

Hamilton County Board of Education			
Monitoring: Review: Annually in April	Descriptor Term: <b>Student Disciplinary Appeals</b>	Descriptor Code: 6.3022	Issued Date: 10/17/19
		Rescinded:	Revised: 05/11/23

## DISCIPLINARY HEARING AUTHORITY<sup>1</sup>

A Disciplinary Hearing Authority (DHA) will conduct hearings for students who have been suspended for more than ten (10) school days. The DHA will have the authority to determine accountability for any disciplinary case and, subject to the provisions of T.C.A. § 49-6-3401 and Board Policy Nos. 6.300 and 6.301, appropriate consequences.

## CONSTITUTION OF THE DHA

The DHA will operate under the office of the Chief of Equity. Each year in July, the Board will appoint up to nine (9) licensed employees to serve on the DHA. Four members of the DHA will constitute a quorum for the hearing of any case.

The Chief of Equity or designee shall appoint a chair of the DHA from the members appointed by the Board. The chair will be trained appropriately in the conduct of disciplinary hearings.

The chair shall schedule a hearing within forty-eight (48) hours of the timely request of a student, parent, guardian, or teacher acting on the student's behalf. In no event will the hearing be scheduled more than ten (10) days after the commencement of the suspension.

The chair shall assign members of the DHA to sit as the panel hearing each case. The chair is responsible for having the hearing recorded or transcribed.

## CONDUCT OF THE HEARING

During the hearing, the chair will announce on the record the purpose of the hearing, including the nature of the offense, the date the offense occurred, and the date the appeal was lodged. The chair will ask each member of the DHA to introduce himself/herself on the record and will then ask the administrators and the student to introduce themselves as well. The chair will then describe the process the DHA will observe during the course of the hearing.

The administration will set forth the basis for its belief that the student is accountable for misconduct warranting a suspension in excess of ten (10) days. This explanation may consist of a summary of any investigation presented by the charging administrator, or it may consist of one or more witnesses as the administration deems appropriate. The DHA may ask such questions as it deems necessary to ensure a clear understanding of the case. Neither the student nor his parents/guardians may cross-examine the administration or the administration's witnesses.

After the administration has presented its charges and the DHA has questioned the administrators and their witnesses to their satisfaction, the student may respond. The student may speak on his/her behalf

and may call such witnesses as are willing to speak for the student. The DHA may question the student and anyone speaking on the student's behalf.

While the student may have counsel present during the hearing, counsel may not examine or cross-examine any witnesses, nor may counsel advocate on behalf of the student.<sup>2</sup>

After the administration and the student have both explained their respective positions, the DHA shall retire to deliberate off the record and to make a decision. The first issue for the DHA to decide is whether the student engaged in the misconduct alleged. If the DHA sustains the allegation, then, except in the case of a zero-tolerance offense set forth in Board Policy No. 6.309, the DHA has the authority to decide the appropriate consequence within the scope set forth in Board Policy No. 6.300, which provides for the student Code of Acceptable Behavior and Discipline.

Upon reaching a decision, the DHA shall reconvene on the record and shall announce one of the following decisions:<sup>3</sup>

1. To affirm the decision of the school principal;
2. To order removal of the suspension unconditionally;
3. To order removal of the suspension upon such terms and conditions as it deems reasonable;
4. To remand the student to an alternative placement; or
5. To suspend the student for a specified period of time.

The DHA shall provide the student, parent/guardian, and administration of its written decision no later than five (5) days after the hearing. As part of this notice, the DHA shall explain the right of the parties to appeal to the Chief of Equity, as the designee of the director of schools, and the Board. In the case of a zero-tolerance offense, the notice shall indicate that the Chief of Equity has the sole discretion whether to modify the statutory 365-day suspension.

#### **APPEAL TO THE CHIEF OF EQUITY OFFICE<sup>4</sup>**

Any student, parent/guardian, or administrator who is dissatisfied with the decision of the DHA has the right to lodge an appeal with the Chief of Equity, who shall serve as the designee of the director of schools. He/she shall have broad discretion to decide a student's accountability and appropriate consequences. He/she shall have sole discretion to modify 365-day suspensions established by state law and Board policy.

#### **APPEAL TO THE BOARD OF EDUCATION<sup>5</sup>**

If the student, parent/guardian, or administrator is dissatisfied with the decision of the Chief of Equity, he/she may request the Board review the decision. As part of any such review, the Chief of Equity and the chair of the DHA shall prepare the record, a summary of the proceedings and explanation of any decision, and a summary of the position of the administration and the student or parent/guardian, and submit these to the Board under seal.

The Board, at its next regular meeting, shall vote whether to sustain the decision of on the record, to reverse or modify the decision on the record, or to grant a new hearing. The Board does not have the jurisdiction to modify the consequences for a zero-tolerance offense.

If the Board votes to grant a new hearing, any such hearing shall be closed to the public unless the student or parent/guardian, within five (5) days, requests that the hearing be open. Any such hearing shall operate as would any DHA hearing except that, in the event of an open hearing, the Board shall not retire to deliberate. At the conclusion, the Board may affirm the decision of the Chief of Equity or modify the decision of the Chief of Equity, to include the imposition of a more severe consequence.

## **OVERSIGHT OF THE STUDENT DISCIPLINARY PROCESS**

The Chief of Equity shall establish procedures pursuant to which all cases of discipline are overseen by his/her office. These procedures will include means whereby principals report any suspension, including in-school suspensions in excess of one day, to his/her office; forms whereby parents/guardians are aware of their students' suspension and their rights to appeal; and a process whereby the panels of the DHA are aware of similar cases within the district that might serve as precedent to ensure consistent application of the Board's Code of Acceptable Behavior and other Board policies.

### **Legal References:**

<sup>1</sup> T.C.A. § 49-6-3401(c)(4) and (5)

<sup>2</sup> Newsome v. Batavia Local School District, 842 F.2d 920 (6th Cir. 1988)

<sup>3</sup> T.C.A. § 49-6-3401(6)

<sup>4</sup> T.C.A. § 49-6-3401(6)

<sup>5</sup> T.C.A. § 49-6-3401(6)