

Appendix B

HEARING PROCEDURES AND RULES

RULE MAKING HISTORY: Initial adoption date September 1998
Revised 2000
Revised date 10-1-01 (see Register of Regulations at www.legis.state.de.us/onlinepublications)
Revised date 11-1-04 (see Register of Regulations at www.legis.state.de.us/onlinepublications)
[NEXT REVISION DATE TO BE ADDED]

Table of Contents

	<u>Page</u>
1.0 Scope and Purpose of Rules	2
2.0 General Provisions	2
3.0 De Novo and Other Evidentiary Hearings	3
4.0 Appeals	7
5.0 Public Hearings on Regulations	13
Forms: Notice of Appeal to the State Board of Education Certification of Record	

1.0 **Scope and Purpose of Rules**

The State Board of Education (“the State Board”) is authorized by several sections of the Education Code (Title 14 of the **Delaware Code**) to adopt or approve rules and regulations, resolve disputes, hear appeals, and review decisions of the Secretary of Education. The State Board is also governed by the Administrative Procedures Act (Chapter 101 of Title 29 of the **Delaware Code**), except where specifically exempted by other law.

These Hearing Procedures and Rules (“Rules”) shall govern the practice and procedure before the State Board in hearings, appeals, and regulatory proceedings.

2.0 **General Provisions**

- 2.1 These Rules shall be liberally construed to secure a just, economical, and reasonably expeditious determination of the issues presented in accordance with the State Board’s statutory responsibilities and with the Administrative Procedures Act.
- 2.2 The State Board may for good cause, and to the extent consistent with law, waive any of these Rules, either upon application or upon its own motion.
- 2.3 Whether a proceeding constitutes an evidentiary hearing, an appeal or regulatory action shall be decided by the State Board on the basis of the applicable laws. A party’s designation of the proceeding shall not be controlling on the State Board or binding on the party.
- 2.4 The State Board may appoint a representative to act as a hearing officer for any proceeding before the State Board. Except as otherwise specifically provided, the duties imposed, and the authority provided, to the State Board by these Rules shall also extend to its hearing officers.
- 2.5 Notwithstanding any part of these Rules to the contrary, the State Board, or its counsel, designee or hearing officer, may conduct pre-hearing conferences and teleconferences to clarify issues, confer interim relief, specify procedures, limit the time available to present evidence and argument, and otherwise expedite the proceedings.
- 2.6 The State Board may administer oaths, issue subpoenas, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.

- 2.7 The State Board may elect to conduct joint hearings with the Department of Education and other state and local agencies. These Rules may be modified as necessary for joint hearings.
- 2.8 Any party to a proceeding before the State Board may be represented by counsel. An attorney representing a party in a proceeding before the State Board shall notify the Executive Secretary of the State Board (“Executive Secretary”) of the representation in writing as soon as practical. Attorneys who are not members of the Delaware Bar may be permitted to appear *pro hac vice* before the State Board in accordance with Rule 72 of the Rules of the Delaware Supreme Court.
- 2.9 The State Board may continue, adjourn or postpone proceedings for good cause at the request of a party or on its own initiative. Absent a showing of exceptional circumstances, requests for postponements of any matter scheduled to be heard by the State Board shall be submitted to the Executive Secretary in writing at least three (3) business days before the date scheduled for the proceeding. The President of the State Board shall then decide whether to grant or deny the request for postponement. If a hearing officer has been appointed, the request for postponement shall be submitted to the hearing officer, who shall then decide whether to grant or deny the request.
- 2.10 A copy of any document filed with or submitted to the State Board or its hearing officer shall be provided to all other parties to the proceeding, or to their legal counsel. Where a local or other school board participates in a proceeding, copies of filed documents shall be directed to the executive secretary of the board, unless that board appoints a different representative for such purpose.
- 2.11 For purposes of these Rules, unless otherwise specified “day” shall mean a calendar day. “Business day” shall mean weekdays Monday through Friday, except when those days fall on a legal holiday.

