



WAKE COUNTY BOARD OF EDUCATION
Work Session

PRECIS

SUBJECT/TOPIC

POLICY 6500 – DUE PROCESS

**DEPARTMENT, BOARD/STAFF LIAISON(S), AND ANY PRESENTERS FROM
OUTSIDE THE DISTRICT**

Marvin Connelly, Assistant Superintendent –Student Services
Ann Majestic, Board of Education Attorney

BACKGROUND

Wording revised to provide additional clarification of policy.

FISCAL IMPLICATIONS

None

SAVINGS

None

NEXT STEPS / RECOMMENDATIONS

Staff is requesting Board approval with effective date of July 1, 2012



Under state and federal law, students are entitled to due process before being removed from school for misconduct. The procedures that follow are required to provide a fair and thorough process for disciplinary suspensions from school.

A SUMMARY SUSPENSION

If the principal witnesses or is made aware of serious student misconduct and believes that immediate removal of the student is necessary to restore order or to protect school property or persons on the school grounds, the principal may suspend the student immediately. In such cases, the principal is not required to conduct a full investigation before suspending the student. In all cases, minimal due process must be given to the student as described in section 6500B as soon as is reasonably possible, usually the following school day.

B SHORT-TERM SUSPENSION

1. A short-term suspension is a removal from school for a period of ten (10) school days or less.
2. The principal may invoke a short-term suspension only after investigating the misconduct, confronting the student with the charges and the basis for those charges, and allowing the student to respond in his/her own defense and/or to offer mitigating circumstances. Once a principal decides to invoke short-term suspension, procedures promulgated by the superintendent shall be followed.
3. The principal shall notify the student and parent of any short-term suspension, including the reason for the suspension and a description of the alleged conduct upon which the suspension is based. The notice shall be given by the end of the workday on which the suspension was imposed when reasonably possible but in no event more than two days after the suspension was imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.
4. If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English and both versions shall be in plain language and easily understandable.
5. The principal shall notify the student and parent that during a short-term suspension a student shall be provided:
 - a. The opportunity to take textbooks home for the duration of the suspension.
 - b. The opportunity to obtain homework assignments for the duration of the suspension.
 - c. The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.
6. A student is not entitled to appeal the principal's decision to impose a short-term suspension to the Superintendent or Board of Education **except as provided in Policy 6520.**

C SUSPENSIONS EXCEEDING TEN DAYS

1. A long-term suspension is a suspension for a period of time in excess of 10 school days. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the suspension may not be longer than the remainder of the school year. If the offense occurs during the final quarter of the school year, the suspension may continue through the first semester of the following school year.
2. A 365-day suspension is a suspension for 365 calendar days.
3. An expulsion is an indefinite removal from the school enrollment for disciplinary purposes.
4. If the principal, following an investigation, determines that long-term suspension, 365-day suspension or expulsion is appropriate, she/he shall invoke a short-term suspension of ten (10) school days, following the procedures in 6500B above, and inform the student, parent, and superintendent of the recommendation for long-term suspension/expulsion according to the notice procedures contained in 6500 R&P.
5. The student shall be provided the same opportunities as stated in 6500B5 (a-c) during the appeal process.

D INITIAL REVIEW BY SUPERINTENDENT DESIGNEE TO CONSIDER ALTERNATIVE EDUCATION IN LIEU OF SUSPENSION

1. The Superintendent shall appoint a Discipline Review Committee (DRC) comprised of Area Superintendents and other Student Services Administrators to serve as the Superintendent's designee to consider offering alternative education services in lieu of long-term suspension. Students who are recommended for long-term suspensions shall be offered access to the district's alternative education program unless a DRC panel identifies a significant or important reason for denying such access. Depending on the circumstances, significant or important reasons for denying alternative education may include, but are not limited to, the following:
 - a. The student exhibited violent behavior;
 - b. The student threatened staff or other students;
 - c. The student substantially disrupted the learning process;
 - d. The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible;
 - e. Educationally appropriate alternative education services are not available due to limited resources; or
 - f. The student failed to comply with reasonable conditions for admittance into an alternative education program.
2. If an alternative education in lieu of suspension is denied the student/parent may appeal the DRC's decisions to the Board of Education.
3. Participation and completion of any alternative educational program offered by WCPSS will result in the reduction of the long-term suspension to a short-term suspension. Withdrawal from the alternative educational program reactivates the long-term suspension.
4. A student who is placed in an alternative education program in lieu of suspension is not permitted to participate in school system activities including graduation without the express permission of the school principal.

