



**POLICY 5.1817**

**5-B** I recommend that the Board approve development of the proposed revised Policy 5.1817, entitled "Student Expulsion."

[Contact: Gerald A. Williams, Esq., PX 48500.]

**Development**

**CONSENT ITEM**

- This revision modifies or clarifies certain procedures relating to student expulsions including Pre-hearing Procedures for parental notification and provides for student reassignment. Pre-hearing Compliance review will be conducted by the Director of Behavioral Services and expands the makeup of the Expulsion Screening Committee.
- This revision also incorporates relevant forms by reference and updates statutory references.

**POLICY 5.1817**

**STUDENT EXPULSION**

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3 1. **Definition.**-- Expulsion is defined as "the removal of the right and obligation of a  
4 student to attend a public school under conditions set by the district school board,  
5 and for a period of time not to exceed the remainder of the term or school year and  
6 1 additional year of attendance. Expulsions may be imposed with or without  
7 continuing educational services and shall be reported accordingly." Fla. Stat. §  
8 1003.01(6).

9 2. **General Provisions**

10 a. All disciplinary incidents resulting in a recommendation for expulsion shall be  
11 coded appropriately within the parameters of the School Board's discipline  
12 matrix set forth in Policies 5.1812 and 5.1813 and treated in accordance with  
13 Policy 5.1814, "Most Severe Consequences for Violent Acts." In addition, Fla.  
14 Stat. § 1006.09(1)(c) provides that:

15 "The principal or the principal's designee may recommend . . . the  
16 expulsion of any student who has committed a serious breach of conduct,  
17 including, but not limited to, willful disobedience, open defiance of  
18 authority of a member of his or her staff, violence against persons or  
19 property, or any other act which substantially disrupts the orderly conduct  
20 of the school. A recommendation of expulsion or assignment to a second  
21 chance school may also be made for any student found to have  
22 intentionally made false accusations that jeopardize the professional  
23 reputation, employment, or professional certification of a teacher or other  
24 member of the school staff, according to the district school board code of  
25 student conduct."

26 b. As required by Fla. Stat. § 1006.13(4), this Policy "provid[es] that any student  
27 found to have committed a violation of s. 784.081(1), (2), or (3) [aggravated  
28 battery, aggravated assault, or battery on a Board member or District  
29 employee] shall be expelled or placed in an alternative school setting or other  
30 program, as appropriate. Upon being charged with the offense, the student  
31 shall be removed from the classroom immediately and placed in an alternative  
32 school setting pending disposition."

33 c. Only the principal of a school may recommend expulsion to the  
34 Superintendent. In the case of a charter school student, the charter-school  
35 principal shall make the expulsion recommendation to the charter school's  
36 governing body and, if the governing body approves the recommendation, the  
37 governing body shall forward it to the Superintendent.

38 d. Only the School Board, by vote in a regular or special meeting, may officially  
39 expel a student (including a student recommended for expulsion by a charter  
40 school's governing body) from the regular education program of the District  
41 school system.

42 **3. Pre-Hearing Procedures**

43 a. Principal's Recommendation--The principal's recommendation for expulsion  
44 shall be recorded on PBSD form 0265

45 b. *Student Placement Pending Expulsion.*—Upon the principal's decision to  
46 recommend expulsion, the student shall be issued a ten-day out-of-school  
47 suspension, PBSD form 0262, ~~.using the procedures in Policy 5.1815, Upon~~  
48 making the determination to go forward with expulsion the principal shall  
49 notify the parent he/she intends to recommend expulsion using PBSD form  
50 0215.. The student shall be reassigned to the Department of Alternative  
51 Education under Policy 8.13. , using PBSD Form 1546, This assignment shall  
52 be in effect until the School Board officially votes on the expulsion (which  
53 should be within sixty (60) calendar days). During that period, a student may  
54 receive public school educational services only through the Department of  
55 Alternative Education.

56 c. *Other Measures.*-- As required by Fla. Stat. § 1006.09(1)(c), "Any  
57 recommendation of expulsion shall include a detailed report by the principal or  
58 the principal's designated representative on the alternative measures taken  
59 prior to the recommendation of expulsion."