3.0 De Novo and Other Evidentiary Hearings

- 3.1 Section 3.0 governs proceedings where a statute or regulation provides the right to an original or to a de novo hearing before the State Board to decide a specific controversy or dispute.
- 3.2 Petitions for Hearing
- 3.2.1 A party may initiate a hearing on matters within the State Board’s jurisdiction by mailing or delivering a petition for hearing to the

Executive Secretary. The petition shall be in writing and shall be signed by the party making the request (or by the party's authorized representative). It shall set forth the grounds for the action in reasonable detail and shall identify the source of the State Board's authority to decide the matter. Petitions may be delivered to the Executive Secretary by facsimile, but not by E-mail.

3.2.2 The petition for hearing shall be filed within a reasonable time after the controversy arises, but in no event shall a petition be filed more than thirty (30) days after the petitioning party's receipt of notice that official action has been taken by an authorized person, organization, board or agency.

3.2.3 A copy of the petition for hearing shall be delivered to all other parties to the proceeding at the time it is sent to the Executive Secretary. A copy of any other paper or document filed with the State Board or its hearing officer shall, at the time of filing, also be provided to all other parties to the proceeding. If a party is represented by legal counsel, delivery to legal counsel is sufficient.

3.2.4 Upon receipt of an adequately detailed petition for hearing, the Executive Secretary shall place the matter on the agenda of the next State Board meeting. At the next meeting, the State Board will either assign the matter to a hearing officer or determine a hearing date for the matter. The parties shall be given at least twenty (20) days notice of the hearing date.

3.2.5 A party shall be deemed to have consented to an informal hearing (as that term is used in Section 10123 of the Administrative Procedures Act) unless the party notifies the Executive Secretary in writing that a formal public hearing is required. Such notice must be delivered to the Executive Secretary within three (3) days of the receipt of the notice scheduling the hearing.

3.3 Record of Prior Proceedings

3.3.1 If proceedings were previously held on the matters complained of in the petition, the agency which conducted those proceedings shall file a certified copy of the record of the proceedings with the Executive Secretary.

3.3.2 The record shall contain any written decision, a certified copy of any rule or regulation involved, any minutes of the meeting(s) at which a disputed action was taken, a certified, verbatim transcript of the

proceedings conducted by the agency below and all exhibits presented to the agency. The certified transcript shall be prepared at the direction and expense of the agency below.

- 3.3.3 The record shall be filed with the Executive Secretary within ten (10) days of the date the Executive Secretary notifies the agency that the petition has been filed, unless directed otherwise. A copy of the record shall be sent to the petitioner when it is submitted to the Executive Secretary.

3.4 Record Review

- 3.4.1 If a hearing was previously held on the matters complained of in the petition, the parties to the proceeding before the State Board may agree to submit the matter to the State Board or its hearing officer on the existing record without the presentation of additional evidence.
- 3.4.2 If the parties agree to submit the matter for decision on the existing record, they shall support their positions in written statements limited to matters in the existing record. The parties' written statements shall be submitted according to a schedule determined by the State Board.
- 3.4.3 If the parties agree to submit the matter for decision on the existing record, they may nonetheless request oral argument by notifying the Executive Secretary in writing at least ten (10) days before the date written statements are due. Oral argument shall be limited to the matters raised in the written statements and shall be limited to fifteen (15) minutes per side with an additional five (5) minutes for rebuttal.
- 3.4.4 If the parties agree to submit the matter for decision on the existing record, the State Board's decision shall be based on the existing record, the written statements and oral argument, if any.

3.5 Evidentiary hearings

- 3.5.1 Evidentiary hearings will be held when there has not been a prior hearing, when the parties do not agree to rest on the existing record, or when the State Board or its hearing officer otherwise decide to receive additional evidence.
- 3.5.2 The hearing will proceed with the petitioner first presenting its evidence and case. The responding party may then present its case.

