, which shall be

administered by the hearing officer as follows: "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?"

5. The hearing officer shall consider and give appropriate weight to all of the evidence.
6. The hearing officer, the student, the student's parent/guardian, the student's attorney, school officials, and the District's attorney may question witnesses. However, the hearing officer may consider any written statement of a witness, whether or not sworn, even if the witness is unavailable to testify. Further, the name of any such witness may be withheld if necessary to preserve or protect his/her safety or welfare. If the written statement would itself cause such a witness to be identified, it too may be withheld in whole or in part by the hearing officer.
7. The failure of the District to identify the student for participation in an expulsion prevention program or the failure of such program to remedy the student's behavior shall not be grounds to prevent school officials and the hearing officer from proceeding with appropriate disciplinary measures or used in any way as a defense in the hearing.
8. The hearing shall be recorded either when the student is represented by an attorney, when the student (or his/her parent/guardian) requests that the hearing be recorded, or in the hearing officer's discretion. Preparation of a transcript from the recording shall be at the expense of the party requesting the transcript.
9. The hearing officer may, in his/her sole discretion, reschedule a hearing, but only upon the condition that the student and his/her parent/guardian consent to a period of suspension which may exceed twenty-five (25) school days.

E. Written Findings of Fact and Recommendation

1. At the conclusion of the hearing, or within such greater time as the hearing officer may determine is reasonable and necessary under the circumstances, the hearing officer shall prepare his/her written findings of fact and recommendations. The hearing officer shall inform the student and the student's parent/guardian and/or attorney of his/her findings of fact and recommendation and shall explain the review and appeal process.
2. All uncontroverted facts shall be part of the hearing officer's findings of fact, whether or not such facts are expressly identified by the hearing officer as "uncontroverted." The hearing officer shall specifically set forth his/her findings with regard to material controverted facts.
3. If the hearing officer recommends expulsion or any other disciplinary action, he/she shall state the grounds therefore in his/her written findings of fact and recommendation.

F. Intermediate Review

1. If the student wishes to have the hearing officer's recommendation reviewed, the student shall submit the recommendation to the reviewing officer, who shall be a designee of the Superintendent.

2. The student shall provide written notification to the hearing officer of his/her intent to have the hearing officer's recommendation reviewed within three (3) school days of the hearing officer's recommendation or such greater time as the hearing officer may allow under the circumstances, which time shall not exceed ten (10) calendar days from the date of the hearing officer's recommendation. The written notice of review is not effective unless the hearing officer actually receives it within the time provided.

3. The hearing officer shall promptly notify the reviewing officer of the request for review. The reviewing officer shall follow the appeals procedures that are set forth in Part II(H) (meaning any reference to the Board shall be replaced by reference to the reviewing officer for the purpose of the intermediate review), except that (i) the reviewing officer may meet with the student, the student's parent/guardian, and the student's attorney, if any, to discuss the matter prior to making a recommendation; (ii) the reviewing officer may discuss the matter with school administrators and/or the hearing officer; and (iii) within five (5) school days of the intermediate review, the reviewing officer shall prepare a written recommendation, shall promptly forward the recommendation to the Superintendent, and may notify the student and the student's parent/guardian of his/her recommendation.

4. The purpose of this intermediate review is to assist the Board and the Superintendent in providing due process to students as fairly and expeditiously as possible within the framework of a large public school district.

G. Superintendent's Decision

1. As soon as possible, and not more than ten (10) school days from the time he/she receives either the hearing officer's findings of fact and recommendations or the reviewing officer's recommendation in the event a review was requested, the Superintendent shall render a written decision.

2. The written decision may incorporate by reference the hearing officer's written findings of fact and recommendations, and/or the reviewing officer's written recommendation.

3. The Superintendent shall advise the student that the student has the right to appeal the Superintendent's decision to the Board.

4. The Superintendent has complete discretion in reviewing any recommendation. The Superintendent may accept, reject, or modify any recommendation. If the Superintendent rejects or modifies any recommendation of expulsion, the Superintendent shall advise the school how the student's absences are to be treated for attendance purposes and whether the school shall allow the student to make-up any or all of the work missed by the student during those absences.

