

PROCEDURES FOR STUDENT DUE PROCESS

School Representation at Public Performances

1. Any student who is charged admits or is convicted of a felony, or a misdemeanor (except for traffic misdemeanors) which occurred during the school year shall be suspended from all school appearances before the public for a period of at least two weeks or one activity, whichever is greater, from the date of such admission or conviction. This paragraph shall not be a limitation on the actions authorized in paragraph numbers two and three. The school year shall be defined as all days including vacations and weekends from the beginning of preseason practice as designated by the NSAA. A second infraction during the season will result in dismissal from the team. A third infraction during the school year during the school year will result in a ban from all NSAA extracurricular activities the remainder of the school year.
2. The following conduct shall constitute grounds for suspension from participation in interscholastic competition or other participation in extracurricular or other school activities when such conduct occurs on school grounds or off school grounds during the season of the particular activity. Attendance at any or all practices may be set as a requirement by the director of the activity.
 - a. The use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that interferes with school purposes;
 - b. Willfully causing or attempting to cause damage to private or school property, stealing or attempting to steal private or school property;
 - c. Causing or attempting to cause physical injury to a school employee or any student. Physical injury caused by accident, self defense or other action undertaken on the reasonable belief it was necessary to protect some other person shall not constitute a violation of this subdivision.
 - d. Threatening or intimidating any student for the purpose of, or with the intent of, obtaining money or anything of value from such student;
 - e. Knowingly possessing, handling, or transporting any object or material that is ordinarily or generally considered a weapon;
 - f. Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance, alcoholic liquor or anabolic steroids.

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- g. Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes;
 - h. Students planning to participate in activities are expected to report for the activity at the beginning of each season, reporting for one activity may count as reporting on time if there is a change in activity approved by the coach or supervisor;
 - i. Participants are required to attend all scheduled practices and meetings. If circumstances arise to prevent the participant's attendance, the validity of the reason will be determined by the coach. Every reasonable effort should be made to notify the coach or supervisor prior to all missed practices or meetings;
 - j. Abusive or profane language or gestures are prohibited;
 - k. Good sportsmanship shall be observed during practice sessions and contests;
 - l. The use or possession of tobacco, drugs (other than those prescribed by a physician) or alcoholic beverages, in any amount and in any form, is prohibited;
 - m. All other rules or regulations adopted by the coach or supervisor of an extracurricular or other school activity shall be followed provided that the participants are notified of such rules and regulations by written handouts or posting on bulletin boards prior to the beginning of the season or as the rules are changed or adopted during the season.
3. Permission to Participate in Athletics:

No participant shall be allowed to represent the school in athletics until there is on file with the coach and/or athletic director the following three items:

- a. One completed statement from a licensed physician stating the athlete is physically able to compete in the sports designated. The examination must be given after June 1 of each year. This certifies the athlete is qualified for the entire school year June 1 through the following closing day of school, or the current school year. The NSAA requires each athlete to have a physical examination each year.
- b. One completed statement must be signed by the student and the parent or legal guardian having custody of the athlete giving their consent for their child or ward to participate in sports under the conditions stated in the board of education policies, for the wellbeing of the parents, the athlete and the school district.
- c. One completed statement must be signed by the student and the parent or legal guardian having custody of the student showing that insurance is carried as

recommended by the board of education, or showing that the student is covered under an insurance policy carried by the parent/guardian while participating in athletics.

Due process for extra-curricular and other school activities.

4. In the case of an alleged infraction of the rules and regulations set forth in or adopted under paragraph two the participant may be suspended from practices, participation in the interscholastic competition or other participation in extracurricular or other school activities. In any case, the due process procedures adopted by the board will be followed.
 - a. If an alleged infraction occurs, the coach or supervisor shall make an investigation of the alleged conduct or violation and determine if a suspension is necessary to help any participant, or to further school purposes, or to prevent interference with school purposes.
 - b. Before the suspension shall take effect, a participant shall be given oral or written notice of the charges against him and an explanation of the evidence the authorities have, and an opportunity to present his/her version.
 - c. If, after the above, a determination is made to suspend the participant, the suspension shall take immediate effect and the coach or supervisor shall send a written notice to the participant, the participant's parents or guardian of the action taken.
 - d. If a participant, his parents or guardian are not satisfied with the determination by the coach or supervisor, a hearing may be requested before the building principal. The hearing must be requested in writing, which writing must be delivered to the building principal within five days of receiving notice of suspension.
 - e. If a hearing is requested, it shall be held within ten days of the request and a notice of the time and place of the hearing will be given to the participant and parents or guardians within five days of receiving the request. The notice shall contain an outline of the alleged infraction.
 - f. At the hearing, as provided above, witnesses should testify. The participant will be given the opportunity to confront and cross-examine such witnesses and will be allowed counsel if desired. The participant will be allowed to call witnesses and present evidence and will have the right to have a decision based solely on the evidence presented at the hearing.
 - g. Upon conclusion of the hearing, a written statement of findings of facts from the hearing will be compiled and a decision rendered. The statement of findings of fact