The petitioner will then have an opportunity to present rebuttal evidence.

3.5.3 Opening and closing arguments and post hearing submissions of briefs or legal memoranda will be permitted in the discretion of the State Board or hearing officer.

3.5.4 Any person who testifies as a witness shall also be subject to cross examination by the other parties to the proceeding. Any witness is also subject to examination by the State Board or its hearing officer.

3.6 Evidence

3.6.1 Strict rules of evidence shall not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.

3.6.2 The State Board or its hearing officer may exclude evidence and limit testimony as provided in Section 10125(b) of the Administrative Procedures Act.

3.6.3 Objections to the admission of evidence shall be brief and shall state the grounds for the objection. Objections to the form of the question will not be considered.

3.6.4 Any document introduced into evidence at the hearing shall be marked by the State Board or the hearing officer and shall be made a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties and to each of the State Board members present for the hearing unless otherwise directed.

3.6.5 Requests for subpoenas for witnesses or other sources of evidence shall be delivered to the Executive Secretary in writing at least fifteen (15) days before the date of the hearing, unless additional time is allowed for good cause. The party requesting the subpoena is responsible for delivering it to the person to whom it is directed.

3.7 Creation of Record before State Board

3.7.1 Any party may request the presence of a stenographic reporter on notice to the Executive Secretary at least ten (10) days prior to the date of the hearing or oral argument. The requesting party shall be

liable for the expense of the reporter and of any transcript the party requests.

3.7.2 If a stenographic reporter is not present at the hearing or argument, the State Board shall cause an electronic recording of the hearing to be made by tape recorder or other suitable device. Electronic recordings shall be destroyed unless a written request to preserve it is made to the Executive Secretary within three months of the final order issued in the hearing.

3.8 State Board Decision

3.8.1 When the State Board has appointed a hearing officer, the hearing officer shall submit a proposed written decision for the consideration of the State Board.

3.8.2 The proposed decision shall comply with Section 10126(a) of the Administrative Procedures Act. The proposed decision shall be submitted to the State Board and the parties within a reasonable time of the conclusion of the proceedings before the hearing officer.

3.8.3 The parties shall have twenty (20) days from the date the proposed order is delivered to them to submit in writing to the State Board and the other party any exceptions, comments and arguments respecting the proposed order.

3.8.4 To the extent possible, the State Board shall consider a matter conducted by a hearing officer at its next regular meeting following the parties' submissions, if any, or the end of the comment period, whichever comes first.

3.8.5 The State Board shall consider the entire record of the case and the hearing officer's proposed decision and written comments thereto, if any, in reaching its final decision. The State Board's decision shall be incorporated in a final order which shall be signed and mailed to the parties.

4.0 Appeals

4.1 Section 4.0 governs proceedings where a statute or regulation provides the right to appeal to the State Board a decision which resolved a specific controversy or dispute. These proceedings include, but are not limited to, appeals of school district decisions involving rules and regulations of the school board (14 Del.C. §1058') and appeals of decisions of the Delaware

Interscholastic Athletic Association (DIAA) (14 **Del.C.** §312) and appeals of decisions by the board of directors of a charter school to suspend or expel a student for disciplinary reasons (14 **Del.C.** §104(b)(12).

Note 1: The State Board of Education has held that the local boards of education are not subject to the *Administrative procedures Act* while conducting disciplinary proceedings. See *R.T. v. Sussex County Vocational-Technical School District Board of Education*, SBE No.99-12 (February 17, 2000) and *M.B. v. Sussex Technical School District Board of Education*, SBE No.-03 (April 3, 2000)

