

NOTICE OF STUDENT DUE PROCESS RIGHTS FOR LONG-TERM SUSPENSION, 365 DAY SUSPENSION AND EXPULSION

Pursuant to Avery County Board of Education ("Board") Policies and the North Carolina General Statutes¹, all students enrolled in the Avery County Schools are afforded certain due process rights for short and long term suspension and expulsion.

Long-Term Suspension, 365 Day Suspension or Expulsion

Your child has received a short-term suspension for ten (10) days and is being recommended for long-term suspension, a 365 day suspension or expulsion for his/her misconduct and violation(s) of Board policy and school rules as outlined in the attached cover letter.

If your child is entitled to protection under the Individuals with Disabilities Education Act, all school actions are subject to decisions of your child's IEP team as mandated by applicable federal and state law.

Your child has certain procedural due process rights as outlined below.

Appeal to the Superintendent

A student may appeal the school administrator's recommendation to the Superintendent or designee. The Superintendent or designee shall notify the student and his/her parent/guardian of the right to an appeal. The request for an appeal to the Superintendent or designee must be received within three (3) days of the receipt of the notice of the right to appeal. A hearing will be scheduled within five (5) days of the Superintendent's receipt of the hearing request.

The hearing shall be before the Superintendent or his/her designee and shall be conducted as follows:

1. **Closed Hearing.** The hearing will be informal and will be conducted in private.
2. **Representation.** In addition to the Superintendent or designee, the hearing may be attended by the Principal and administrative assistants, the student, the student's parents/guardians and, if desired, a representative and any other persons the Superintendent or designee deems necessary. The student has a right to have legal counsel present. If the student intends to have legal counsel present, the student and parent/guardian must notify the Principal at least two (2) days prior to the hearing.
3. **Presentation of Evidence.** The Principal or other school representative shall present witnesses and documentary evidence against the student. Next, the student, or his/ her representative, may present witnesses and documentary evidence. Witnesses should be present only when giving their testimony. Both the Principal or other school representative and the student or his/her representative may ask questions of the witnesses presented by the other side. The Superintendent or designee has the power to limit questioning by any person if such questioning is unproductive, unnecessarily lengthy, repetitive or irrelevant.
4. Formal rules of evidence do not apply and the Superintendent or designee may rely on evidence that a reasonably prudent person would consider in the conduct of serious affairs.
5. **Access to Student Education Records.** The student's parent/guardian shall have access to a copy of the student's education records and all witness statements prior to the hearing. Upon request, such documentation must be provided to the parent/guardian no later than two (2) days prior to the hearing.

Superintendent's Decision

¹ Board Policies 4345, 4353, 4361 and 4370 and N.C. Gen. Stat. § 115C-391.

Based upon relevant documents and any findings from the hearing, the Superintendent will determine whether to approve the long-term suspension. The Superintendent may modify the Principal's recommendations. The Superintendent or designee will immediately inform the Principal of his/her decision and a long-term suspension may be imposed immediately. The Superintendent or designee will send a copy of his/her decision to the parent/guardian along with a copy of information about student discipline records and procedures for records expungement. Further, the notice shall include the language regarding the right of the student to appeal the long-term suspension decision to the Board. If English is the second language of the parent/guardian, the notice shall be written in English and in the parent/guardian's first language when resources are readily available. Both versions will be in plain language and will be easily understandable.

If the Superintendent or designee determines that expulsion is appropriate, the Superintendent or designee will submit a recommendation and the basis of the recommendation to the Board with any proposal for alternative education. The Superintendent will send a copy of the recommendation to the parent or guardian in person or by certified mail.

Appeals to the Board

Appeal of Long-Term or 365 Day Suspensions

A student or parent/guardian may challenge a long-term or 365 day suspension approved by the Superintendent. The student must appeal to the Board within three (3) days of receiving the Superintendent's decision. The appeal must be in writing and submitted to the Superintendent. 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 need not be postponed pending the outcome of the appeal.

The Board will provide the opportunity for a hearing which follows the rules established for administrative hearings, except the Superintendent or designee will represent the school district and the Board or Board panel shall be the decision maker. If a hearing has been held at the administrative level, the hearing rules may be modified at the Board's discretion to limit presentations of testimony to the student, student's parent and representative and the school district's representative. The student and the Superintendent may be represented by legal counsel. The Board also may limit documentation to the records and evidence produced at the administrative hearing, unless there is a substantial threat of unfairness.

Appeals of Expulsion

The student and parent/guardian may request a hearing within five (5) days of receipt of the Superintendent's recommendation for expulsion. The Board hearing will be scheduled within five (5) days of the Superintendent's receipt of the hearing request. The Superintendent or designee will notify the parent/guardian of the date, time and place of the hearing. Any appeal of a long-term suspension will be addressed in the same hearing. The same hearing procedures as in the administrative level will be followed except the Board may review the record from the administrative hearing in addition to or instead of presentations of evidence by individuals other than the Superintendent/designee or the parent/guardian, student or student's representative.