

11.0 Procedures for the Expulsion of Students

11.1 When it is alleged that a student committed a violation of the Student Code of Conduct and may be subject to a recommendation for expulsion, the following procedures shall be followed.

11.1.1 The principal/designee shall conduct a preliminary investigation pursuant to section 3.0 of this regulation to determine if there is reasonable cause to pursue disciplinary action.

11.1.2 If the investigation verifies that disciplinary action may be warranted, initial due process procedures outlined in sections 4.0 of this regulation shall be followed.

11.2 After the student has been afforded initial due process procedures, if the principal/designee decides that disciplinary action will be taken in the form of a recommendation for expulsion the following procedures shall be followed:

11.2.1 Student will be given written notice of charges and the parent/guardian shall be notified as soon as practical thereafter.

11.2.2 The student will be given a short-term suspension pursuant to the criteria outlined in section 6.0 of this regulation. The parent/guardian shall be provided a copy of the suspension form that includes a written notice of the code of conduct violation(s).

11.2.3 The principal/designee shall hold a building level meeting/conference with the parent/guardian and the student. The principal/designee shall explain to the parent/guardian and the student the purpose of the meeting is to inform them: 1) of the recommendation for expulsion; 2) that the student will be suspended and the length of the suspension pending the outcome of the expulsion hearing and; 3) of the procedures that will take place as follow-up to the recommendation for expulsion.

11.2.3.1 The meeting/conference shall be held by phone or in person.

11.2.3.2 The principal/designee should have at least one other person present to take notes during the meeting/conference (assistant principal, school counselor or student advisor).

11.2.4 All documentation related to the recommendation for expulsion shall be submitted to the Superintendent/Designee, Charter Head/Designee within two (2) days of the building level meeting/conference or seven (7) days of the incident, whichever is sooner.

11.2.4.1 Days for reporting shall mean business days not to include Saturday, Sunday, or holidays.

11.3 Expulsion Hearing

11.3.1 Upon receipt of a recommendation from the building-level conference, the Superintendent/Designee will review documentation to affirm that appropriate discipline procedures were followed. The Superintendent/Designee shall, within ten (10) days of the date of the incident, notify the student and the parent/guardian by letter that a district-level expulsion hearing will be held to consider the recommendation.

11.3.1.1 The Superintendent/Designee shall not have been a participant in the disciplinary investigation or building-level conference resulting in the recommendation for expulsion.

11.3.2 Written notice shall be sent by certified mail to the parent/guardian describing the circumstances which led to the recommendation for expulsion and shall give the date, time, and location of the hearing.

11.3.3 The hearing shall be held not less than three (3) business days or more than ten (10) business days after receipt of Notice. The Notice will be deemed to be received on the third calendar day following the day of mailing. This time period may be waived by agreement of the parties. A copy of the documentation shall be made available, upon request, to the student/parent/guardian at the District/Charter School office prior to the mailing.

11.3.4 If requested, the student and parent/guardian will also be given copies of the following:

11.3.4.1 The reason(s) for the recommendation.

11.3.4.2 The names of the witnesses who may appear.

11.3.4.3 Copies of information that may be submitted as evidence.

11.3.5 The District/Charter should receive written parent/guardian permission for any witnesses who are minors.

11.3.6 The hearing may be conducted by a Hearing Officer selected by the Superintendent/Designee/Charter School representative. The Hearing Officer may be an employee of the District/Charter School, but must not have been involved in any review of the student incident at the building /district level including the building-level conference.

11.3.7 The officer shall have full authority to admit or exclude evidence.

11.3.7.1 Evidence presented at the expulsion hearing may include, but is not limited to, witness statements, police/AG reports, and photocopies of evidence.

11.3.7.2 The Hearing Officer is not bound by common law or statutory rules evidence or by technical or formal rules of procedure.

11.3.7.3 The Hearing Officer shall exclude plainly irrelevant evidence.

11.3.7.4 Unduly repetitive proof, rebuttal, and cross-examination may be excluded.

11.3.8 In conducting the hearing, the District/Charter School shall submit evidence first followed by the response of the student, if any.

11.3.8.1 Further rebuttal evidence by either party may be presented at the hearing if the Hearing Officer determines such evidence is necessary.

11.3.9 The Superintendent/Designee/Charter School representative presenting the case on the part of the District/Charter School should not testify.

11.3.10 The student shall have the following rights:

11.3.10.1 To be represented by counsel at the student's expense.

11.3.10.2 To cross-examine witnesses.

11.3.10.3 To testify and produce witnesses on his/her behalf.

11.3.10.4 To obtain, at the student's expense, a copy of the transcript of the hearing.

11.3.11 In lieu of a formal expulsion hearing, a student or his/her representative, may elect to waive the hearing and admit to the violation charges. In these circumstances, the student must provide a written hearing waiver request letter at least 24 hours prior to the date of the hearing or be given the opportunity to waive on the day of the hearing. This waiver does not absolve the student from required consequences for the violation under State Law and the Code of Student Conduct.

11.4 Board-Level (Board of Education or Board of Directors) for Expulsions

11.4.1 Within five (5) business days following the conclusion of the District/Charter Board-level Expulsion Hearing, a written report ("Report") shall be prepared by the Hearing Officer for the Superintendent/Designee/Charter School representative.

11.4.1.1 The Report shall frame the issues, summarize the evidence, state conclusions of fact, and make a recommendation based on the Student Code of Conduct or related Board policies as to whether the Superintendent/Designee/Charter representative should recommend to the Board that the student be expelled.

11.4.2 The Superintendent/Designee/Charter School representative should accept or modify the recommendation of the Hearing Officer within five (5) business days of receiving the Report.

11.4.3 The decision of the Superintendent/Designee/Charter School representative shall be communicated to the student/parent/guardian in writing.

11.4.4 If the Superintendent/Designee/Charter School representative recommends expulsion to the Board of Education/Board of Directors, the Board shall make its decision at the next scheduled public Board Meeting.

11.4.4.1 The review shall be conducted by a majority of the members of the Board and shall be based solely upon the Report from the officer, the record of the District-level expulsion hearing, and the written responses, if any, by the student/parent/guardian. The Board may accept, reject, or modify the recommendation of the Superintendent/Designee/Charter School representative to expel the student with or without services.

11.4.4.1.1 Decisions to expel without services shall be reported to the Department of Education within three (3) business days of the Board decision.

11.4.5 Except as is otherwise provided herein, within ten (10) business days of the conclusion of the review by the Board, the Board, through its designee, shall submit its decision to the student/parent/guardian in writing. The written decision shall include notice of the student's right to appeal to the State Board of Education.

11.5 Calculation of Time

12.5.1 In calculating the period of time for the term of the expulsion school days will be used.

11.6 Notification of Expulsion to Division of Motor Vehicle

11.6.1 The Delaware Division of Motor Vehicle will be notified of the beginning and ending date of expulsion for students who are expelled from the School District/Charter School as a request for suspension of driving privileges in accordance with 14 Del.C §4130(e) (1).

11.6.2 A copy of the Delaware Division of Motor Vehicle form shall be forwarded to the Department of Education.