- 4.2 For purposes of Section 4.0:
- 4.2.1 “Party” shall mean any person or organization who participated in the proceedings before the agency which rendered the decision being appealed.
- 4.2.2 “Decision” shall mean the official action taken to resolve the dispute presented below and shall include the factual findings, the rule involved and the agency’s conclusion. “Decision” shall not include policy making or the adoption of rules and regulations of future applicability.
- 4.3 For purposes of determining the State Board’s jurisdiction under Section 1058 of the Education Code, “controversies involving the rules and regulations of the school board” shall mean the presentation before the local school board of a dispute involving the application of rules and regulations of the local board in a particular factual context. Certain decisions involving the application of rules and regulations of the local board may not be appealed to the State Board, including:
- 4.3.1 Decisions involving student disciplinary actions where a student is suspended from school for ten (10) or fewer days, except where a request to expunge the disciplinary action from the student’s record has been denied by the local board.
- 4.3.2 Personnel actions which are covered under a collective bargaining agreement or are otherwise subject to adjudication by the Public Employment Relations Board.
- 4.3.3 Termination of employees conducted in accordance with Chapter 14 of the Education Code.

- 4.3.4 Termination or non-renewal of public school administrators and confidential employees, as those terms are defined in Section 4002 of the Education Code, at the conclusion of an employment contract.
- 4.4 Decisions for the Board of Directors of a charter school to suspend a student from school for ten (10) or fewer days may not be appealed to the State Board, except where a request to expunge the disciplinary action from the student's record has been denied by the board of directors.
- 4.5 Notice of appeal
 - 4.5.1 A party may initiate an appeal by mailing or delivering a notice of appeal to the Executive Secretary. The notice shall be in writing, shall be signed by the party making the request (or by the party's authorized representative. Notices of Appeal may be delivered to the Executive secretary by facsimile, but not by E-mail.
 - 4.5.2 The notice of appeal shall briefly state the decision from which the appeal is taken, the law, rule or regulation involved in the decision, the names of the parties, and the grounds for the appeal.
 - 4.5.3 A notice of appeal form is included at the end of these Rules. People filing appeals are not required to use the form, but may find it helpful to do so.
 - 4.5.4 The notice of appeal must be postmarked by or delivered to the Executive Secretary within thirty (30) days of the day the party initiating the appeal receives the written decision from which the appeal is taken.
 - 4.5.5 A copy of the notice of appeal shall be mailed or delivered to the agency which made the decision at the same time the original notice of appeal is mailed or delivered to the Executive Secretary. A copy of any other paper or document filed with the State Board or its hearing officer shall be provided to all parties to the proceeding at the same time it is filed with the State Board or its hearing officer.
 - 4.5.6 Upon receipt of an adequately detailed notice of appeal involving a student disciplinary decision or a decision of the Delaware Interscholastic Athletic Association (DIAA), the Executive Secretary shall assign the matter to a hearing officer from a roster of hearing officers approved by the State Board. The Executive Secretary shall provide the notice of appeal and the hearing officer assignment to the State Board at its next meeting.

4.5.7 Upon receipt of an adequately detailed notice of appeal involving any matter other than a student disciplinary decision or a decision of DIAA, the Executive Secretary shall consult with the President of the State Board to determine whether the matter should be assigned to a hearing officer or placed on the State Board's next meeting agenda. The President shall have the authority to authorize the Executive Secretary to assign a hearing officer to the matter from a roster of hearing officers approved by the State Board. In such case, the Executive Secretary shall provide the notice of appeal and the hearing officer assignment to the State Board at its next meeting. Nothing in this subsection shall prevent the State Board from later assigning the matter to a hearing officer.

4.6 The record on appeal

4.6.1 Unless instructed otherwise, within ten (10) days of the receipt of the notice of appeal, the agency which made the decision under appeal shall forward the record of the proceedings below to the Executive Secretary. A copy of the record shall be sent to the party filing the appeal at the same time.

4.6.2 The record shall include the agency's written decision, a copy of any rule or regulation involved, the minutes of the meeting(s) at which the decision was made, a verbatim transcript of the hearing conducted by the agency or party below, and all exhibits presented to the agency. The transcript shall be prepared at the direction and expense of the agency below.

