

Related Entries: (Not identified at this time)

Alternative Assignment and Expulsion of Students

The School Board is committed to a safe and orderly educational environment for all students and staff.

- (1) The school principal or designee may recommend to the Superintendent the alternative assignment or expulsion of any student who has committed a serious breach of conduct including, but not limited to:
 - (a) Willful disobedience.
 - (b) Open defiance of authority of a School Board employee.
 - (c) Violence against persons or property.
 - (d) Any act which substantially disrupts orderly conduct of the school.
 - (e) The commission of a felony off school property as provided for in Florida Statute.
 - (f) Any act for which alternative assignment or expulsion are established as an appropriate consequence in the Code of Conduct for Students.
- (2) The school principal or designee shall recommend, to the Superintendent, the expulsion of a student who has violated School Board Rules or Florida Statute, which require expulsion.
- (3) The following general procedures shall be observed when a student is suspended with a recommendation for alternative assignment:
 - (a) The Superintendent or designee shall receive and review recommendations for alternative assignment from the school principal or designee who is directly charged with the supervision of the students concerned. These recommendations shall be submitted in writing to the Superintendent by the individual and shall indicate the grounds for the recommendation. The Superintendent or designee shall review the principal's recommendation and supporting documentation and determine whether sufficient reason(s) exist for assigning the student to an alternative school assignment.

- 43 (b) If alternative assignment is warranted, the Superintendent or designee shall
44 notify the student's parent(s) or legal guardian or the adult student in writing
45 of the assignment. The reassignment letter shall advise the parties that the
46 student is thereby assigned to the Alternative Learning Center (ALC). It shall
47 also state that the parties may request an appeal to the District Alternative
48 Reassignment Appeals Committee. The parties shall be advised that failure
49 to request an appeal within 10 days of the date of the reassignment letter
50 constitutes a waiver of their right to said appeal and to any further review.
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- 52 (c) The reassignment letter may be served on the parent(s) or legal guardian or
53 the adult student via regular U.S. mail to their last known address.
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- 55 (d) Any request for an appeal must be made in writing and must be served upon
56 the Director of Student Services or designee within 10 days of the date of the
57 reassignment letter.
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- 59 (4) The following general procedures shall be followed when a student has been
60 notified of their assignment to the ALC and they have requested an appeal to the
61 District Alternative Reassignment Appeals Committee:
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- 63 (a) The student shall be provided written notice of the meeting at which the
64 Committee will consider the appeal. The notice may be sent to the student
65 via regular U.S. Mail. The notice shall include copies of all supporting
66 documents provided to the Committee by the Principal, or his/her designee,
67 who recommended the ALC assignment.
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- 69 (b) The notice shall advise the student of the following:
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- 71 1. The charges that led to his/her assignment to the ALC.
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 - 73 2. His/Her right to bring a representative to the Committee meeting.
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 - 75 3. His/Her right to tell his/her side of the circumstances surrounding the
76 charges.
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 - 78 4. His/Her right to bring witnesses to the meeting.
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 - 80 5. His/Her right to submit documents to the Committee.
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- 82 (c) The Committee shall consist of three or more members.
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- 84 1. The Committee shall be chaired by the Director of Student Services or
85 designee.

- 86 2. The remaining members shall be District or school based
87 administrators who shall be appointed to serve on the Committee by
88 the Chairperson.
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- 90 3. The Committee members may not be from the school that
91 recommended the student's assignment to the ALC.
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- 93 (d) The Committee meetings shall be informal. The rules of evidence and
94 Chapter 120, Florida Statutes (Administrative Procedures Act), do not apply.
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- 96 (e) The Chairperson of the Committee shall conduct the meeting.
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- 98 1. The meeting shall be opened by reading the charges to the student
99 and his / her representative(s), if any.
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- 101 2. The Committee will then provide the student the opportunity to state
102 his/her side of the story. The student shall also be given an
103 opportunity to bring forward any witnesses and to submit any
104 documents for review by the Committee.
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- 106 3. Once the student has finished presenting his / her side of the story,
107 the Principal, or his/her designee, may present rebuttal evidence.
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- 109 4. The Committee will then deliberate and consider all of the information
110 and evidence presented to it.
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- 112 5. The Chairperson shall maintain a record of the meeting which shall set
113 forth the time; date; location; names of all persons present, including
114 any witnesses; and, a brief description of any documents submitted to
115 the Committee.
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- 117 6. Following the meeting, the Committee will send a letter to the student
118 advising him / her of the outcome of the appeal.
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- 120 (f) The decision of the Committee shall be final and binding upon the student.
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- 122 (5) The following general procedures shall be observed when a student is suspended
123 with a recommendation of expulsion:
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- 125 (a) The Superintendent or designee shall receive and review recommendations
126 for expulsion of students from the school principal or designee who is directly
127 charged with the supervision of the students concerned. These
128 recommendations shall be submitted in writing to the Superintendent by the
129 individual and shall indicate the grounds for the recommendation. The
130 Superintendent or designee shall review the principal's recommendation and
131 supporting documentation and determine whether sufficient reason(s) exist
132 for making a recommendation to the School Board for expulsion.

