


# APPENDIX VI – 67

 Tucson, Arizona <b>POLICY REGULATION</b>	REGULATION TITLE: Long-Term Suspension
	CODE: JK – R2
	LEAD DEPARTMENT: Academic Leadership

### **Long-Term Suspension**

A Long-Term Suspension is the temporary withdrawal of the privilege of attending a school by a student for a period of time not less than eleven and not more than one hundred eighty consecutive school days. *Long-Term Suspensions of more than thirty days shall not be imposed except for violations assigned to Level 5.*

### **Short-Term Suspension Pending a Long-Term Suspension**

If a school official is considering a long-term suspension, the school official shall initially impose a “short-term pending long-term suspension” (See Governing Board Policy Regulation JK-R1 and Exhibit JK-R1-E2)

### **Alternatives to Suspension**

Prior to any determination to suspend a student, the administrator shall first consider the use of appropriate alternatives to suspension, including, but not limited to: restorative conference, abeyance contract, In-School Intervention, or Alternative Education Placement.

### **Due Process Required for Long-Term Suspension**

More formal process is required for suspensions longer than ten school days. The elements of due process listed below must be made available for all long-term suspensions. Once fully apprised that these procedural elements are available, the parent and student may avail themselves of all of them, or they may knowingly, intelligently, and voluntarily waive them in whole or in part. School officials, and particularly those involved in the matter at hand, may not give any legal advice whatsoever (even if specifically requested to do so) to the parent or student regarding the exercising of these rights.

The procedural due process rights available throughout the process to all students who may be subject to a long-term suspension are listed below. The student is entitled to:

1. The right to representation by the parent or legal counsel.
2. The right of the parent to be present at all proceedings involving their child
3. The right of the student, parent, or representative to reasonable access to non-privileged evidence and the student's records at least two days prior to the long term

suspension hearing. (This right may be exercised at any reasonable time during regular school hours after first making arrangements with the principal or designee)

4. The right to be free from any requirements to present evidence against himself or herself
5. The right to present favorable evidence and witnesses
6. The right to question adverse evidence and witnesses presented at the proceeding
7. The right to have the testimony presented preserved at the student's own expense
8. The right to have an interpreter present, if one is necessary

### **Written Notification**

After an initial investigation, the school official may decide that a long-term suspension is appropriate. If so, the school official making that decision will then send written notice by first class mail or hand delivered to the student and/or to the parent. (See Exhibit JK-R2-E2) A copy of JK-R2 Long-Term Suspension shall be enclosed with the written notice of suspension. As with all documents pertinent to this process, a copy of this notice will be retained in the student's cumulative record file.

1. The notice must be sent no later than three school days following the imposition of a short-term suspension pending long-term suspension.
2. Meaningful Access: The notice must be written in the home language. If translation services are not available, the notice may be given orally through an interpreter. Documentation of the interpretation event must be maintained.
3. On or before the day the notice is delivered or mailed, the principal or designee shall make a reasonable effort to communicate verbally to the parent and the student the information contained in the written notice.
4. The formal Long-Term Suspension Hearing shall be held within ten school days of the date the short-term suspension became effective.
  - a. This is to keep the student out of school until it has been finally determined whether or not a long-term suspension will be imposed. A formal hearing is required before this determination can be made.
  - b. The formal Long-Term Suspension Hearing may be held later than ten school days only if the following rescheduling procedures are first followed:
    - i. The parent or student's representative submits a written or an oral request for a rescheduled hearing, which request demonstrates good cause. The

request must propose a new date and time and must be received at least two school days prior to the date of the hearing as originally scheduled.

- ii. If the circumstances require the hearing to be rescheduled beyond the ten days for short-term suspension, the student shall be readmitted pending the hearing on the long-term suspension. If a long-term suspension is imposed, the time spent on the applicable short-term suspension shall be included in calculating the 30 day maximum. Failure to appear without previously requesting a continuance and without prior notification shall not constitute good cause.

### **The Formal Long-Term Suspension Hearing**

1. The hearing will be closed to the public.
2. The suspending administrator shall provide a long-term suspension hearing folder containing all documents related to the case to the school official assigned to hold the hearing, otherwise known as the hearing officer. (Exhibit JK-R2-E3)
3. The hearing officer must be an impartial fact finder. This means the hearing officer was not directly involved in the incident or its investigation and will not be a witness in the formal hearing. Additionally the suspending administrator should not discuss the case with the hearing officer prior to the hearing and should have no discussions with the hearing officer outside the hearing prior to the publication of the hearing officer's decision.
4. The student shall be afforded the due process rights as described above.
5. The hearing officer has the right to insist that all parties conduct themselves appropriately and to enforce this right in any reasonable manner.
6. The Long-Term Suspension Hearing Process
  - a. The hearing officer shall first announce the appearances of all persons present.
    - i. If, on the day and at the time scheduled for hearing, neither the student nor anyone on the student's behalf appears, the school officials shall attempt to contact the parent prior to the start of the hearing. If unsuccessful or if the parent refuses to attend the hearing, the school official shall review all applicable evidence with respect to the student.
    - ii. The fact that neither the student nor anyone on behalf of the student appeared must be recorded in the written findings and recommendations to be compiled following the review.

