



ADMINISTRATIVE PROCEDURE

STUDENT APPEALS OF LONG-TERM SUSPENSIONS AND EXPULSIONS

5115

Procedure No.

July 2, 2003

Date

- I. **PURPOSE:** To provide procedures for use in student appeals of long-term suspensions and expulsions before the Board of Education.
- II. **POLICY:** The Board of Education has adopted a Board Policy that a hearing officer or examiner will hear oral arguments and that the decision of the Board will be based on the record and findings of fact, conclusions of law and recommendations of the hearing officer or examiner. The Board's intent is to ensure objectivity and fairness (Board of Education Policy 5115).
- III. **DEFINITIONS:**
- A. Filed or filing means received by the Board of Education.
 - B. Written Notice shall be complete upon actual delivery or upon deposit of said notice in the United States mail, stamped and addressed to the addressee at the mailing address provided or appearing on the records of the Prince George's County Public Schools.
 - C. Party or parties include each person, group, or entity named or admitted as a party, including a student, a parent, parent surrogate, or guardian of a student, and shall include the Chief Executive Officer.
- IV. **PROCEDURES:**
- A. Applicability: These rules govern appeals of student long-term suspension and expulsion proceedings. Appeal hearings, in accordance with the Annotated Code of Maryland, Education Article §7-305, are from a decision of the CEO, or Designee, that suspension of a student for more than 10 days or expulsion of a student is warranted.
 - B. Initiation of Appeals or Requests for Hearings:
 - 1. All appeals to the Board shall be from a final action or decision of the CEO or the CEO's designated representative, which adversely affects the person or persons who are appealing.
 - 2. An appeal of a long-term student suspension or expulsion shall be made by filing a notice of appeal with the Board within ten (10) days after written notice of the determination by the CEO or the CEO's designated representative to the student or the parent or guardian. Such



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notice shall advise the student or the parent or guardian of the right to appeal to the Board.

3. With the notice of appeal or request for hearing, or in any event, within 10 days after the notice of appeal or request for hearing has been filed, the person or persons filing the appeal or request for hearing must file with the Board, with a copy to the CEO, the following:
 - a. A concise statement of the issues presented by the appeal or the request for hearing for decision by the Board.
 - b. A concise statement of the facts on which the person or persons taking the appeal or requesting the hearing relies to support their position.
 - c. A statement by the person or persons taking the appeal or requesting the hearing that they agree or disagree with the findings of fact set forth by the CEO, or Designee; and, if the person or persons taking the appeal or requesting the hearing disagree only in part with the findings of fact set forth by the CEO, or Designee, a statement of the facts with which such person or persons disagree(s).
 - d. A copy of all documents upon which the person or persons appealing or requesting a hearing relies or believes is relevant.

C. Referral to Hearing Examiner:

Each appeal and request for hearing involving the long-term suspension of a student or an expulsion shall be referred to a hearing examiner for hearing.-

D. Hearings

1. Notice

- a. The Hearing Examiner shall give written notice of hearings to all interested parties not less than five days prior to the hearing.
- b. Such notice shall state the date, time, and place of the hearing. Any



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disagreement concerning the charges, issues, or acts shall be resolved as part of the disposition of the appeal.

2. Representation

All parties appearing at a hearing under these procedures shall have the right to appear in person or with a representative of their choice. All parties shall have the right to be accompanied, represented, and advised by counsel.

3. Records – Transcript

- a. The hearing examiner shall prepare or cause to be prepared official records, which shall include all pleadings, testimony, exhibits, tape recording and other memoranda or material filed in the proceedings. The Hearing Examiner shall provide the entire record of appeal to the Board of Education.
- b. The Hearing Examiner shall provide an accurate record of all hearings, disputes, or controversies in order that, if an appeal is taken, the record shall be submitted. The records shall be maintained by the Board Office.
- c. A taped record of that part of the proceedings which involves the presentation of evidence shall be made.

4. Order of Procedure

Appellants shall present their case first and carry the burden of persuasion.