4.6.3 The agency's executive secretary, executive director or comparable administrator shall complete the "Certification of Record" form provided at the end of these Rules and attach it to the record when the record is forwarded to the Executive Secretary.

4.6.4 If a transcript of the proceedings below is not or cannot be provided to the State Board, the Executive Secretary shall remand the case to the agency with an instruction that the agency hold a new hearing within ten (10) days.

4.7 Proceedings on appeal

- 4.7.1 The State Board of Education or its hearing officer shall establish and notify the parties of the date when the State Board or its hearing officer will consider the appeal, hereafter referred to as the consideration date. The parties shall be given at least twenty (20) days notice of the consideration date. The parties may agree to shorten or waive the notice of the consideration date.
- 4.7.2 Written position statements and legal briefs or memoranda, if any, shall be filed no later than (10) days prior to the consideration date. A party who files a written position statement with the State Board or its hearing officer must send a copy to the opposing party at the same time. Failure to file a written statement by the time specified may result in a postponement of the consideration date until the statement is filed, or a consideration of the appeal without the written statement, at the discretion of the State Board or its hearing officer.
- 4.7.3 The written position statement must clearly identify the issues raised in the appeal. Briefs or legal memoranda shall be submitted with the written statement if the appeal concerns a legal issue or interpretation.
- 4.7.4 Oral argument
 - 4.7.4.1 A party may request that oral argument be heard on the consideration date. A request for oral argument shall be submitted with the written position statement. There will be no oral argument unless it is requested when the written position statement is submitted.
 - 4.7.4.2 Oral argument, if requested, shall be limited to fifteen (15) minutes per side with five additional minutes for rebuttal.
 - 4.7.4.3 Any party may request the presence of a stenographic reporter at oral argument by notifying the Executive Secretary at least ten (10) days prior to the date of the argument. The requesting party shall be liable for the expense of the reporter. If a stenographic reporter is not present at the argument, the State Board or hearing officer shall cause an electronic transcript of the hearing to be made by tape recorder or other suitable device. Electronic transcripts shall be destroyed unless a written request to preserve it is made to the Executive Secretary within three months of the final order issued in the appeal.

4.7.4.4 If the State Board or hearing officer permits a party to present oral argument on an issue which was not identified by the party in their written position statement, briefs or legal memoranda, or if in the course of the argument, the State Board or hearing officer raises an issue which was not previously raised by either party, the parties shall have a reasonable opportunity to comment in writing within five (5) business days of the oral argument.

4.7.4.5 The State Board or its hearing officer may limit or restrict argument that is irrelevant, insubstantial or unduly repetitive.

4.8 Standard and Scope of Review

4.8.1 The appellate review of the State Board shall be limited to the record of the proceedings below. Neither the State Board nor the hearing officer will consider testimony or evidence which is not in the record. If the State Board determines that the record is insufficient for its review, it shall remand the case to the agency below with instructions to supplement the record.

4.8.2 The standard of review shall be determined by the law creating the right of appeal. In the absence of a specific statutory standard, the substantial evidence rule will be applied, that is, neither the State Board nor the hearing officer will substitute its judgment for that of the agency below if there is substantial evidence in the record for its decision and the decision is not arbitrary or capricious. The State Board will make an independent judgment with respect to questions of law.

4.9 State Board Decision

4.9.1 After considering the record from the proceedings below, the written submissions and the arguments made by the parties, if any, the hearing officer shall submit a proposed written decision for the consideration of the State Board.

4.9.2 The proposed decision shall comply with Section 10126(a) of the Administrative Procedures Act. To the extent possible, the proposed decision shall be submitted to the State Board and the parties within fifteen (15) days of the consideration date or the filing of any post argument submissions.