- iii. Due notification of the decision reached will be provided within the time which would have been required had the hearing been held with all parties present. The information contained in the decision notice is the same as that required in cases in which the parties were present at the hearing.

b. Attorneys at Hearings

- i. No school official shall give advice of any sort to anyone on the question of whether or not an attorney should represent the student. As with all other due process rights, no advice with respect to the exercise of this right shall be given by school officials, even if such advice is solicited by the student, parent, or both.
  - ii. The school official may always request that the parent or student give notice before the hearing if they intend to be represented by an attorney. But, even if such notice is not given and an attorney appears unannounced, the attorney shall not be excluded, nor should the presence of the District's legal counsel be required in order for the hearing to proceed.
  - iii. Either before or during the hearing, it may appear to the hearing officer that there is good cause to secure the presence of the District's lawyer. The hearing may then be adjourned and rescheduled by the school official if good cause develops during the hearing. It is incumbent upon the school official holding the hearing to ensure that the reason for adjournment is understood by those present.
- c. The hearing officer shall then ensure that the parent(s) and student have received notice of the hearing as provided in Board Policy Regulation JK-R2. Defects in notice may be waived by stipulation of both parties. Appearance by the parent(s) and student at the hearing without protest shall be deemed a waiver of any defect in notice.
- d. The hearing officer shall then read the violation(s) alleged to have been violated into the record. The hearing officer shall inquire as to whether the student and parent understand the alleged violations.
- e. The hearing officer shall inquire whether the parent and student received a copy of this Regulation JK-R2 and the Guidelines for Student Rights and Responsibilities with their notice. An affirmative response to this question is necessary before the formal hearing may proceed.
- f. The hearing officer is not required to enforce the rules of evidence. However, certain guidelines are appropriate.

- i. The scope of the formal hearing is to be strictly confined to the charges as they were specified in the written notice except that evidence of repeated violations may be admitted if relevant. However, the student may wish to present evidence of extenuating circumstances. In that case, it is within the discretion of the hearing officer to consider such evidence, if offered,.
- ii. When considering statements (oral or written) made by persons not present at the hearing, the hearing officer is obliged to consider the reliability of such statements before giving them any weight. An opportunity to rebut such statements shall be provided.
- iii. If the student raises the issue of self defense, defense of others or defense of property, the hearing officer shall consider the defense raised and whether the physical force threatened or used by the student was justified as being the action of a reasonable person of similar age and experience under the factual circumstances in evidence.

g. Presentation of School Case

- i. An appropriate school official (other than the hearing officer) shall be allowed to submit evidence, present witnesses, and testify against the student. The burden to prove the alleged violation of the Guidelines for Student Rights and Responsibilities rests at all times with school officials.
- ii. The student, or the student's representative, has the right to question all witnesses.

h. Presentation of Student's Case

- i. The student or the student's representative shall be allowed to submit evidence and present witnesses. At the discretion of the hearing officer, if witnesses are providing repetitious testimony, the hearing officer may limit the number of witnesses. The student may testify on the student's own behalf.
- ii. An appropriate school official shall be allowed to question the student and all witnesses, unless, of course, the student chooses not to testify, in which case the student is exempt from questioning.

i. Findings:

- i. Not later than two school days after the hearing, the hearing officer shall make written findings as to whether the student engaged in the conduct alleged in the notice of suspension, and determine within the limits defined in that notice what disciplinary action will be taken.

- ii. If the decision is to suspend the student for longer than ten days, within two days of the completion of hearing, the hearing officer shall notify the student and the parent of the findings and of the decision to suspend by hand-delivered or first class mail. (See Exhibit JK-R2-E1)
- iii. Copies of the letter of suspension shall also be delivered to the Department of Student Services within three days of the decision. The Department of Student Services will report the outcome of the hearing to the Governing Board.
- iv. *Long-Term Suspensions of more than 30 days shall not be imposed except for violations assigned to Level 5.* The Department of Student Services will review all suspensions of more than thirty days, and report to Elementary or Secondary School Leadership if the suspension is believed to be inappropriate. The long-term suspension will commence immediately while this review is being conducted. The Department of Elementary or Secondary Leadership may modify a long term suspension pursuant to the report from the Department of Student Services.. Nothing in this subsection shall eliminate the right of appeal from any determination to impose a long-term suspension.
- v. The hearing officer's findings must also include notice of the student and parents' right to appeal the Hearing Officer's findings.
- vi. If the hearing officer's decision is not to impose a long-term suspension, the student shall be readmitted to the school as soon as possible.
  - a. Verbal and written notification is made to the student and the parent as soon as possible.
  - b. The reasons for readmission are to be made a matter of record.
- j. Record of the Long-Term Suspension Hearing: All documentary evidence and record of the formal hearing are to be retained by the school as a part of the student's record. The Hearing Officer shall arrange to have a summary record made of the proceedings to include the names of those present, the witnesses, and a brief summary of the testimony of each. In addition, the school shall arrange to have the hearing recorded.