5. The disciplinary action, if any, shall take effect immediately upon the Superintendent's decision.

H. Appeal to the Board

1. A student may appeal the decision of the Superintendent to the Board.
2. To appeal the decision of the Superintendent, the student shall submit to the Board in writing a statement of the reason(s) for the appeal within five (5) school days from the date the Superintendent renders his/her decision.
3. To consider a student's appeal from the decision of the Superintendent, the Board shall consider the following in executive session:
 - a. The student's written statement of appeal, which may include excerpts from any transcript of the hearing;
 - b. The school administration's written response to the student's written statement of appeal, which may include excerpts from any transcript of the hearing;
 - c. All tangible and documentary evidence which was presented at the hearing;
 - d. The written opinion of the Superintendent;
 - e. The hearing officer's findings of fact and recommendation;
 - f. The reviewing officer's recommendation and, if requested by the Board, a written statement by the reviewing officer of any relevant and material information obtained by the reviewing officer in addition to the information contained in the hearing officer's findings of facts and recommendation; and
 - g. Responses to questions of clarification from the Board.
4. The Board shall review the Superintendent's decision using an abuse of discretion standard. The Board shall affirm or reverse the decision of the Superintendent, or the Board may remand the case to the Superintendent (or his/her designee) for further review as it may deem necessary. Upon remand, the Superintendent (or his/her designee) may consider new evidence and the Superintendent may modify his/her decision, if necessary, by issuing a written modification of his/her opinion. The student may appeal the modified decision of the Superintendent to the Board within ten (10) calendar days of the date of the modified decision of the Superintendent.
5. The final decision of the Board on appeal shall be made in a meeting open to the public although the name of the student shall not be disclosed in such a meeting.
6. In rendering its decision on appeal, the Board is not required to issue a statement of reasons for its decision unless and until the student notifies the Board in writing within five (5) calendar days of the Board's decision that he/she intends to appeal the Board's decision to a court of competent jurisdiction, in which case the Board shall issue to the student and the student's parent/guardian a written statement of the reasons for its decision within twenty (20) calendar days of the student's written notice.

7. The Superintendent or the Board may allow the student to return to school pending any review or appeal, or may provide the student with alternative educational services pending any review or appeal, except that a student's suspension shall not exceed twenty-five (25) school days.

8. If the Board reverses the Superintendent's decision, the Board shall advise the school how the student's absences are to be treated for attendance purposes and whether the school shall allow the student to make-up any or all of the worked missed by the student during those absences.

I. Parental/Guardian Rights and Responsibilities Following an Expulsion

1. If a student between the ages of six and seventeen is expelled, his/her parent/guardian shall be responsible for ensuring compliance with the compulsory school attendance law during the expulsion period.

2. Within five days of expelling a student, the Superintendent (or his/her designee) shall notify the student and the student's parent/guardian of any opportunity for the student to apply to a pilot school, provide the student's parent/guardian with an opportunity to copy the student's academic and disciplinary records, and notify the appropriate pilot school, if any, of the student's expulsion.

3. Upon expelling a student, the Superintendent (or his/her designee) shall provide information to the student's parent/guardian concerning the educational alternatives, if any, available to the student during the period of expulsion. If the parent/guardian chooses to provide a home-based educational program for the student, the Superintendent (or his/her designee) shall assist the parent/guardian in obtaining appropriate curricula for the student if requested by the parent/guardian.

4. If a student is expelled for the remainder of the school year, the Superintendent (or his/her designee) shall contact the student's parent/guardian at least once every sixty (60) days until the beginning of the next school year to determine whether the student is receiving educational services; except that the Superintendent (or his/her designee) need not contact a student's parent/guardian after the student is enrolled in another school District or in an independent or parochial school or if the student is committed to the Department of Human Services or is sentenced under applicable delinquency or criminal statutes.

III. Denial of Admission

The procedures that are set forth in Part II shall apply to any decision to deny a student's admission to any school in the District except as follows:

A. The initial decision regarding admission shall be made at the school level by the principal or his/her designee.

B. Notice of a denial of admission may be given either orally to the student and the student's parent/guardian or in writing with delivery by United States mail, postage prepaid, addressed to the last known address of the student or the student's parents/guardian. Placement of the notice in the United States mail, postage prepaid, shall constitute delivery as of the date of mailing.

C. A hearing on the question of denial of admission will be held by the hearing officer only if a hearing is requested by the student or the student's parent/guardian within ten (10) calendar days after the date of the notice, or such greater time as the hearing officer may allow in his/her sole discretion.

IV. Procedure for Disposition other than Suspension, Expulsion, and Denial of Admission

Some disciplinary dispositions result in changes of educational placement whereby students continue to receive a free public education. These dispositions may include the placement of students on homebound tutoring and the transfer of students to other schools or programs within the District. For these dispositions, the District shall provide students with due process that is commensurate at least with the due process provided to students who are suspended. The principal(s) (or their designees) of the schools involved and the student's parent/guardian shall determine the best way to transfer custody of the student. Students with disabilities shall not experience a change in educational placement except as provided by law.

CROSS REFS.: AC, Nondiscrimination/Equal Opportunity
ADC/JICG, Tobacco Free Schools
ECAC Vandalism
GBGB Staff Personal Security and Safety
JBB, Sexual and Racial Harassment/Discrimination toward Students
JH, Student Absences and Excuses
JHD Exclusions and Exemptions from School Attendance
JIC Student Conduct
JICI, Weapons in School
JK Student Discipline
JKD/JKE-2, Disciplining of Students with Disabilities
JKD/JKE-R, Regulations to Policies JKD/JKE and JKD/JKE-2