5. Examination of witnesses and Introduction of Evidence

- a. The strict judicial rules of evidence shall not be applicable to evidentiary hearings and the test of admissibility shall be whether the evidence is reasonably relevant to a material issue and whether it has substantial probative value with respect to such a material issue. The hearing examiner may limit or refuse to admit cumulative or repetitive evidence and may curtail redundant questioning. The hearing examiner shall encourage the parties, where possible, to make stipulations as to matters not reasonably in



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dispute and to make proffers and stipulations in place of cumulative evidence. All testimony shall be given under oath.

- b. A party, or where a party is represented by counsel or other representative, such counsel or representative may submit evidence, examine and cross-examine witnesses, make objections, and file exceptions and motions.
 - c. The CEO, or Designee, may appear in person or through counsel and shall be accorded the same rights as a party to submit evidence, examine and cross-examine witnesses, make objections, and file exceptions and motions.
 - d. The hearing examiner may examine all witnesses. The hearing examiner may call as a witness any person whose testimony may be relevant and material.
6. Written Memoranda

Each party and the CEO or Designee may submit written memoranda on the issues of fact and law involved in the hearing in such form as the hearing examiner may designate. Such memoranda may be submitted at any time prior to the hearing of a matter. With the approval of the hearing examiner, and on such schedule as the hearing examiner may designate, written memoranda may be submitted after a hearing.

7. Findings of the Hearing Examiner

In all matters heard by a hearing examiner, the hearing examiner shall make findings of fact, conclusions of law, and recommendations. The hearing examiner shall submit a tape recording of the proceedings, exhibits, findings of facts, conclusions of law, and recommendations to the Board. The hearing examiner shall distribute or mail to all parties and the Board the findings of fact, conclusions of law, and recommendations not more than five (5) business days after completion of the hearing. In the event that a parent or the CEO or Designee want to file written exceptions before the Board of Education to the findings of facts, conclusions of law and recommendation of the Hearing Examiner, such written exceptions must be filed within five (5) business days following issuance of the Hearing Examiner's



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recommendation to the Board. If the hearing examiner has provided for oral argument or for submission of written memoranda after a hearing, the five (5) day period shall not commence until after such submission of written memoranda.

8. Decision of the Board and Order

The Board shall render a decision based on the records and the findings and recommendations of the hearing examiner. Each decision and order of the Board shall be delivered in writing, with copies to all parties. Each written decision and order shall be accompanied by written findings of fact, conclusions of law of the Hearing Examiner, and a specific description of the disposition of the case.

9. Ex Parte Communications

While a matter is under consideration by a hearing examiner or by the Board, neither the hearing examiner or the Board shall receive communications from or communicate orally with any party outside the presence of all other parties, or in writing, without supplying copies to all other parties and providing an opportunity for response, as to any matter pending before the Board. No information concerning a pending matter may be released by the Board, a Board member, a hearing examiner, or a member of the Prince George's County Public Schools' administration unless it is a matter of public record, or unless it is released to a party and copies supplied simultaneously to all other parties.

10. Time and Notice Requirements

a. Computation of time

In computing any period of time prescribed by these rules or by any applicable statute, the day of the act or event after which the designated period of time begins to run is not to be included. When the last day so computed would fall on a Saturday, Sunday, or legal holiday, the period shall extend to the first day thereafter not one of these days. For filing of documents with the Board, if the office of the Board is not open during its regular hours on the last day of the period, the documents shall be filed on the next day thereafter when the office of the Board is so open.



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b. Extension and shortening of time

For good cause, the Board, upon its own motion or at the request of either party, may at any time shorten or extend the time provided under these procedures for filing any document or providing any notice.

c. Filed or filing means received by the Board of Education

Written Notice shall be complete upon actual delivery or upon deposit of said notice in the United States mail, stamped and addressed to the addressee at the mailing address provided or appearing on the records of the Prince George's County Public Schools.

- V. **RELATED PROCEDURES:** MD Annotated Code, Education Article §6-203 and 7-305.
- VI. **MAINTENANCE UPDATE AND UPDATE OF THESE PROCEDURES:** The Office of Appeals will maintain and update this administrative procedure, as needed.
- VII. **CANCELLATIONS AND SUPERSEDURES:** None. This is a new Administrative Procedure.
- VIII. **EFFECTIVE DATE:** July 2, 2003

Approved by:
André J. Hornsby
Chief Executive Officer

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