

Due Process for Long Term Suspension (from SB Policy SA:1)

1. In the event the student or parent desires a hearing on the alleged misconduct or penalty, he or she shall give written notice to the Principal within 48 hours (or by the next school day, whichever is later). The procedures described herein do not affect the Principal's authority to invoke a suspension or other sanction after an investigation.

2. If a hearing is not requested within the time prescribed above, the Principal shall promptly notify the Superintendent and request approval of the recommended long-term suspension. The Superintendent shall provide a prompt response to the request. Upon receipt of the Superintendent's approval, the Principal may impose a long-term suspension.

3. Hearing Request Procedures

a. When a parent requests a review of a long-term suspension the Principal shall immediately notify the person designated as a review officer that a review is requested.

b. The Principal shall provide the review officer with copies of written statements previously mailed or hand delivered to the parents or guardians and the student's cumulative record.

c. Upon notification from the Principal, the review officer will schedule a review committee hearing within 5 days (or as promptly as possible). The hearing will be held at a mutually agreed time by both parties.

d. The review officer shall notify the student and parents or guardian of the time and place for the hearing, in writing, by certified mail, and by telephone, if possible, and shall give at least 2 days notice of the hearing.

e. The student and his or her parents or guardians may be present at the hearing and may be represented by counsel. If the student is represented by counsel, the Superintendent or the review officer must be notified of such representation at least 2 days prior to the hearing.

4. Hearing Conduct Rules:

a. The hearing shall be informal and shall be conducted in private.

b. The review committee shall consist of three members to be designated by the review officer. One member of the committee shall be a representative of the central office. The student's school will not be represented on the committee. All reviews shall be conducted at the central office or at the Education Center.

c. Witnesses should be present only when they are giving information. The hearing may be attended by the review officer, the Principal or his administrative assistants, the student, his parents or guardian, and, if desired, his representative, and such other persons as the review officer deems necessary.

d. The review officer may consider the school records of the student as well as the testimony of any witnesses. Formal rules of evidence shall not apply and the review officer may rely on evidence that reasonably prudent people would consider in the conduct of serious affairs.

e. In presenting evidence, the Principal or other representatives of the school have the burden of proof and shall present first any witnesses and/or documentary evidence. Next, the student or his representative may present evidence, including any documents and witnesses.

f. Both the Principal (or school representative) and the student (or his representative) may examine the witnesses presented by the other side. The review officer has the power to limit questioning by any person, if such questioning is unproductive, unnecessarily lengthy, repetitive, or irrelevant.

g. The review officer shall provide for making an audio record of the hearing.

h. After the evidence has been presented, all parties shall leave the hearing room, and the disciplinary review committee shall deliberate. The committee shall consider the following:

1. If the student is guilty of the alleged policy violation (if contested)
2. If the school reasonably considered mitigating and aggravating factors
3. If the school issued discipline within the scope of school board policy and public school law

i. The committee shall develop a recommendation to the superintendent. The recommendation to the superintendent may not be more severe than the discipline proposed by the principal. The recommendation must be within the scope of discipline described in school board policy and public school law. The committee may also recommend that further investigation is warranted before a decision is reached.

5. The review officer must advise the Superintendent of the discipline review committee's findings and a final decision must be made by the Superintendent within three (3) days of the hearing. The Superintendent may review the sanction (except in cases covered by Mandatory Suspensions, Board Policy SA-1, Regulation 4) as well as the evidence of the violation.

6. The Superintendent shall promptly inform the Principal and parents in writing of the decision regarding the long-term suspension. Upon receipt of the Superintendent's decision the Principal may impose a long-term suspension.

7. The long-term suspension of a student may be appealed to the Board. Any student may appeal to the Board of Education in writing within three (3) days of receiving the Superintendent's decision. The Superintendent will inform the Board chairperson of the request for an appeal and arrange in a timely manner a hearing before the Board. The suspension awarded by the Superintendent need not be postponed pending the outcome of the appeal. Such an appeal shall be on the Superintendent's decision and on the record of the hearing. Any new evidence will be admitted only to avoid a substantial threat of unfairness.

8. The Board or panel of the Board generally will uphold the decision if there was a reasonable basis for the sanction such as: (1) the student was guilty of the alleged policy violation, (2) the school reasonably considered mitigating and aggravating factors, and (3) the school issued discipline within the scope of school board policy and public school law.

9. A decision by the Haywood County Board of Education may be appealed to a court of law as provided by statute.