

<b>TENNESSEE STATE BOARD OF EDUCATION</b>		
<b>REQUIRED REMANDS AND STUDENT DISCIPLINARY HEARING AUTHORITY</b>		<b>6317</b>
<b>ADOPTED: July 28, 2017</b>	<b>REVISED: February 7, 2020</b>	<b>MONITORING: Review: Annually</b>

**Required Remand for Suspensions of More than Ten (10) Days.** It is the State Board’s philosophy that it is in the best interest of students to be in the classroom as much as possible. To that end, the State Board has determined that for disciplinary infractions justifying a suspension of more than ten (10) school days, an authorized charter school shall remand students in grades seven (7) through twelve (12) to alternative school for the period of the suspension, absent special circumstances.<sup>1</sup> Students remanded to alternative school shall comply with the compulsory attendance law.<sup>2</sup>

If a special circumstance arises that the authorized charter school believes justifies a disciplinary action other than the required remand to alternative school, the authorized charter school shall immediately notify the Director of Schools, or designee, of the special circumstance. The Director of Schools, or designee, will consult with the authorized charter school regarding the special circumstance and will come to a decision regarding the proposed modification of the required remand within seven (7) business<sup>3</sup> days. Special circumstance modifications will be considered by the Director of Schools on a case-by-case basis.

The required remand to alternative school shall not apply to students found to have committed a zero-tolerance offense requiring a one (1)-year expulsion.<sup>4</sup>

**Student Disciplinary Hearing Authority.** Each authorized charter school shall establish a Disciplinary Hearing Authority (“DHA”) which shall conduct appeals for students who have been suspended/expelled/remanded for more than ten (10) school days.<sup>3</sup> Each authorized charter school shall develop a policy outlining the processes and procedures for its DHA hearings which shall include the following minimum requirements:

- (1) The governing board of the authorized charter school shall appoint a DHA which shall consist of at least two (2) members (maximum number must not exceed total membership of the governing board). At least one (1) DHA member shall be a licensed employee of the authorized charter school. All appointments are for one (1)-year terms and subject to reappointment. Governing board members shall not serve on the DHA. Names of appointed members shall be reported to the State Board as set forth in the State Board’s Disciplinary Hearing Authority Procedures.
- (2) The governing board shall appoint a chairman of the DHA from the members appointed by the board. The chairman shall perform the following duties:
  - (a) Set the time, place, and date for each hearing;
  - (b) Maintain order and structure during each hearing; and
  - (c) Prepare, sign, and disseminate the minutes of each meeting.
- (3) The policy of the authorized charter school shall outline how the record of the DHA proceeding will be kept, either by transcription, audio recording, or audio/visual recording, and whether the student will have the right to have an attorney participate in the DHA hearing and if so, to what extent.

