

APPEALS RELATED TO STUDENT DISCIPLINE: SUSPENSION/EXPULSION/REMAND OF STUDENTS

I. PURPOSE

To identify a procedure governing appeals related to student discipline.

II. SCOPE

This policy applies to all students in Shelby County Schools.

III. POLICY STATEMENT

A. Authority of the Principal to Suspend Students

A. Any principal, vice principal, or assistant principal, is authorized to suspend a pupil from attendance at their respective school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons as outlined in law.

B. In-School Suspension

1. Any principal, vice principal or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local Board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:
 - a. That adversely affects the safety and well-being of other pupils.
 - b. That disrupts a class or school sponsored activity; or

- c. Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.
2. Students receiving an in-school suspension exceeding one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

C. Due Process Regarding Suspensions

1. Except in an emergency, no principal, vice principal or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.
2. Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the department responsible for district-wide student discipline of:
 - a. The suspension, which shall be for a period of no more than ten (10) days;
 - b. The cause for the suspension; and
 - c. The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.
3. If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the Superintendent (or designee) upon request.
4. The following provisions apply to expulsions (removal from attendance for more than ten (10) consecutive days or more than fifteen (15) days in a month of school attendance and to expulsions and remands of a student to an alternative school in cases regarding a violent felony as defined in T.C.A. 40-35-321(e)):
 - a. If, at the time of the suspension, the principal, vice principal or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

- b. The principal, vice principal or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days or to expel or remand the student to an alternative school in cases regarding a violent felony. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.
 - c. The appeal from this decision shall be to the disciplinary hearing authority appointed by the Board. The disciplinary hearing authority shall consist of at least one (1) licensed employee of SCS, but no more than seven (7) members.
 - d. The hearing shall be held no later than ten (10) days after the beginning of the suspension or expulsion or remand in cases regarding a violent felony. The disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (C)(4)(a) who ordered the suspension or expulsion or remand in cases regarding a violent felony. Notice shall also be given to the SCS employee referred to in subdivision (C)(4)(b) who requests a hearing on behalf of the suspended student or the student who is expelled or remanded in cases regarding a violent felony.
5. After the hearing, the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension or expulsion or remand in cases regarding a violent felony unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.
6. A written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, vice principal or assistant principal may, within five (5) days of the decision, appeal the decision of the disciplinary hearing authority to the Superintendent. The Superintendent's designee shall review the written record of the disciplinary hearing authority and shall make a recommendation to the Superintendent as soon as practicable. After receiving a recommendation from the Superintendent's designee, the Superintendent shall render a decision based on the designee's recommendation. Absent a timely

appeal, the decision shall be final. Within five (5) days of the Superintendent's decision, the student, principal, vice principal or assistant principal may request review by the Board of Education. The Board of Education, based upon a review of the record, may grant or deny a request for a Board hearing and may affirm or overturn the decision of the disciplinary hearing authority with or without a hearing before the Board; provided, that the Board may not impose a more severe penalty than that imposed by the disciplinary hearing authority without first providing an opportunity for a hearing before the Board. If the Board conducts a hearing as a result of a request for review by a student, principal, vice principal or assistant principal, then, in accordance with state law and/or regulations the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the Board conducts a hearing as a result of a request for review by a student, principal, vice principal or assistant principal that is closed to the public, then the Board shall not conduct any business, discuss any subject, or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (C)(6) shall act to exclude the Tennessee Department of Children's Services from the disciplinary hearings when the department is exercising its obligations under T.C.A. § 37-1-140. The action of the Board of Education shall be final.

D. Academic and Examination Provisions for Students during the Last Ten Days of a Term or Semester

In the event the suspension or the expulsion or remand in cases of a violent felony occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the Board of Education upon any appeal from an order of a principal continuing a suspension or an expulsion or remand in cases involving a violent felony.

E. Recording Attendance for Students under In-School Suspension

Students under in-school suspension shall be recorded as constituting a part of the public school attendance in the same manner as students who attend regular classes.

F. Enrollment of Students Under Suspension, Expulsion or Remand from a School System in Tennessee or another State

SCS shall not be required to enroll a student who is under suspension or expelled or, in cases of a violent felony, remanded in an LEA either in Tennessee or another state. The Superintendent shall make a recommendation to the Board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension, expulsion, or remand from the former school system. If the recommendation is to deny admission and if the Board approves the Superintendent's recommendation, the Superintendent shall, on behalf of the Board, notify the Commissioner of Education of the decision. Nothing in this subsection (F) shall affect children in state custody or their enrollment in SCS. If SCS accepts enrollment of a student from another LEA, SCS may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled or, in cases of a violent felony, remanded by the other LEA.

G. Required Expulsions for Selected Offenses

A pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the Superintendent may modify this expulsion on a case-by-case basis. A student committing aggravated assault upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in T.C.A. § 39-17-403, through T.C.A. § 39-17-415, or legend drug, as defined by T.C.A. § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the Superintendent may modify this expulsion on a case-by-case basis. For purposes of this subsection (G), “expelled” means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the Superintendent. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school.

H. Exemptions

Nothing contained herein regarding expulsion or remand of a student to an alternative school in cases involving a violent felony shall interfere with

requirements or consultations between the juvenile, the court, and an LEA pursuant to TCA Title 37 if the court finds a juvenile to be delinquent as a result of an act pursuant to TCA § 37-1-131.

Legal References:

1. TCA 49-6-3401
2. 2015 Public Chapter 501