and the decision will be mailed to the participant, parents or guardian. A record of the hearing shall be kept by the school.

- h. Nothing contained in this policy shall prevent the participant, parents, guardian or representative from discussing and settling the matter with the appropriate school personnel at any stage provided herein.

Long Term Suspension, Expulsion, or Mandatory Reassignment

The following procedures shall be followed with regard to any long term suspension, expulsion or mandatory reassignment.

1. On the date of the decision, the principal, assistant principal or other administrator shall prepare a written summary of the alleged violation, the evidence supporting the alleged violation and the recommended actions and file it with the superintendent of schools.
2. If the superintendent of schools deems further action appropriate, he shall either serve by registered or certified mail or by personal service, the student, the student's parents or guardian with a written notice within two school days of the date of the decision by the principal, assistant principal or other administrator. Said notice shall include the following:
 - a. The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student as submitted by the principal or assistant principal.
 - b. The penalties to which the student may be subjected and the penalty which the principal has recommended in the charge.
 - c. The student's right to a hearing upon request on the specified charges before the penalty can be invoked.
 - d. A description of the hearing procedures provided by these policies along with procedures for appealing any decision rendered at the hearing.
 - e. A statement that the principal, assistant principal, or other administrator, administrative representative, legal counsel for the school, the student, the student's parents, or the student's representative or guardian shall have the right to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct, and the right to know the identity of the witnesses to appear at the hearing and the substance of their testimony.

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- f. The student, parents or guardian shall be furnished with said writing on a form, on which such parties may request or waive a hearing, to be signed by such parties and delivered to the superintendent of schools in person or by registered or certified mail.
3. Nothing in this policy shall preclude the student, student's parents, guardian, or representative from discussing and settling the matter with appropriate school personnel prior to the hearing stage.
4. In the event that the superintendent of schools has not received a request for hearing within five school days following receipt of the written notice by the student, parent or guardian, the punishment recommended in the charge by the principal, assistant principal, or administrator shall automatically go into effect.
5. If a hearing is requested after the end of five school days following the actual receipt of the written notice by the student, parent or guardian, but prior to thirty calendar days after actual receipt, the student shall be entitled to a hearing but the punishment imposed may continue in effect pending final determination.
6. If a request for hearing is not received within thirty calendar days following the receipt of the written notice by the student, parent or guardian, the student shall not be entitled to a hearing.
7. In the event that a hearing is requested within five school days from receipt of the written notice, the superintendent of schools shall appoint a hearing officer within five days of receipt of the notice requesting the hearing.
8. Hearing procedures:
 - a. Hearing Officer: The hearing officer shall be any person designated by the superintendent of schools. The hearing officer shall be an individual who has had no involvement in the charge, will not be a witness at the hearing and who has not brought the charges against the student. It shall be the duty of the hearing officer to remain impartial throughout all deliberations. The hearing officer shall be available prior to any hearing held pursuant to this policy to answer any questions the administrative representative, the student, the student's parents, or guardian, may have regarding the nature and conduct of the hearing.
 - b. Administrative Representative: The superintendent of schools shall appoint an administrative representative with the responsibility to present the facts and evidence. Such administrative representative may be an attorney or may be represented by an attorney, but any such attorney shall not advise the hearing officer or parties who may review the proceedings as their counsel.
 - c. Notice of Hearing: If a hearing is requested within five days of the receipt of the notice, the hearing officer shall within two school days after being appointed, give

- written notice to the administrative representative, and the student, the student's parents or guardian of the time and place for the hearing. The hearing shall be scheduled within a period of five school days after it is requested. No hearing shall be held upon less than two school days actual notice to the administrative representative, and the student, the student's parents or guardian of the time and place for the hearing. The hearing shall be scheduled within a period of five school days after it is requested. No hearing shall be held upon less than two school days actual notice to the administrative representative, and the student, the student's parents, or guardian, except with the consent of all the parties.
- d. Continuation: Upon written request of the student or the student's parents or guardian, the hearing officer shall have the discretionary authority to continue from time to time the hearing. In addition, the hearing officer may continue the hearing upon any good cause.
 - e. Access to Records: The administrative representative, the student, the student's parents or guardian or the legal counsel for the student shall have the right to examine the records and affidavits and the statements of any witnesses in the possession of the school board or Board of Education at any reasonable time prior to the hearing.
 - f. Hearing Procedure: The hearing shall be attended by the hearing officer, the student, the student's parents or guardian, the student's representative if any, and the administrative representative. Witnesses shall be present only when they are giving information at the hearing. The student may be excluded at the discretion of the hearing officer at times when the student's psychological evaluation or emotional problems are being discussed. The student or the student's parents or guardian or both may be represented by legal counsel. The hearing examiner may exclude anyone from the hearing when his actions substantially disrupt an orderly hearing. The formal rules of evidence shall not apply at the hearings.

The administrative representative shall present to the hearing officer statements, in affidavit form, or any person having information about the student's conduct and the student's records, but not unless such statements and records have been made available to the student, the student's parents, guardian or representative prior to the hearing. The information contained in such records shall be explained and contained in such records shall be explained and interpreted prior to or at the hearing to the student, parents, guardian, or representative, at their request, by appropriate school personnel. The student, the student's parents, guardian, or representative, the administrative representative, or the hearing officer may ask witnesses to testify at the hearing. Such testimony shall be under oath and the hearing officer shall be authorized to administer the oath. The student, parent, guardian, or representative, administrative representative, or the hearing officer shall have the right to question any witness giving information at the hearing. The student may testify in his own defense in which case he will not be subject to cross examination nor will any conclusion be drawn there from.

- g. Availability of Witnesses: Since the Board of Education does not have subpoena powers, the hearing officer will not have the authority to subpoena. The hearing officer shall make reasonable efforts to assist in obtaining the attendance of any witnesses requested by the student, student's parents or guardian or their legal representative.
- h. Record: The proceedings of the hearing shall be recorded at the expense of the school district pending disposition of the matter.
- i. Multiple Parties: When more than one student is charged with violating the same rule or having acted in consort with others and when the alleged facts appear to be substantially the same for all of such students, a single hearing may be conducted for such students if in the discretion of the hearing examiner, a single hearing is not likely to result or prejudice to the interest of any of the students involved.
- j. Findings: Within a reasonable time after the conclusion of the hearing, the hearing officer shall prepare and submit to the superintendent of schools his written findings and recommendation as to disposition. This report shall explain, in terms of the needs of both the student and the school district, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion, or mandatory reassignment.
- k. Review by Superintendent: The superintendent of schools shall review the findings and recommendation of the hearing officer and in his discretion may also review any of the facts and evidence presented at the hearing. Based upon such report and the facts the superintendent shall determine the sanctions to be imposed. However, the superintendent may not impose a more severe sanction than that imposed by the hearing officer.
- l. Notice of Determination: Written notice of the findings and recommendations of the hearing officer and the determination of the superintendent of schools shall be made by certified or registered mail or by personal delivery to the student, the student's parents or guardian. Upon receipt of such written notice by the student and/or parents and guardian, the determination of the superintendent shall take immediate effect.
- m. Appeal to Board: Upon receipt of the request for review of the superintendent's determination, the Board of Education shall either at or before the next regularly scheduled meeting of the Board, hold a hearing on the matter. Such hearing shall be made on the record except that the Board may admit new or additional evidence to avoid a substantial threat of unfairness. Such new evidence shall be recorded. The Board of Education may withdraw to deliberate privately upon the records and new evidence. Any such deliberation shall be held in the presence only of Board members in attendance at the appeal proceeding, but may be held in

the presence only of Board members in attendance at the appeal proceeding, but may be held in the presence of legal counsel who has not previously acted as the administrative representative in presenting the school's case before the hearing officer. If any questions arise during such deliberations, which require additional evidence, the deliberating body may reopen the hearing to receive such evidence, subject to the right of all parties to be present. A record of any such new or additional evidence shall be made and shall be considered as a part of the record.