### **Long-Term Suspension Appeal**

1. The hearing officer imposing the suspension must include in the letter of suspension the name, title, address, and phone number of the representative of the Department of Elementary or Secondary Leadership to whom an appeal may be directed.

2. The student may appeal a decision imposing a long-term suspension by filing a written appeal with the Department of Elementary or Secondary Leadership within three school days after the date notice of suspension was given, or within a time limit agreed upon by the student and the Department of Elementary or Secondary Leadership during the same three school days.
3. The basis for the appeal shall be specified in the written notice of appeal. The basis of appeal is limited to:
  - a. alleged denial of a right available to the student that resulted in an unfair hearing at the formal hearing
  - b. new evidence
  - c. allegation of insufficient evidence
  - d. allegation of excessive punishment

Note that appeals of recommendations for expulsion are not allowed.

4. If such appeal is filed, it shall be reviewed within five school days from the date the appeal is received by the person assigned to review the appeal.
5. Within ten school days of the receipt of the appeal, the Department of Elementary or Secondary Leadership must notify, in writing, the person filing the appeal of any decision.
  - a. If it is determined that an unfair hearing resulted from a denial of rights, a new long-term suspension hearing shall be ordered.
  - b. If it is determined that the new evidence presented would have substantially affected the results of the conference, a new long-term suspension hearing shall be ordered.
  - c. If it is determined that the evidence against the student was insufficient, the decision to suspend may be reversed and the student immediately reinstated in school (see "Long-Term Suspension"), or the length of the suspension may be reduced.
  - d. If the Department of Elementary or Secondary Leadership decides that the length of the suspension is excessive, the length of the suspension shall be reduced and notice of that decision shall be sent to the school administration and the parents.



- e. If the Department of Elementary or Secondary Leadership sustains the decision to suspend, notice to that effect must be sent to the student parent, and school administration.
- f. The student and parent may appeal the decision of the Department of Elementary or Secondary Leadership directly to the Governing Board.

### **Appeal to the Governing Board**

1. If the suspension has been upheld or modified after the initial appeal, the student may further appeal by filing a written notice of appeal to the Governing Board within five days after receiving the decision of the Department of Elementary or Secondary Leadership.

If the decision to impose a long-term suspension includes a recommendation to expel, the Board shall hear the appeal of the long-term suspension at the time that the Board makes a determination whether to hold an expulsion hearing in accordance with Board Policy JK.

The basis of appeal is limited to the grounds considered at the first level of appeal. The Board shall review the written record and the record on appeal and shall hear no new evidence or testimony.

The Board shall render its decision within ten (10) days after reviewing the record and shall notify the student and parents in writing of its decision. If the Board hears the appeal at the same time as the Board makes a decision whether to hold an expulsion hearing, it shall send notice of its decision on the appeal at the same time that notice of the expulsion hearing is sent to the student and parent(s). The Board may confirm or reverse the decision to suspend or may reduce the discipline imposed.

The decision of the Board is final.

### **Homework**

Homework shall be made available by the student's teachers through the end of the grading period. Teachers will only provide new assignment packets if previous packets have been completed and returned. However, because of the difficulty in students keeping up with the class work through homework alone, without the benefit of instruction, following the end of the grading period, students serving long-term suspensions will be supported through a TUSD alternative program such as distance learning.

### **Re-entry Conference**

Upon completion of a long-term suspension and on the day the student returns to school, an administrator must meet with the student and the student's parent to discuss school expectations and the supports that will be in place to assist the student's return to school.

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**LEGAL REF.:** A.R.S. §§ 15-341 & 15-342  
A.R.S. §§15-840 – 15-844

**CROSS REF.:** JFCL – Anti-Harassment Policy – Student  
JI – Rights and Responsibilities  
JICA – Student Dress  
JICFA – Hazing  
JICG – Tobacco Use by Students  
JICH – Drug and Alcohol Use by Students  
JICI – Weapons in School  
JICJ – Use of Cell Phones and Other Electronic Signaling Devices  
JICL – Bully Prohibition and Prevention  
JKA – Discipline of, and Alternative Interim Placements for Special  
Education Students  
JKAA – Discipline, Suspension, Expulsion for 504 Handicapped Students