

**Board Policy JCEB: Student Hearing Procedure**

**Status:** DRAFT

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For the purpose of conducting certain student discipline hearings, as defined below, rendering a decision and imposing punishment, the Board of Education hereby adopts the following procedures:

1. The Superintendent or designee shall convene a hearing in the following cases:
  - a. Where a student has committed an alleged assault or battery upon a teacher, other school official or employee, if such teacher or other school official or employee so requests;
  - b. Where a student has violated any school or system rule or engaged in any other act of misconduct or insubordination for which the student's principal recommends a suspension or expulsion longer than ten school days.
2. The Board of Education hereby designates its administrative staff to serve as members of hearing tribunals. When the principal of a school or his or her designee refers a student to the Superintendent or his or her designee for a hearing as described in paragraph 1, the Superintendent or his or her staff shall choose three of these members to serve as the hearing tribunal. No member of the hearing tribunal shall be a member of the staff at the school which the student attends.
3. Whenever a principal or his or her designee refers a student discipline matter to the Superintendent or his or her designee, the Superintendent or his or her designee shall send a letter by regular or certified mail to the student and his or her parents or guardians containing a statement of the time, place and nature of the hearing, a short and plain statement of the matters asserted and charges against the student, a list of potential witnesses, a statement setting forth the right of the student to present evidence, cross-examine witnesses and be represented by legal counsel. The hearing must be held no later than **ten fifteen** school days after the beginning of the suspension unless the school system and parents or guardians mutually agree to an extension.
4. The school principal or his or her designee shall be responsible for presenting evidence in support of the charges against the student and all parties shall be afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses on any and all issues. Any teacher who is called as a witness by the school system shall be given notice no later than three days prior to the hearing. The hearing tribunal shall have made a verbatim electronic or written record of the hearing. This record shall be available to all parties but the cost of transcribing such record shall be borne by the party requesting the transcript.
5. The hearing tribunal shall render a decision finding whether the student committed the offense and, if so, the appropriate punishment. The decision of the hearing tribunal shall be based solely on the evidence received at the hearing, including any evidence presented by either party relevant to the appropriate punishment to be imposed. The hearing tribunal shall render a decision in writing within ten days of the close of the record and shall furnish a copy of the decision to the student, his or her parents or legal guardians, the principal or his or her designee and the Superintendent. The decision of the hearing tribunal shall be final and shall constitute the decision of the Board of Education unless either party should appeal the decision to the Board of Education. In any case where the tribunal finds that the student has committed an act of physical violence as that term is used in O.C.G.A. 20-2-751.6, any recommendation of the tribunal as to when and whether the student may return to school in accordance with the code section shall constitute the decision of the Board of Education unless there should be an appeal of the decision to the Board.
6. In the event a student or his/her parent does not wish to contest the charge(s) of violation(s) of the discipline rules of the school's code of conduct for which a tribunal has been requested, the student and parent may voluntarily accept the consequences prescribed by the school by signing a Waiver of Disciplinary Tribunal Hearing form. Such waiver shall specify the rule violation, the date and description of the incident, the prescribed consequences, and an agreement to waive the opportunity to participate in a tribunal hearing, present evidence, cross examine witnesses, and be represented by an attorney. The decision to waive the tribunal shall be final and cannot be appealed by the school or family. The waiver must be signed by the student, a parent, a school administrator and a district level administrator from the Superintendent's office, who shall act as hearing officer with authority to approve the disciplinary consequences set forth in the waiver.
7. Any party may appeal the decision of the hearing tribunal to the Board of Education by filing with the Superintendent a written notice of appeal within twenty days from the date the decision is rendered. Such notice of appeal shall set forth the decision of the hearing tribunal and the basis of the appeal. Any decision of

the hearing tribunal not appealed in this manner shall be final. The Superintendent may suspend the disciplinary action imposed by the hearing tribunal pending the outcome of the appeal.

8. The Board of Education shall review the record of the hearing before the hearing tribunal, the decision of the hearing tribunal and the notice of appeal and shall render its decision in writing within ten days from the date it receives the notice of appeal. The decision of the Board of Education shall be based solely on the record before the hearing tribunal and the Board shall not consider any other evidence in ruling on the appeal. The Board may find the facts to be different than those found by the hearing tribunal and the Board may change the punishment, in accordance with state law. Any decision of the local Board may be appealed to the State Board of Education by filing an appeal, in writing, within thirty (30) days after the local Board renders its decision.
  9. Any student subject to a disciplinary hearing who withdraws from the school system prior to the hearing must appear before a Disciplinary Hearing Tribunal to determine the student's eligibility to return to the school system in the event the student ever seeks to return to the system. Alternatively, the school district may, in its discretion, proceed with the tribunal in accordance with Board policy despite the student's withdrawal from school.
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