Based upon the evidence presented at the hearing before the hearing officer, such new or additional evidence, the Board of Education shall make a final disposition of the matter. The Board may alter the superintendent's disposition of the case if it finds his decision to be too severe, but it may not impose a more severe sanction. The final decision of the Board shall be delivered to the student and parents or legal guardian of the student by personally delivering the same or by mailing the same by or by mailing the same by certified or registered mail.

Additional Suspension Procedures

Short Term Suspension

The principal may deny any student the right to attend school or to take part in any school function for a period of up to 5 school days on the following grounds:

1. Conduct constituting grounds for long term suspension, expulsion, or mandatory reassignment as set forth in this policy.
2. Engaging in any of the following prohibited activities;
 - a. possession or use of tobacco on school property or at a school sponsored event or activity;
 - b. use of abusive, profane or vulgar language,
 - c. willfully defacing, vandalizing, or damaging property belonging to the school district, staff, students or visitors;
 - d. forging the signature of a parent or guardian on any documents delivered to a teacher or school administrator;
 - e. commission of serious acts of defiance against a teacher, either in action or words;
 - f. willful disobedience to proper directives issued by teachers or administrators;
 - g. harming, threatening or intimidating any person;
 - h. fighting;

- i. committing any other act or becoming involved in any other activity which disrupts the normal educational opportunities for other students.

OPPORTUNITY TO COMPLETE CLASS WORK

The principal may elect to give a student who is suspended on a short term basis the opportunity to complete any class work, including, but not limited to, examinations missed during the suspension. In making that determination, the principal shall consider the following criteria;

1. The nature of the student's offense. In general, a student who has been suspended short term for conduct which could have been punished by long term suspension, expulsion, or mandatory reassignment, shall not be given the opportunity to complete any class work unless there are substantial mitigating circumstances.
2. The nature of the work missed. The principal shall consider the nature of the work missed or to be missed by the student. If the refusal to permit the student to complete class work would result in a penalty which would be disproportionate to the student's offense, the principal may allow the student to complete his or her class work.
3. Restitution. In any case where a student has caused damage to property, the fact that the student has made restitution for the damage shall be considered a mitigating circumstance.
4. Apologies. If the student has apologized to the persons adversely affected by the student's misconduct, that shall be considered a mitigating circumstance.
5. Remorse. Where a student shows some other form of genuine remorse for his or her wrong doing, that shall be considered a mitigating circumstance.

The principal shall apply the foregoing criteria and determine in his or her discretion whether the suspended student should be given the opportunity to complete class work. In so doing, the principal shall give such weight to each of the criteria set forth above as he or she considers appropriate under the circumstances. The principal may deny the suspended student the right to complete class work during the period of suspension, or may allow the student to complete all class work during the period of suspension, or may allow a student to complete some class work and to take certain tests without allowing the student to complete all class work or take all tests given during the period of suspension.

Student Conduct Constituting Grounds For Long Term Suspension, Expulsion Or Reassignment

The following student conduct shall constitute grounds for long term suspension, expulsion, or mandatory reassignment, when such an activity occurs on school grounds or during an educational function or event off school grounds:

1. Use of violence, force, noise, coercion, threat, intimidation, fear, insubordination or similar conduct in a manner that constitutes a substantial interference with school purposes;
2. Willfully causing or attempting to cause damage to property, stealing or attempting to steal property or repeated damage or theft involving property;
3. Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this paragraph;
4. Knowingly possessing, handling or transmitting any object or material. that is ordinarily or generally considered a weapon;
5. Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or any imitation controlled substance, or substance represented to be a controlled substance, or alcoholic liquor, or being under the influence of a controlled substance or alcoholic liquor;
6. Public indecency;
7. Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at any educational function or event;
8. Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or
9. A repeated violation of any rules and standards validly established by the Board of Education if such violations constitute a substantial interference with school purposes.

Procedures For Short Term Suspension, Long Term Suspension, Expulsion, Or Mandatory Reassignment

The school district shall follow all the requirements of state and federal law with respect to the short term suspension, long term suspension, expulsion, or mandatory reassignment of any student.

Period Of Expulsion

The expulsion of a student shall ordinarily be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (a) within 10 school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (b) within 10 school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year, subject to the condition that an expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year as required by law.

The expulsion of a student for (a) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer or student, except when undertaking in self defense, or undertaking on the reasonable belief that it was necessary to protect some other person, or (b) the knowing and intentional possession, use or transmission of a firearm or other dangerous weapon shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school year.