- 4.9.3 The parties shall have twenty (20) days from the date the proposed order is delivered to them to submit in writing to the State Board and the other party any exceptions, comments and arguments respecting the proposed order. The parties may agree to shorten or waive the comment period, or to consent to the hearing officer's recommendation without additional comment. When the parties consent to the hearing officer's recommendation, they shall so advise the Executive Secretary.
- 4.9.4 The State Board shall consider the appeal at its next regular meeting following receipt of the parties' exceptions, comments, and arguments, if any, or the end of the comment period, whichever occurs first.
- 4.9.5 The State Board shall consider the entire record of the case and the hearing officer's proposed decision and any written comments thereto, in reaching its final decision. The State Board's decision shall be incorporated in a final order which shall be signed and mailed to the parties.

4.10 Student Discipline Appeals

- 4.10.1 To the extent possible, appeals of decisions involving student discipline will be scheduled for consideration by the hearing officer within thirty (30) days of the receipt of the notice of appeal.
- 4.10.2 If an appeal involves disciplinary action against a student receiving special education and related services, the record must include evidence that a Manifestation Determination Review was conducted pursuant to the Department of Education's regulations governing special education. Failure to provide such evidence may result in reversal or remand to agency for additional proceedings.
- 4.10.3 An appeal of or dispute about the Manifestation Determination Review must be made to the Department of Education as provided in the Department's regulations governing special education. The State Board of Education will not review such determinations.

5.0 Public Regulatory Hearings

- 5.1 Section 5.0 governs public hearings before the State Board or its hearing officers where the State Board is required to hold, or decides to hold, such hearings before adopting or approving rules and regulations or taking other regulatory action. See Note 1.

- 5.2 Notice that the State Board has scheduled a public regulatory hearing shall be provided as required in Section 10115 of the Administrative Procedures Act. Notice of the public hearing shall also be circulated to individuals and agencies on the State Board's mailing list for meeting agendas. The notice of the hearing shall indicate whether the State Board will conduct the hearing, or designate a hearing officer for that purpose.
- 5.3 Creation of record of public hearing
- 5.3.1 Any party may request the presence of a stenographic reporter on notice to the Executive Secretary at least ten (10) days prior to the date of the hearing. The requesting party shall be liable for the expense of the reporter and of any transcript the party requests.
- 5.3.2 If a stenographic reporter is not present at the hearing, the State Board shall cause an electronic recording of the hearing to be made by tape recorder or other suitable device. Electronic recordings shall be destroyed unless a written request to preserve it is made to the Executive Secretary within three months of the final order issued in the hearing. Any party requesting that a written transcript be made from the recording shall bear the cost of producing the transcript.
- 5.4 Subpoenas
- 5.4.1 The State Board or its hearing officer may issue subpoenas for witnesses or other evidence for the public hearing. Where possible, such subpoenas shall be delivered to the party to whom they are directed at least ten (10) days prior to the public hearing.
- 5.4.2 The State Board or its hearing officer may also, in its discretion, issue subpoenas at the request of a person interested in the proceedings. Requests for such subpoenas shall be delivered to the Executive Secretary at least fifteen (15) days prior to the date of the hearing, unless additional time is allowed for good cause.
- 5.4.3 The party requesting the subpoena is responsible for delivering it to the person to whom it is directed.
- 5.5 Documents
- 5.5.1 The State Board or its hearing officer shall, at the beginning of the hearing, mark as exhibits any documents it has received from the public as comment and any other documents which it will consider in

reaching its decision. Documents received during the hearing shall also be marked as exhibits.

5.5.2 Any person or party submitting a document before or during the public hearing shall provide at least eight (8) copies of the document to the State Board, unless directed otherwise.

5.6 Witnesses

5.6.1 The order of witnesses appearing at the hearing shall be determined by the State Board or its hearing officer. The State Board or its hearing officer may direct an agency or organization to designate a single person to present the agency or organization's position at the public hearing.