60 d. ~~*Legal Review.*~~ Compliance Review-- The principal's expulsion-  
61 recommendation packet shall be forwarded within three work days to the  
62 Director of Behavioral Procedures ("DBP"). The DPB shall conduct an initial  
63 review of each packet submitted to determine whether expulsion is warranted  
64 under the circumstances of the case ~~Department of Legal Services for review.~~  
65 ~~An attorney from the Department of Legal Services shall review each packet~~  
66 ~~for legal sufficiency.~~

67 i. If the attorney DBP finds the packet is not legally sufficient, the attorney  
68 DBP shall communicate the deficiencies to the reporting school. If  
69 additional information is available that would make the packet legally  
70 sufficient, it should promptly be forwarded by the reporting school to the  
71 ~~Department of Legal Services~~ DBP for further review. If the DBP  
72 determines that ~~packet cannot sustain legal review,~~ remains insufficient,  
73 then the expulsion process shall end and the student shall be referred to  
74 his/her respective Area Office for placement into the regular school  
75 program or other placement as appropriate pursuant to PBCSB policies  
76 5.1812, or 5.1813 as appropriate.

- 77 ii. If the packet is deemed legally sufficient, the DBP shall forward the  
78 packet to the Expulsion Screening Committee, ~~with the signature of an~~  
79 ~~attorney in the Department of Legal Services to indicate the legal~~  
80 ~~sufficiency.~~
- 81 e. *Expulsion Screening Committee.*-- A committee consisting of three  
82 principals/designees, one each from an elementary, middle, and high school,  
83 ~~plus an area administrator/designee,~~ a representative from the Alternative  
84 Education Department, and a representative from the Department of  
85 Exceptional Student Education Department will meet, to the extent possible,  
86 each week during the school year.
- 87 i. Each Committee meeting will be conducted by ~~an attorney from the~~  
88 ~~Department of Legal Services,~~ the DBP, who will have no vote but will be  
89 available to answer questions regarding legal issues underlying factual  
90 basis for the expulsion for the Committee members. The Committee shall  
91 review each expulsion packet forwarded by the ~~Department of Legal~~  
92 ~~Services--DBP,~~ and, by majority vote, determine whether the packet shall  
93 be forwarded to the Superintendent for a recommendation of expulsion to  
94 the School Board.
- 95 ii. If the Expulsion Screening Committee declines to forward the  
96 recommendation to the Superintendent, the principal of the school where  
97 the incident occurred may appeal at the next Screening Committee  
98 meeting. The principal will be allowed only until that next meeting  
99 (generally one week) to submit additional information to support the  
100 recommendation of expulsion. At that next meeting, the Committee shall  
101 review the additional information, along with the original information, to  
102 determine if it should be forwarded to the Superintendent.
- 103 A. If at that next meeting the Committee declines to forward the  
104 recommendation to the Superintendent, the expulsion  
105 recommendation process ends; and the student will be referred to  
106 his/her respective Area Office for placement into the regular school  
107 program.
- 108 B. If at that next meeting the Committee decides to forward the  
109 recommendation to the Superintendent, the expulsion process will  
110 proceed.
- 111 4. **Due Process Procedures.**-- Pursuant to Fla. Stat. § 1002.20(4)(b), "public school  
112 students and their parents have the right to written notice of a recommendation of  
113 expulsion, including the charges against the student and a statement of the right of  
114 the student to due process." Due process includes notice and opportunity to be  
115 heard.