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- (b) If expulsion is warranted, the Superintendent shall recommend the appropriate penalty to the School Board and shall notify the student's parent(s) or legal guardian or the adult student in writing of the recommendation. The recommendation letter shall advise the parties of the date, time and location of a Student Hearing at which the School Board shall consider the recommendation. It shall also state that the parties may request a due process hearing before an impartial hearing officer if they dispute the facts in the case. The parties shall be advised that failure to request a due process hearing within 21 days of their receipt of the recommendation letter constitutes a waiver of their right to said hearing. The parties shall also be advised that if they fail to request a due process hearing they will not be permitted to dispute the facts at the Student Hearing before the School Board.
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- (c) The recommendation letter shall be served on the parent(s) or legal guardian or the adult student via process server unless waived by the parties and/or their representative. If personal service is waived, the notice may be sent via regular U.S. mail to their last known address.
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- (d) The recommendation letter shall notify the parties that unless they elect to have the proceedings open to the public, the proceeding shall be closed and not subject to the open meetings law.
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- (e) Any request for a due process hearing must be made in writing and must be served upon the Staff Attorney.
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- (6) The following procedures apply to Student Hearings before the School Board in expulsion cases when a due process hearing has not been requested:
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- (a) When a due process hearing has not been requested and neither the parent/guardian nor the student appear at the Student Hearing at which the expulsion recommendation is being addressed, the allegations made by the Superintendent shall be accepted as fact and the only matter that shall be considered is whether expulsion is appropriate and if so, the term of the expulsion.
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- (b) If the parent/guardian/student has not requested a due process but does appear at the Student Hearing to speak to the recommendation for expulsion, the School Board shall accept as fact the allegations made by the Superintendent concerning the student's conduct. The parent's/guardian's/student's comments shall be restricted to the appropriateness of the recommended expulsion. The only matter the Board shall consider is whether expulsion is appropriate and if so, the term of the expulsion.

- 179 (c) The parent/guardian/student shall be allowed 10 minutes to address the
180 School Board. The Staff Attorney for the Superintendent shall be allowed 10
181 minutes to respond. If the parent/guardian/student asserts that the
182 allegations are not true, the Board Attorney shall remind the
183 parent/guardian/student that allegations are accepted as fact because of the
184 failure to request a due process hearing.
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- 186 (7) The following procedures apply in expulsion cases when a due process hearing has
187 been requested:
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- 189 (a) In the case of a recommendation for expulsion, the Superintendent or
190 designee shall withdraw the recommendation if the parent/guardian/student
191 requests a due process hearing. There shall be no action upon the matter by
192 the Board until receipt of a recommended order from the hearing officer.
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- 194 (b) Upon receipt of a request for a due process hearing, the Superintendent shall
195 file charges against the student in the form of a Petition. The basis of the
196 charges shall be specified with the Superintendent's recommended action,
197 including specific allegations of fact to support the recommendation.
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- 199 (c) The Petition shall be served upon the student's parent(s) or legal guardian or
200 adult student via process server unless they and/or their representative
201 waive personal service. If personal service is waived, the Petition may be
202 sent via regular U.S. mail to their last known address.
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- 204 (d) A Notice of Hearing shall be served with the Petition setting forth the date,
205 time and location of the due process hearing. The Notice shall set forth the
206 following:
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- 208 1. The hearing shall be conducted pursuant to Chapter 120 of the Florida
209 Statutes.
 - 210 2. The hearing shall be conducted before an impartial hearing officer.
 - 211 3. The student has the right to be represented by an attorney.
 - 212 4. The hearing shall be closed to the public unless the student and/or
213 their representative elect otherwise.
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- 215 (e) When the recommended order is received, the Superintendent or designee
216 shall prepare an agenda item for presentation to the School Board and shall
217 advise the parent/guardian/student of the date and time of the Student
218 Hearing at which the recommended order shall be considered.
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- 222 (f) At the Student Hearing, the parent/guardian/student shall be allowed 10
223 minutes to speak to the School Board concerning the matter and the Staff
224 Attorney for the Superintendent shall be allowed 10 minutes to respond to
225 those remarks.
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- 227 (g) When a recommended order is being presented to the School Board for
228 action and no exceptions have been filed, the findings of fact made by the
229 hearing officer shall be considered as fact in the case and the only issues
230 remaining for the School Board to decide are whether alternative
231 assignment/expulsion is appropriate and for what term based on the findings
232 of the hearing officer. The Board may, in its sole discretion, modify the
233 findings of fact of the hearing officer despite the failure of both parties to file
234 exceptions.
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- 236 (8) Exceptions:
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- 238 (a) Written exceptions to a recommended order of a hearing officer and any
239 proposed final order shall be filed with the Staff Attorney and served on the
240 opposing party no later than 15 days from the date the recommended order
241 was issued, unless the parties specifically agree to a different time period.
242 The opposing party shall have 10 days from the date the exceptions were
243 served to file a response. Failure to timely file exceptions shall constitute a
244 forfeiture of the ability to do so.
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- 246 (b) The transcript shall be filed with the School Board Office at the time
247 exceptions are filed. The party submitting exceptions is responsible for the
248 cost of preparation of the transcript.
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- 250 (c) In all cases, all portions of the transcript requested by any party, the hearing
251 officer's recommended order, any exceptions filed thereto, and each side's
252 proposed findings of fact and proposed final orders shall be distributed to the
253 Board members no later than the Friday before the student hearing.
254
- 255 (d) The official record in a case shall consist of the following:
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- 257 1. All notice, pleadings, motions, and intermediate rulings.
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 - 259 2. Evidence received or considered.
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 - 261 3. A statement of matters officially recognized.
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 - 263 4. Questions or proffers of proof and objections and rulings thereon.
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 - 265 5. Proposed findings and exceptions.
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 - 267 6. Any decision, opinion, proposed or recommended order to report by
268 the hearing officer.

