

Book: School Board Policies

Section Ch. 5. Pupil Personnel

Title: Zero Tolerance

Policy Code 5.1814 Status Active Adopted July 20, 2022 Last Revised June 3, 2020 Prior Revised Dates 12/2/02, 6/3/2020, 7/20/2022

Policy 5.1814 – Zero Tolerance Policy

Purpose -- The School Board of Palm Beach County is committed to ensuring a safe learning and working environment for all of its stakeholders. The Board shall promote a safe and supportive learning environment in all schools by protecting its students and employees from behavior that poses a threat to school safety. The Board shall expel any student who commits a violation of the zero-tolerance policy for a period of time of not less than one year from the date of the incident. This policy shall apply equally to all students regardless of race, gender, or economic status.

Definitions --

Expulsion is defined as “the removal of the right and obligation of a student to attend a public school under conditions set by the district school board, and for a period of time not to exceed the remainder of the term or school year and 1 additional year of attendance. Expulsions may be imposed with or without continuing educational services and shall be reported accordingly.” Fla. Stat. § 1003.01(6)

Zero Tolerance Offenses: The following offenses pose a threat to school safety:

Bringing a firearm or weapon to school, to any school function, or onto any school-sponsored transportation or possessing a firearm at school;

Making a threat or false report as defined by Fla. Stat. § 790. 162 involving school or school personnel’s property, school transportation, or school-sponsored activity;

Threatening to throw, project, place, or discharge any destructive device;

Making a false report, with the intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction; as defined by Fla. Stat. § 790.163; or

Posting or transmitting a threat of mass shooting/violence or terrorism as defined by Fla. Stat. § 863.10(1), school, school transportation, or a school-sponsored activity.

A weapon is defined as any dirk, knife, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapons except a firearm or a common pocket knife, plastic knife, or blunt-bladed table knife as stated in Fla. Stat § 790.001 This includes “Electric weapons or devices”(Taser/Stun Gun) which are defined as any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

Pursuant to Fla. Stat. 1003.31, the School Board has the right to expel any student who is found to have committed an offense on school property at any time if the student is found guilty of a felony, or is found to have committed, or has adjudication withheld for a delinquent act which would be a felony if committed by an adult.

Pursuant to 1006.13(3) any student who is expelled for a violation of the Zero Tolerance Policy shall

be expelled for a period of no less than one (1) full year. As authorized by law, the Superintendent may request that the Board modify the one-year expulsion requirement if there are unique mitigating circumstances and if it would be in the best interests of the student and the school district to modify this requirement.

General Provisions

Discretion. -- Nothing in this Policy shall be construed to remove the discretion (when allowed by law) of the principal/designee, District administration, or in cases where mitigating circumstances may affect decisions on disciplinary action.

Reporting Criteria. -- Any Student who commits one of the offenses enumerated in this Policy shall be referred to law enforcement and the juvenile justice system within twenty-four (24) hours of the determination that the offense poses a threat to school safety. When applicable, incidents shall also be reported through the School Environmental Safety Incident Reporting System (SESIR) and/or any state-required reporting tool.

All disciplinary incidents resulting in a recommendation for expulsion shall be coded appropriately within the parameters of the School Board's Student Code of Conduct set forth in Board Policies 5.1812 and 5.1813.

Only the principal of a school may recommend expulsion to the Superintendent.

Student Placement Pending Expulsion. -- Upon the principal's decision to recommend expulsion, the student shall be issued a ten-day out-of-school suspension and reassigned to the Department of Support Services as stated in Board Policy 8.13. This assignment shall remain in effect until the School Board officially votes on the expulsion.

Only the School Board, by vote in a regular or special meeting, may officially expel a student (including a student recommended for expulsion by a charter school's governing body) from the regular education program of the District school system.

In the case of a charter school student, the charter-school principal shall make the expulsion recommendation, after consultation with the District's Charter School and Safe Schools Departments, if the offense meets the criteria for expulsion, the principal must submit the recommendation to the charter school's governing body and, if the governing body approves the recommendation, the governing body shall forward it to the Superintendent by sending a copy of all relevant documents to the Office of General Counsel. Charter school students that are recommended for expulsion shall be entitled to a hearing before the hearing officer, but shall not be reviewed by the District's Discipline Review Committee.

Expulsion Procedures

Due Process. -- Pursuant to Fla. Stat § 1002.20(4)(b), "public school students and their parents have the right to written notice of a recommendation of expulsion, including the charges against the student and a statement of student's right to due process." Due process includes notice and opportunity to be heard.

