

A. ADMINISTRATIVE HEARINGS

The rules set out below will govern hearings held by a hearing officer designated by the superintendent to assess misbehavior and appropriate consequences. The purpose of the hearing will be to determine the facts relevant to the alleged misbehavior and the credibility of witnesses, based on the evidence presented at the hearing.

1. The hearing will be informal and conducted in private.
2. Prior to the hearing, the student and his or her parents and representative will have an opportunity to review any audio or video recordings of the incident and, consistent with federal and state student records laws and regulations, the information that may be presented as evidence against the student, including statements made by witnesses whose names are withheld in accordance with number 5, below.
3. The hearing may be attended by the hearing officer, the superintendent, the principal and/or assistant administrators, and any persons the hearing officer deems necessary. The student has the right to be present at the hearing, to be accompanied by his or her parents, and to be represented by an attorney or non-attorney advocate. Witnesses should be present only when providing information.
4. The school representatives have the burden of proving the misbehavior; the violation of board policy, the Code of Student Conduct, school standards, or school rules; and the appropriateness of the recommended consequence for the violation.
5. The school representatives will present the witnesses and documentary evidence against the student first. School officials may withhold witness names or other identifying information if identification of a witness could threaten the witness's safety.
6. After the school representatives have presented their evidence, the student or his or her representative may present evidence relating to the alleged disciplinary infraction, the student's intent at the time of the incident, any mitigating or aggravating factors involved, the disciplinary and academic history of the student, and the potential benefits to the student of alternatives to suspension. Such evidence may include oral testimony by witnesses, written statements, and other documents. The student may testify or may remain silent without penalty.
7. Both the school representatives and the student or his or her parent or representative may examine the witnesses presented by the other side. The hearing officer has the authority to limit questioning by any person if the

questioning is unproductive, unnecessarily lengthy, repetitive, or irrelevant.

8. In reaching a determination in the matter, the hearing officer shall consider the documents produced in the hearing, the testimony of the witnesses, and other evidence presented at the hearing. The hearing officer shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. If the hearing officer determines that a violation occurred, the hearing officer also shall determine the appropriateness of the recommended consequences for the violation. Formal rules of evidence do not apply, and the hearing officer may rely on evidence that a reasonably prudent person would consider in the conduct of serious affairs.
9. Following the hearing, the superintendent shall render a written decision. The superintendent shall adopt the hearing officer's factual determinations unless they are not supported by substantial evidence in the record.
10. The superintendent shall notify the student and parent of the decision in accordance with the requirements of policy 4353, Long-Term Suspension, 365-Day Suspension, Expulsion.
11. The hearing officer shall provide for making a record of the hearing, including any findings or conclusions. The student will have the right to make his or her own audio recording of the hearing.

B. BOARD HEARINGS

1. Appeal of a Long-Term or 365-Day Suspension

The board will provide the opportunity for a hearing that follows the procedures established for administrative hearings, except that (1) the superintendent or designee will represent the school system and the board or a panel of the board will be the decision maker, and (2) unless the board requests otherwise or doing so would create a substantial threat of unfairness, the board will limit presentations of testimony to the student, the student's parent and representative, and the school system's representative and will limit documentation to the records and evidence presented at the administrative hearing. The board, at its discretion, may request additional information or evidence.

The board will review any records created by the superintendent's decision and the record created from any administrative hearing held. The board will review the superintendent's decision to be sure that: (1) there was a reasonable basis for determining that the student engaged in the specified misbehavior; (2) a board policy, the Code of Student Conduct, a school standard, or a school rule was violated; (3) the consequence for the violation was reasonable; and (4) procedures established by board policy were followed.

2. Board Decision on Expulsion

The board will provide an opportunity for a hearing to review the superintendent's recommendation for expulsion. The rules established for administrative hearings will be followed, except that the superintendent or designee will represent the school system and the board will be the decision maker. The board may request additional records or witnesses. A decision will be made on the superintendent's recommendation following the standards for expulsion established in policy 4353, Long-Term Suspension, 365-Day Suspension, Expulsion.

Legal References: G.S. 115C-45, -47, -276, -288, -390.1, -390.2, -390.7, -390.8

Cross References: Long-Term Suspension, 365-Day Suspension, Expulsion (policy 4353)

Adopted: August 1, 2016