- (4) When a student is suspended/expelled/remanded for more than ten (10) school days, the authorized charter school shall provide immediate written or actual notice to the student and parent or guardian of the right to appeal the suspension/expulsion/remand and that appeals must be made within five (5) school days of notification of the suspension/expulsion/remand. The charter school shall also provide the student and parent or guardian with a copy of the appeal policy/procedures. Upon receiving notification of the request to appeal the suspension/expulsion/remand decision, the DHA shall provide written notification to the student and parent or guardian, and any other appropriate person of the time, place, and date of the hearing in a language that the parent and student understand. The hearing shall be held no later than ten (10) school days after the beginning of the suspension/expulsion/remand.<sup>5</sup> The deadline for the DHA to make a decision shall be set forth in each authorized charter school's policy.
- (5) The DHA may take the following disciplinary actions:<sup>6</sup>
- (a) Affirm the decision of the school leader;
  - (b) Order removal of the suspension/expulsion/remand unconditionally;
  - (c) Order removal of the suspension/expulsion/remand upon such terms and conditions as it deems reasonable; or
  - (d) Suspend/expel/remand the student for a specified period of time.
- (6) Within five (5) school days of the DHA rendering a decision, the student, parent or guardian, school leader, or assistant school leader may request a review by the governing board, and the governing board shall review the record. Following the review, the governing board may grant or deny the request for a hearing or affirm or overturn the decision of the DHA with or without a hearing. However, the governing board shall not impose a more severe penalty than that imposed by the DHA without first providing an opportunity for a hearing before the governing board.<sup>7</sup> The notice of the hearing shall include a statement that, unless the student, parent or guardian requests an open hearing in writing within five (5) school days of receipt of the notice, the hearing shall be closed to the public.<sup>5</sup> The deadline for the governing board to make a decision shall be set forth in each authorized charter school's policy. In addition, each authorized charter school's policy shall outline the requirements for participation in a hearing granted by the governing board, including whether governing board members and other participants will be allowed to participate electronically. The decision of the governing board shall be final.
- (7) **Zero tolerance Offenses.** Certain zero tolerance offenses require a mandatory one (1) calendar-year expulsion unless modified by the head of a charter school.<sup>2</sup> Students found to be in violation of the zero tolerance policy shall be given the right to appeal to the DHA within five (5) school days of receiving notice of the expulsion. The DHA shall only have the ability to consider guilt or innocence of the zero tolerance infraction, and whether the student was provided with proper due process. The deadline for the DHA to make a decision shall be set forth in each authorized charter school's policy. The DHA shall not have the ability to modify the mandatory one (1) calendar year expulsion, however, the DHA may make a recommendation to the head of a charter school regarding a proposed modification of the student's mandatory expulsion.
- (a) Within five (5) school days of the DHA rendering a decision, the student, parent or guardian shall have the right to appeal from the DHA to the head of a charter school to seek modification of the mandatory one (1) calendar year expulsion. If the student chooses not to appeal to the DHA and wishes only to seek modification of the mandatory calendar year expulsion, the student may appeal directly to the head of a charter school for modification of the student's expulsion. The head of a charter school shall consider a recommendation from

the DHA, if any, regarding a proposed modification of the student's expulsion, however, the head of a charter school shall not be bound by the recommendation. The head of a charter school shall render a decision within seven (7) calendar days.

- (b) Within five (5) school days of the head of a charter school rendering a decision, the student, parent or guardian shall have the right to appeal to the governing board of the authorized charter school regarding guilt or innocence of the zero tolerance infraction, and whether the student was provided with proper due process. If the student chose not to appeal to the zero tolerance infraction to the DHA before petitioning the head of a charter school for modification of the mandatory expulsion, the student shall not have the ability to appeal to the governing board. The deadline for the governing board to make a decision shall be set forth in each authorized charter school's policy. In addition, each authorized charter school's policy shall outline the requirements for participation in a hearing granted by the governing board, including whether governing board members and other participants will be allowed to participate electronically. The governing board of the authorized charter school shall not have the ability to modify the decision of the head of a charter school with regard to modification of the student's expulsion. The decision of the charter school's governing board shall be final.
- (c) The head of a charter school shall notify the State Board of any modification made to the mandatory one (1)-calendar year expulsion for zero tolerance offenses within five (5) school days of the final disposition after any appeals.

The DHA and governing board of the authorized charter school shall follow the same procedures and timelines for zero tolerance offenses and suspensions/expulsions/remands of more than ten (10) school days, unless otherwise stated herein.

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Legal References:

<sup>1</sup> Prior to the assignment of a student with a disability to an alternative school or program, the IEP team shall review the student's IEP to ensure the alternative education program is able to provide the services in the LRE. The IEP team shall make all decisions regarding change of placement and delivery of services. No student with a disability shall be arbitrarily placed in an alternative education program; State Board Policy 2.302

<sup>2</sup> T.C.A. §§ 49-6-3402(c); 49-6-3001

<sup>3</sup> A "business day" is defined as a day that the State Board of Education offices are open. A "school day" is defined as an instructional day that the authorized charter school is open.

<sup>4</sup> T.C.A. § 49-6-3401(g)

<sup>5</sup> T.C.A. § 49-6-3401(c)(4)(A)

<sup>6</sup> T.C.A. § 49-6-3401(c) (5)

<sup>7</sup> T.C.A. § 49-6-3401(c)(6)

Cross References:

Zero Tolerance Offenses 6309  
Student Discipline 6313  
Suspension/Expulsion/Remand  
6316  
Disciplinary Hearing Authority  
Procedures