Notice. -- The student, and the parents/guardians of the student, shall receive written notice of the recommendation of expulsion. This notice will be issued within five (5) school days of the date of the offense. Pursuant to Fla. Stat.§ 1006.07(1)(a) and 1006.08, the notice shall contain the following:

A statement of the charges for which expulsion will be recommended;

An opportunity to attend the Discipline Review Committee (DRC) meeting, as described in paragraph d. The DRC will review the recommendation for expulsion during the ten (10) days the student is serving their suspension. The student and parents or legal guardians will be notified of the date, time, and place of the DRC meeting. The student and parents or legal guardians will be allowed ten (10) minutes to present their side of the story to the committee.

Pre-Hearing Procedures

Administrative Review. -- The principal, after discussing with their Regional/Instructional Superintendent, shall contact the Safe Schools Director to review the offense and determine if the action is expellable based on the zero-tolerance policy 5.1814 and the Student Code of Conduct. If the Regional/Instructional Superintendent and the Director of Safe Schools determine the offense does not violate the Zero-Tolerance Policy, but does cause an adverse impact on the school campus, the student will receive consequences in accordance with the Student Code of Conduct as well as possible Alternative Education assignment in accordance with policy 5.1817.

Legal Review. -- The Principal's expulsion recommendation packet and supporting documents shall be forwarded within three school work days to the Office of General Counsel for review. An attorney from the Office of General Counsel shall review each packet for legal sufficiency.

If the attorney finds the packet is not legally sufficient, the attorney shall communicate the deficiencies to the reporting school. If additional information is available that would make the packet legally sufficient, it should promptly be forwarded to the Office of General Counsel for further review. If the packet cannot sustain legal review, the expulsion process shall end, and the student shall be referred to their respective Regional Office for assignment.

If the packet is deemed legally sufficient, it shall be forwarded to the DRC.

Discipline Review Committee (DRC) -- A diverse committee consisting of a minimum of three and up to five principals, one representatives from Regional Office, Behavioral Mental Health, and other district personnel as appropriate will meet, to the extent possible, each week during the school year.

Each Committee meeting will be conducted by a chairperson who will administratively run the DRC. The meeting shall also be attended by an attorney from the Office of General Counsel, who will have no vote but will be available to answer questions regarding legal issues for the Committee members. The Committee shall review each expulsion packet forwarded by the Office of General Counsel, and consider mitigating factors and offer guidance to the Superintendent related to mitigation as well as recommend additional supports for the student. The Hearing Officer's recommendation shall be reviewed by the Chief Academic Officer/Deputy Superintendent and then forwarded to the Superintendent for a recommendation of expulsion to the School Board.

The DRC will notify the students, and guardians of the student, as to the determination of the Committee within three (3) school days. If the committee votes to proceed with the expulsion recommendation, then it shall send a written notification to the parents to advise them of the right to appeal an adverse determination to the Hearing Officer. The notice shall include the following;

Notification that the parent/guardian has 10 days from the date of the letter to request a hearing under Fla. Stat. §§ 120.569 and 120.57 to contest the recommendation. The notice shall also advise the parent/guardian that failure to timely request a hearing shall be deemed a waiver of the right to a hearing.

Notification that the student has the right to be represented by an attorney and to call witnesses to

testify at the hearing on the student's behalf.

Notification of the provisions of the Sunshine Law and that the parent may elect to have the hearing held in public; otherwise, it shall be closed to the public.

Hearing--

The student may request a hearing under Fla. Stat. § 120.57(1) when there is a disputed issue of material fact or under § 120.57(2) if there is no disputed issue of material fact. In either type of proceeding, the hearing shall be informal in nature and the rules of evidence will apply loosely.

It shall be the responsibility of the student/parent/guardian/representative to attend the hearing. If the student does not appear at the hearing, without making a request for a good cause continuance to the Office of General Counsel within 10 school days from the Notice of Hearing, the student is deemed to have waived the right to a hearing; the recommendation for expulsion shall be forwarded to the School Board for vote; and the facts of the charges in the notice will be deemed by the School Board to be true.

Disputed Issues of Material Fact. -- In cases where the student will contest a material issue of fact such as denying that the student actually committed the act as charged, the Hearing Officer will serve as the finder of fact. The burden of proof rests with the School District. When material facts are in dispute, the standard of proof is the "preponderance of evidence" i.e., whether it is reasonable to conclude from all of the evidence submitted by both the School District and the student that the pupil did commit the violation with which the student is charged as the basis for expulsion. After the conclusion of the hearing, the Hearing Officer shall issue written findings of fact as to whether the evidence presented supports the charge(s) against the student.