E LONG-TERM SUSPENSION APPEAL

The Superintendent shall develop procedures, consistent with state and federal law, for the appeal of a long-term suspension, 365-day suspension or expulsion and a copy of these procedures shall be provided to a student/parent at the time the student is recommended for long-term suspension/365-day suspension/expulsion. The procedures shall include, but not be limited to the following:

1. Suspension Appeal Hearing: A student shall be given an opportunity for a hearing before an impartial hearing panel prior to the imposition of a long-term suspension/365 suspension or the recommendation of expulsion. The panel shall not include any person who is under the direct supervision of the administrator recommending the suspension. The impartial hearing panel shall serve as the Superintendent's designee in approving long-term suspensions and in recommending expulsions. The hearing panel may recommend a modification to a 365 day suspension, but only the Superintendent or Board of Education is authorized to approve such a modification.
 - a. If the student/parent does not make a timely request for a hearing, the hearing panel shall review the principal's recommendation and supporting documentation and may:
 - i. impose the suspension if it is consistent with board policy,
 - ii. impose another appropriate and authorized penalty, or
 - iii. decline to impose any penalty.
 - b. If the student/parent requests a delay in the hearing or requests a hearing after the deadline, the student is not entitled to return to school pending the hearing.
 - c. If neither the student nor parent appears for the hearing after being given reasonable notice, the parent and student are deemed to have waived the right to a hearing and the hearing panel shall proceed with a review and decision.
 - d. If the principal recommends an increase in the level of punishment based on aggravating circumstances, the recommendation must be approved by the hearing panel. If the principal recommends a decrease in the level of punishment based on mitigating circumstances, this recommendation must be approved by the DRC panel. The student/parent will be promptly notified of any changes in the recommended suspension length based on this review.
 - e. The hearing panel will make findings regarding guilt or innocence and make a decision regarding the length of the suspension, or recommend an expulsion, as appropriate.
 - f. The hearing panel shall issue a written decision that shall contain:
 - i. the basis for the decision, including a reference to any policy violated;
 - ii. notice of what information will be included in the student's official record pursuant to G.S. 115C-402; and
 - iii. notice of the student's right to appeal the decision to the Board of Education and the procedure for the appeal.
2. Board Appeal: A student may appeal the hearing panel's decision to the Board of Education.
3. In an appeal to the Board, the hearing panel's factual findings shall be adopted unless they are not supported by substantial evidence in the record.
4. If, at any level of investigation or appeal, the student is determined not guilty of the misconduct in question, the student's absences will be considered excused and the student shall have the right to make up missed work for credit according to policy 6000.5.
5. If the hearing panel approves the recommendation for long-term suspension and the student/parent does not request an appeal and/or accepts the offer of an alternative educational program within ~~four (4)~~ **five (5)** school days of receiving notice, the hearing panel shall send written notification that the suspension decision is final.

6. In considering the appeal, the Board panel will review and consider the entire record of the proceedings before the hearing panel, including all of the evidence offered by the school administration and the student. Ordinarily, the Board panel will not hear or consider evidence at the hearings on appeal. However, in extraordinary circumstances and in the exercise of its discretion, the Board panel by majority vote may permit either party to call witnesses or offer additional evidence.

F EXPULSIONS

The Board of Education, upon the recommendation of the principal and Superintendent/designee, may expel from school a student fourteen (14) years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or employees. Additionally, any student who is a registered sex offender under N.C. General Statutes 14-208 may be expelled.

A student that is recommended for expulsion shall be entitled to an appeal following the provisions of section 6500D. Prior to the expulsion of any student, the Board shall determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school personnel. In the event a student is expelled, the student shall be given notice of the right to petition for readmission as provided by state law.

G GENERAL PROVISIONS

1. Rules governing the suspension of children with disabilities shall be in compliance with state and federal guidelines.

Because students with mental and language disabilities present unique challenges, special assistance may be needed for administrators and special education staff who conduct fact-finding interviews involving students with these disabilities. When it is necessary to conduct a fact-finding interview with a student with a mental disability or language delay, the principal or designee has the option to request specialized assistance as deemed necessary. It is recommended that the administrator first contact the psychologist assigned to the school. If assistance is needed beyond the school psychologist, a request should be made by phone to the director **Assistant Superintendent** of Special Education Services.

2. The removal of a student from class by the teacher, principal, or other authorized school personnel for the remainder of the class period or school day and her/his relocation on the school premises shall not be considered a short-term suspension.
3. Assignment to in-school suspension or an alternative educational center shall not be considered a suspension from school.
4. A student who has been expelled from another public or private school in this or any other state or has been convicted of a felony in this or any other state and who is denied admission into the Wake County Public School System may appeal to the Board of Education for reconsideration.

Legal Reference: G.S. 115C-112, G.S. 115C-288(e), G.S. 115C-307, G.S. 115C-390, and G. S. 14-208

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Revised: July 12, 2011

Revised: