

Attendance

SUSPENSION, BOARD-APPROVED ALTERNATIVES, EXPULSION, AND REFERRAL TO CHILDREN AND FAMILY SERVICES

General Responsibilities

A student cannot be deprived of an education without due process of the law guaranteed by the Fourteenth Amendment to the Constitution of the United States of America.

Enrollment in a public school does not signify a waiver of the student's constitutional rights. It is essential that school administrators be aware that upon initiating disciplinary proceedings against a student they must proceed in a fixed order. A fair hearing procedure must be afforded the student in any type of action which may result in a change in program assignment, school suspension, or expulsion.

Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or designated representative shall not be civilly or criminally liable for any action carried out in conformity with Florida Statutes, State Board of Education Rules, and School Board Rules regarding change in program or school assignments, suspension and/or expulsion of students, or other Board-approved alternatives made in good faith.

Except in cases of an emergency, a good faith effort must be made by the principal to employ parental assistance or other alternative measures prior to change in program or school assignment, suspension/expulsion, or other Board-approved disciplinary alternatives.

The term **alternative measures** is defined to include, but not limited to, activities such as SCSI, PRIDE, parental conferences, remedial techniques, and **properly supervised activities relating to the upkeep and maintenance of school facilities** (work assignment). In the event a principal elects to require students, as a disciplinary measure, to perform maintenance or custodial services on buildings or grounds, such activity is specifically exempted from the provisions of the Child Labor Laws in Chapter 450, Florida Statutes.

Specific Procedures

- I. Administrative Authority
 - A. The Board shall decide all cases recommended for expulsion.
 - B. The Superintendent of Schools shall:
 1. Propose rules and regulations for the control, discipline, suspension, and expulsion of students;

2. Review and/or modify principals' recommendations for suspension and expulsion of students; and
 3. Transmit to the School Board for action recommendations for expulsion of students.
- C. The principal or the principal's designated representative, subject to law, the rules of the State Board of Education and the District School Board, shall:
1. Develop policies by which any teacher or other member of the instructional staff or any bus driver transporting students of the school may be delegated such responsibility for the control and direction of students as may be considered desirable.
 2. Suspend a student in accordance with School Board Rules. Each suspension shall be reported in writing within twenty-four (24) hours, with the reasons therefore, to the student's parent or guardian and to the Superintendent of Schools.

II. Students Subject to Disciplinary Action

Subject to law and the rules of the State Board of Education students who disrupt the orderly educational process are subject to disciplinary action. This disciplinary action may include, but not be limited to, suspension, expulsion, and other Board-approved alternatives. Students subject to this disciplinary action are those who have committed a serious breach of conduct, including, but not limited to:

- A. Willful disobedience;
- B. Open defiance of authority of a member of the staff;
- C. Violence against persons or property; or
- D. Any other act which substantially disrupts or has a detrimental effect on the orderly conduct of the school.

III. Disciplinary Actions

A. Suspension

Suspension is defined as the temporary removal of a student from the regular school program or school bus for a period not to exceed ten (10) days.

1. Due Process

a. Notice of Charge

Prior to suspending a student from the regular school program or school bus, the student shall have the right to be given an oral or written notice of the charges.

The principal shall prepare Form 37 - **Notice of Suspension**. The charge(s) should be specific, indicating the misconduct for which the suspension is being issued. Each suspension shall be reported in writing within twenty-four (24) hours to the student's parent or guardian and the Superintendent of Schools; one copy shall be filed in the student's Cumulative Guidance Record.

b. Initial Hearing

At the time the student is informed of the intent to suspend, a full explanation of the evidence and an opportunity to refute the charge(s) should be given to the student.

c. Appeal Hearing

An appeal hearing should be provided, upon request, for the purpose of presenting the evidence the authorities have and providing the student with an opportunity to present the student's version.

Whenever possible, this hearing should precede the actual suspension. However, in cases where a student's presence poses a continuing danger to persons or property or an ongoing threat to the conduct of the academic process, the student may be suspended prior to the appeal hearing.

2. Alternatives to Suspension

In lieu of suspension, the principal may wish to use any of the Board-approved alternatives, e.g., SCSI, PRIDE, work assignments. In such cases, students shall be afforded the same due process procedures that are applicable to suspension.

B. Expulsion

Expulsion is defined as the removal of the right and obligation of a student to attend a public school under conditions set by the School Board, and for a period of time not to exceed the remainder of the

term or school year and one additional year of attendance.

1. Due Process

a. Notice of Charge

Prior to recommending the expulsion of a student from the regular school program the student should have the right to be given written notice of the charges. The principal shall prepare Form 37A - **Notice of Ten-Day Suspension - Consideration of Expulsion**. The charges shall be specific, indicating the misconduct for which the suspension and consideration of expulsion is being issued. Each suspension/expulsion shall be reported in writing within twenty-four (24) hours to the student's parent or guardian and the Superintendent of Schools; one copy shall be filed in the student's Cumulative Guidance Record.

b. Initial Hearing

At the time the student is informed of the intent to suspend/expel, a full explanation of the evidence and an opportunity to refute the charge(s) should be given to the student.

c. School Level Appeal Hearing

An appeal hearing should be provided, upon request, for the purposes of presenting the evidence the authorities have and providing the student with an opportunity to present the student's own version. A list of the witnesses presently available and a summary of their testimony is to be made available to the parent or guardian upon request.

At the hearing the student may request the presence of any persons who may have witnessed or been involved in the alleged incident. However, the school has no power to compel the attendance of student witnesses. At the conclusion of the hearing, the principal or the principal's designee shall inform the student and parent or guardian as to what action will be taken in regard to the ten (10) day suspension and recommendation for expulsion, and inform them of the right to appeal the decision to the Superintendent of Schools.

Whenever possible, this hearing should precede the

actual suspension and recommendation for expulsion. However, in cases where a student's presence poses a continuing danger to persons or property or an ongoing threat to the conduct of the academic process, the student may be suspended prior to the appeal hearing.

d. District Level Appeal Hearing

The parent or guardian who does not concur with the recommended disciplinary action may appeal the decision of the principal to the Superintendent of Schools. The Superintendent of Schools, or the Superintendent of Schools' designee, shall review the previous hearing of the student and rule on the facts and the validity of the suspension/expulsion; the hearing may be reconvened for additional testimony which may be deemed necessary in making a final determination.

If the parent or guardian wishes to appeal the disciplinary action beyond the second level, the appeal will be conducted in accordance with the Administrative Procedure Act (Chapter 120 F.S.).

2. Alternatives to Expulsion

In lieu of expulsion, the student may be assigned to the Opportunity School Program or other Board-approved alternative program. In such cases, students should have the right to an administrative review under the provisions of the Administrative Procedure Act (Chapter 120 F.S.).

IV. Referrals to Department of Children and Family Services

A. Truancy

Students between the ages of 7 to 16 years who are habitually absent from school without the consent of parent, guardian, or school personnel shall be considered truant.

1. Referral

Students affected by the Compulsory School Attendance Law (age 7 to 16) may be referred to Children and Family Services for truancy when excessive absences can be validated as truancy. In such cases, a **Complaint of Truancy** form (MIS-11728) shall be submitted to the Court & Community Liaison Officer.

2. Intake Conference

The visiting teacher and/or a representative of the referring school are to be present at the conference scheduled by the Children and Family Services intake counselor.

3. Follow-up by School

The principal or designee is to determine the extent of follow-up procedures to be taken to assist in the progress of the student upon return to the school.

B. Child Abuse

An abused child is defined as **any person** under 18 years of age who has been subjected to willful or negligent acts which result in: neglect; malnutrition; sexual abuse; physical injury; mental injury; or failure to provide sustenance, clothing, shelter, or medical treatment.

1. Reporting Procedures

a. Any person, including, but not limited to, physician, nurse, teacher, social worker, or employee of a public or private facility serving children, **who has reason(s) to suspect or believe that a child has been subject to child abuse, shall report or cause reports to be made to the Department of Children and Family Services, Single Intake, or the State of Florida, Child Abuse Registry, Tallahassee, Florida.**

b. All alleged reports of physical injury to students by Board employees must be immediately reported to the Division of School Police for investigation. The Division of School Police will be responsible for reporting these incidents to Children and Family Services.

2. Personnel willfully failing to report or cause a report of a complaint of child abuse when brought to their attention will be subject to disciplinary action.

Specific Authority: 230.22(2) F.S.

Law Implemented, Interpreted, or Made Specific: 228.041(25),(26),and (28);230.22;
230.23(6)(c); 230.32(6); 230.33(8); 232.17; 232.19; 232.25; 232.26; 232.275; 232.28; 120.52;
120.57; Chapter 450, Part 1, F.S.

History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

New: 9-20-78

Technical Change: 5-1-98