No disputed Issue of Material Fact. -- When the student does not dispute the factual basis for the expulsion recommendation, the student is entitled to a hearing under Fla Stat. § 120.57(2) to address whether the undisputed material of facts constitute a violation of School Board Policy, State Board of Education Rules, and/or state or federal statutes, forming a lawful basis for expulsion.

Although the Board shall make the final decision on the Superintendent's expulsion recommendation, a contracted attorney in good standing with the Florida Bar will serve as the Hearing Officer and will preside over the hearing.

The factual and legal issues to be addressed in the hearing and in the Hearing Officer's recommended order are:

Findings of fact—whether the student committed the act as charged, within the jurisdiction of the School District; and

Conclusions of law—whether the act constitutes a violation (of School Board Policy, State Board of Education Rules, and/or state or federal statutes) which forms a lawful basis for expulsion.

On these issues, the student/ representative may provide oral evidence or argument and documents, memoranda of law, or other written materials in opposition to the recommended expulsion action.

Although the Hearing Officer cannot enter settlement negotiating, they can consider mitigation of the expulsion penalty to a lesser consequence. If facts and/or legal arguments are asserted as a basis for mitigation and the Hearing Officer finds them credible, the recommended order should report them under a separate heading such as "Credible Mitigation Considerations." The Superintendent should take those reported credible mitigating facts or legal arguments into consideration when making the

expulsion recommendation to the Board.

School Board Action on Expulsion Recommendations. The School Board will normally vote during its regular monthly meeting on the Superintendent's recommendation to expel students whose cases have proceeded through the above-described process; additionally, Fla. Stat. §1006.08(1) also allows such action at a special meeting.

The School Board will vote on the Superintendent's recommendations to expel students whose cases have proceeded through the above-described process.

After the hearing held by a Hearing Officer, the student and their parents/guardians or representatives will be sent a copy of the Hearing Officer's recommended order along with notice of the date, time, and place when the expulsion will be voted on by the Board.

If the student attended the hearing before the Hearing Officer, the student will be notified of their right to appear in a closed, private meeting with School Board members pursuant to Policy 1.03(17), to express their views on the recommended penalty. The student's comments made during this closed session shall be limited strictly to three (3) minutes. Comments shall be limited to mitigation only. There shall be no retrial of the issues surrounding the facts of the incident that merited expulsion. The School Principal that submitted the initial recommendation for expulsion, along with a representative from Safe Schools and Support Services shall also attend this meeting to answer questions from the Board. The Board's vote on the expulsion and the entry of the final order will occur, without mention of the student's name or other personally-identifiable information, at the general meeting following the closed session.

If the student/parent did not appear at the scheduled hearing or request a one-time continuance, the student/parent or legal guardian/representative will have waived their right to meet privately with the School Board. However, they will have an opportunity to express their views on the recommended penalty by making public comment at the meeting where the Board will issue the final order. Like other speakers offering comments on agenda items pursuant to Policy 1.03, such student/parent or legal guardian/representative can provide input and insight to the Board (regarding the proposed expulsion).

After the Board votes on the expulsion, the student/parents/guardian/representative will be notified in writing of the Board's decision.

If the Board votes to expel, a written notice of expulsion will be mailed to the student/parent/guardian/representative. Copy of the signed Order of Expulsion shall be mailed to the student/parent/guardian/representative and filed with the Division of Administrative Hearings (DOAH)

If the Board votes against the expulsion, a notification will be sent to the student/parent/guardian/representative and the student will be referred to their respective Regional Office for assignment.

Re-Entry after Expiration of the Expulsion

Upon the expiration of the expulsion period, the student's Regional Office shall determine educational placement. It is the responsibility of the student and their parent/guardian or representative to contact the appropriate Regional Office for placement.

No student, after expiration of the expulsion, shall be transitioned back to the school where the incident meriting expulsion occurred unless the principal of the school is first notified and given the option of accepting the student back into that school.

In the interest of academic achievement, re-entry from an expulsion shall occur at the end of a making period, whenever practical at the discretion of the Regional Superintendent.

RULEMAKING AUTHORITY:

§§ 120.81 (1) (a); 1001.32 (2); 1006.08; 1006.13. Fla. Stat.

LAWS IMPLEMENTED:

§§ 1003.01, 1003.31; 1006.07; 1006.08; 1006.13; 784.081; 790.162; 790.163, Fla. Stat.

HISTORY:

12/2/02, 6/3/2020, 7/20/2022