5.6.2 The State Board or its hearing officer may limit a witness's testimony and the admission of other evidence to exclude irrelevant, insubstantial or unduly repetitious comment and information.

5.6.3 Any person who testifies at a public hearing shall be subject to examination by the State Board or its hearing officer. The State Board or its hearing officer may in their discretion allow cross examination of any witness by other participants in the proceedings.

5.7 At the conclusion of the public hearing, the State Board shall issue its findings and conclusions in a written order in the form provided in Section 10118(b) of the Administrative Procedures Act. The Board's order shall be rendered within a reasonable time after the public hearing.

Note : The State Board is not subject to the Administrative Procedures Act when approving (or refusing to approve) regulations or regulatory action of the Department of Education, provided that the Department has complied with applicable portions of the Act. See 14 Del. C. '105(b).

**STATE BOARD OF EDUCATION
OF THE STATE OF DELAWARE**

xxxx,)	
Petitioner)	
)	
v.)	No. 200x-xx
)	
xxxx,)	
)	
Respondent.)	

CERTIFICATION OF RECORD

I, [name of executive secretary, executive director or comparable administrator], am the
[title] of the {agency name} .

I hereby certify that the attached documents constitute the true and complete record of the proceedings that occurred before the [agency name] in the captioned matter.

I further certify that the following documents are included in the attached record:

- a. the agency’s written decision;
- b. the rules or regulations involved;
- c. the minutes of the meeting(s) at which the decision was made;
- d. a verbatim transcript of the hearing;
- e. all exhibits presented; and
- f. if this matter involves disciplinary action against a student receiving special education and related services, documentation evidencing the Manifestation Determination Review.

Signature

Date: _____

NOTICE OF APPEAL

TO THE STATE BOARD OF EDUCATION

To: Executive Secretary of the State Board of Education

I, [name of person filing appeal] request that the State Board of Education accept this appeal and enter a decision and order as further explained in this Notice.

1. I am filing this Notice of Appeal on behalf of _____ *[myself or my child (give child's name)]*.

2. Please contact me at: _____ *[give address, telephone number(s) and email address if available]*.

3. I am appealing a decision made by _____ *[give name of agency]* on _____ *[date of written decision]*. I received the written decision on _____ *[date]*.

4. I believe the State Board may hear this appeal because it involves:

_____ A decision by a school district board of education that decided a controversy involving the district's rules and regulations (including disciplinary rules).

_____ A decision by the Delaware Interscholastic Athletic Association that decided a controversy involving athletic rules and regulations.

_____ A decision by the board of directors of a charter school to suspend or expel a student for disciplinary reasons.

_____ Other *(explain why the State Board of Education has authority to consider your appeal)*

5. I am appealing this decision because *(you may attach additional pages)*:

6. I want the State Board of Education to do the following:

The information I have provided in this Notice of Appeal is true and correct to the best of my understanding and knowledge. I will send a copy of this Notice to the agency involved when I mail or deliver the Notice of Appeal to the State Board of Education.

I understand that appeals to the State Board of Education are decided “on the record” of the hearing that was held by the agency and that the State Board will not accept new testimony or other new evidence during this appeal.

Signature

Date Signed

Additional Instructions

1. Please print or type.
2. Provide all of the information requested.
3. Attach a copy of the written decision that you are appealing. The State Board of Education may not consider an appeal until a written decision has been issued.
4. Keep a copy of this Notice for your use and reference.
5. Mail, fax, or deliver this Notice and any attachments to the Executive Secretary of the State Board of Education at 401 Federal Street, Suite 2, Dover, DE 19901; Facsimile No. **(302) 739-4654**.
6. Send a copy of this Notice and any attachments to the agency involved at the

- same time you mail or deliver the Notice to the State Board of Education.
7. The State Board of Education's *Hearing Procedures and Rules* are available at the State Board web page at www.doe.k12.de.us or by calling the State Board's offices at 302-735-4010. Rule 4 addresses appeals.