# STUDENT DISCIPLINE- EXPULSION

In addition to short term suspensions (up to 10 school days), Kansas law allows school administrators to propose an extended term suspension (up to 90 days) or an expulsion (up to 186 school days) from school.

When a principal proposes an extended term suspension or an expulsion, the hearing procedures are much more formal than those required for a short-term suspension.

The notice of the proposed suspension or expulsion must apprise the student and their parents of the date, time, and place at which the hearing will be held. Hearings are generally held at the school and must occur not more than 10 days after the notice is sent unless both parties agree to a continuance, and both parties should agree that the student will remain out of school until the hearing is held.

At the hearing the building principal and hearing office must provide the student with the following statutory due process rights:

- The right to have counsel or any other advisor of their own choice present;
- The right to receive the advice of counsel;
- The right of the student's parents or guardians to be present;
- The right to hear or read a full report of testimony and witnesses against the student;
- The right to confront and cross-examine witnesses who appear in person or at the hearing either voluntarily or because of the issuance of a subpoena.
- The right to present their own witnesses in person or by affidavit;
- The right to testify on their own behalf and give reasons for their conduct;
- The right to have an orderly hearing; and
- The right to an impartial decision based on substantial evidence.

The hearing officer's role is to ensure that the student's due process rights as required by Kansas law are provided and to protect the student rights to receive an education. The hearing officer must ensure the hearing provides a fair opportunity for the student to present and defend against the charges and have an orderly hearing.

The building principal has the burden of proof to show that the student committed the violation of the student discipline code set forth in the Notice and that the proposed extended term suspension or expulsion is the appropriate discipline consequence for the student's behavior.

An outline of the hearing format is available upon request.

Most legal problems arise when a building administrator proposes to suspend or expel a student with a disability. If the student being proposed for an extended term suspension or expulsion has an IEP or Section 504 Plan, the principal should first consult with Dr. Harrington as state and federal laws require that additional procedures be provided.

The extraordinary protections required by the Individuals with Disabilities Act and Section 504 are triggered when a proposed disciplinary action constitutes a change of placement. A change of placement is deemed to have occurred if the student is removed from school for more than 10 consecutive school

days or for more than 10 school days cumulatively in a school year through a series of removals which constitute a pattern of removal. The definition of school days includes partial days when students attend school for instructional purposes.

Please contact Dr. Harrington if you are proposing an extended term suspension or expulsion for IDEA or Section 504 students or if you have any questions about suspensions/expulsions and change of placement procedures.

Board policy 8125 and Regulation 8125-1 addresses the student discipline procedures for regular education students, IDEA and Section 504 students.

Please contact donna Whiteman, General Counsel, if you have any questions.