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7. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties.
 8. All matters placed on the record after an ex parte communication pursuant to Section 120.66(2).
 9. The official transcript, if submitted by either party.
- (e) Options Concerning Recommended Orders of hearing officers:
1. The School Board may adopt the recommended order as the final order of the School Board.
 2. The School Board may reject or modify the conclusions of law and interpretation of administrative rules over which it has substantive jurisdiction in the recommended order. In doing so, the School Board need not have reviewed the entire record, but must state with particularity its reasons for such rejection or modification.
 3. The School Board may not reject or modify the findings of fact contained in a recommended order unless the School Board first determines, from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of the law.
 4. The School Board may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record. If the School Board increases or decreases the recommended penalty, it must state with particularity its reasons for doing so and cite to the record justifying the action.
- (f) The decision of the School Board shall be based solely on the record and no School Board member shall consider any matters not contained in the record as a basis for deciding the case.
- (9) Final Order:
- (a) The School Board shall enter a final order that rules upon all exceptions filed by a party.

- 311 (b) The Board member presiding over the meeting at which the order is adopted
312 shall execute final orders.
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- 314 (c) Each final order shall contain a statement that judicial review is available
315 under Section 120.68, Florida Statutes, and that the appeal may be taken by
316 filing a notice of appeal with the School Board Office within 30 days of the
317 rendition of the final order.
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- 319 (d) The Superintendent or designee shall notify the student's parent(s) or legal
320 guardian or the adult student of the official School Board action by certified
321 mail with reasonable speed and include a copy of the School Board's final
322 order. The notice shall inform the student's parent(s) or legal guardian or the
323 adult student of their right to appeal the School Board's final order to the
324 District Court of Appeal.
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- 326 (10) The following shall apply to the alternative assignment and expulsion of exceptional
327 education students (ESE):
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- 329 (a) The expulsion of an exceptional education student shall not result in a
330 complete cessation of educational services; the District is responsible for
331 providing the dismissed student's education during the expulsion in
332 accordance with a revised Individual Education Plan (IEP).
333
- 334 (b) The following procedures shall be followed for the alternative assignment of
335 ESE students:
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- 337 1. Upon the recommendation of a principal that an ESE student be
338 placed in alternative assignment or expelled, an IEP Review Meeting
339 shall be convened.
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- 341 2. If it is determined at the IEP Review Meeting that the student's IEP
342 can be implemented at the alternative school and no changes are
343 needed in the IEP, the discipline matter shall move forward in the
344 same manner as it would for a student in a regular education program.
345
- 346 3. If it is determined at the IEP Review Meeting that the student's IEP
347 cannot be implemented at the alternative school and/or that the IEP
348 needs to be changed, a manifestation review will need to be
349 conducted.
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- 351 i. If the student's misconduct is a manifestation of his/her
352 disability, the student may be placed at the alternative school
353 for 45 calendar days if: 1) the misconduct constitutes a
354 weapons offense or involves illegal drugs/controlled
355 substances; or, 2) the District proves the necessary criteria for
356 placement in an alternative school to an Administrative Law
357 Judge.

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359 ii. If the student's misconduct is not a manifestation of his/her
360 disability, the student may be placed at the alternative school
361 for a period which may exceed 45 calendar days if the IEP
362 team determines: 1) that the alternative setting will enable the
363 student to continue to progress in general curriculum; and 2) it
364 enables the student to advance toward goals in the IEP.
365

366 (c) Additional requirements for the alternative assignment/expulsion of
367 exceptional education students may be set forth in the Special Programs and
368 Procedures for Exceptional Student Education Manual.
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370 (11) Expulsion Orders from Other School Districts
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372 The School Board shall have the authority to honor the final order of expulsion of a
373 student by another school board in accordance with the following procedures:
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375 (a) The Superintendent may recommend to the School Board that either the final
376 order of expulsion from another school district be waived and the student be
377 admitted to the School District or that the final order of expulsion be honored
378 and the student not be admitted to the School District.
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380 (b) If the student is admitted by the School Board, the student may be placed in
381 an appropriate educational program by the Superintendent.
382

383 (c) The final order of expulsion from the other school board shall be recorded in
384 the records of the School District of Lee County.
385

386 (d) The School District of Lee County shall be advised of the final order of
387 expulsion for an expelled student applying for admission.
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389 (12) Readmission of Expelled Students
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391 (a) If a student has been expelled for the use, possession or sale of alcohol,
392 controlled substances, counterfeit controlled substances, drug paraphernalia
393 or over-the-counter medication, the student may be readmitted to the Lee
394 County Public Schools prior to the end of the expulsion period, if the student
395 and/or their parent/guardian submit a written request for readmission and:
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397 1. The request is accompanied by three letters of reference and proof of
398 successful completion of a licensed drug abuse program; and

- 399 2. The student agrees to submit to random drug testing at least once per
400 month throughout the remainder of the period of expulsion. The cost
401 of the drug testing shall be borne by the student. If the student fails to
402 submit to testing when directed to submit to same by the Principal or
403 their designee or the test shows a positive result, the expulsion shall
404 be reinstated without further proceedings.
405
- 406 (b) If a student has been expelled for any reason other than those set forth in
407 paragraph (a) above, the student may be readmitted to the Lee County public
408 schools prior to the end of the expulsion period if the student and/or their
409 parent/guardian submits a written request for readmission and:
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- 411 1. The request is accompanied by three letters of reference; and
412
- 413 2. The student provides proof of successful completion of a counseling
414 program with a licensed therapist.
415
- 416 (c) All requests for readmission and accompanying documentation must be
417 submitted to the Director of Student Services at least 30 days prior to the
418 start of the school year or 30 days prior to the start of Winter Break. A
419 request for readmission shall not be considered unless and until all
420 documentation required by this rule is provided to the Director.
421
- 422 (d) The Director of Student Services shall convene a readmission committee
423 upon the receipt of a request and all the required documentation. The
424 Director of Student Services shall appoint the members of the committee.
425
- 426 (e) The committee shall hold a hearing to consider the request for readmission.
427 The Director shall send written notice of the hearing to the student and the
428 parent/guardian via U.S. mail. The notice shall advise the student that they
429 have the right to bring a representative with them to the hearing.
430
- 431 (f) If the readmission committee recommends readmission, the recommendation
432 shall be forwarded to the Superintendent who, upon approval, shall forward
433 the recommendation to the Board. The Board shall consider the
434 recommendation for readmission at a student hearing. If the Board approves
435 the recommendation, it shall enter a Final Order readmitting the student.
436
- 437 (g) If a student has been expelled, he/she must be out of school for at least 180
438 calendar days, starting from the first day of their suspension related to the
439 offense for which they were expelled, before the Board will consider a
440 recommendation for readmission.
441
- 442 (h) Students may only be readmitted to the regular or alternative schools at the
443 beginning of a school year or at the beginning of a semester.

444 (13) This rule shall prevail over any District procedure, which is contrary to or conflicts
445 with these rule provisions.

446
447 (14) Students shall not be treated differently with regard to suspensions or expulsions on
448 the basis of their race, color, gender, religion or national origin.

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451 **STATUTORY AUTHORITY:** 120.57(1), 120.57(2), 1001.41, 1001.42, 1001.43,
452 1003.31, 1006.08, 1006.09, 1012.28(5), F.S; and SBER
453 6A-6.0331

454
455 Adopted: 2/27/07 (Formerly: Policy 1.70)

456 Revised: 7/31/07