- 116 a. **Notice.**-- The student, and the parents/guardian of the student, who the  
117 Superintendent will recommend for expulsion shall be issued written notice  
118 that the Superintendent will recommend expulsion. This notice will be issued  
119 within ten (10) calendar days of the Superintendent's decision. Pursuant to  
120 Fla. Stat. §§ 1006.07(1)(a) and 1006.08, the notice shall contain the following:
- 121 i. A statement of the charges for which expulsion will be recommended;
- 122 ii. Notification that the student has a right to a hearing under Fla. Stat. §§  
123 120.569 and 120.57 to contest the recommendation.
- 124 iii. Notification that the student has the right to be represented by an attorney  
125 and to call witnesses to testify at the hearing on the student's behalf.
- 126 iv. Notification of the provisions of the Sunshine Law and that the parent may  
127 elect to have the hearing held in public; otherwise, it shall be closed to the  
128 public.
- 129 b. **Opportunity to Be Heard.**-- Every student who is recommended for expulsion  
130 shall have the right to a hearing, to tell his/her side of the story or to explain or  
131 refute the evidence against him/her, in denial or mitigation of the charges.
- 132 i. It shall be the responsibility of the student/parent/guardian/representative  
133 to request a hearing, through the Department of Legal Services, in a  
134 timely fashion--within fifteen (15) days after receipt of the notice of  
135 recommendation for expulsion. If no request for a hearing is timely made,  
136 the student is deemed to have waived the right to a hearing; the  
137 recommendation for expulsion shall be forwarded to the School Board for  
138 vote; and the facts of the charges in the notice will be deemed by the  
139 School Board to be true.
- 140 ii. Pursuant to AGO 2001-05, the student may request a hearing under Fla.  
141 Stat. § 120.57(1) when there is a disputed issue of material fact or under  
142 § 120.57(2) if there is no disputed issue of material fact. In either type of  
143 proceeding, the hearing shall be informal in nature and the rules of  
144 evidence will apply loosely. Expulsion hearings are not open to the public  
145 unless requested by the parent(s)/guardians(s) of the student
- 146 A. *Disputed Issues of Material Fact.*-- In cases where the student will  
147 contest a material issue of fact such as denying that he/she actually  
148 committed the act as charged, the hearing officer will serve as the  
149 finder of fact. The burden of proof rests with the School District.  
150 When material facts are in dispute, the standard of proof is the  
151 "preponderance of the evidence" i.e., whether it is reasonable to  
152 conclude from all the evidence submitted by both the School District  
153 and the student that the pupil did commit the violation with which he

154 or she is charged as the basis for expulsion. After the conclusion of  
155 the hearing the hearing officer shall issue written findings of fact as  
156 to whether the evidence presented supports the charge(s) against  
157 the student.

158 B. *No Disputed Issues of Material Fact.*-- When the student does not  
159 dispute the factual basis for the expulsion recommendation, the  
160 student is entitled to a hearing under Fla. Stat. § 120.57(2), to  
161 address whether the undisputed material facts constitute a violation  
162 of School Board Policy, State Board of Education Rules, and/or state  
163 or federal statutes, forming a lawful basis for expulsion.

164 iii. Although the Board shall make the final decision on the Superintendent's  
165 expulsion recommendation, an impartial volunteer hearing officer from the  
166 community will preside over the hearing as authorized by Policy 4.114.

167 A. The factual and legal issues to be addressed in the hearing and in  
168 the hearing officer's recommended order are: 1) findings of fact--  
169 whether the student committed the act as charged, within the  
170 jurisdiction of the School District; and 2) conclusions of law--whether  
171 the act constituted a violation (of School Board Policy, State Board of  
172 Education Rules, and/or state or federal statutes) which forms a  
173 lawful basis for expulsion. On these issues, the student/  
174 representative may provide oral evidence or argument and  
175 documents, memoranda of law, or other written materials in  
176 opposition to the recommended expulsion action.

177 B. Although the hearing officer cannot enter settlement negotiations or  
178 recommend mitigation of the expulsion penalty to a lesser  
179 consequence, the student will be allowed to provide oral or written  
180 evidence or argument in support of mitigating the penalty, pursuant  
181 to F.A.C. Rule 28-106.302(1), (2). If facts and/or legal arguments are  
182 asserted as a basis for mitigation and the hearing officer finds them  
183 credible, the recommended order should report them under a  
184 separate heading such as "Credible Mitigation Considerations,"  
185 without making a recommendation on mitigation (as the  
186 recommended order will limit its conclusions of law to whether the  
187 violation occurred as charged and forms a lawful basis for  
188 expulsion). The Superintendent should take those reported credible  
189 mitigating facts or legal arguments into consideration when making  
190 the expulsion recommendation to the Board, and the Board should  
191 take them into consideration when acting on the recommendation.

192 5. **School Board Action on Expulsion Recommendations.**-- The School Board  
193 normally will vote during its regular monthly meeting or at a special meeting on the

194 Superintendent's recommendations to expel students whose cases have  
195 proceeded though the above-described process.; ~~additionally, Fla. Stat. §~~  
196 ~~1006.08(1) also allows such action at a special meeting.~~

197 a. After the hearing held by a hearing officer, and before the meeting where the  
198 Board will enter the final order of expulsion, students and their  
199 parents/guardian and/or representative may elect to appear in either a public  
200 meeting pursuant to F.S. § 286.011 or in a closed, private meeting with  
201 school board members pursuant to Policy 1.03(17), to express their views on  
202 the recommended penalty, such as if they believe mitigating circumstances  
203 contraindicate expulsion or would make a shorter term of expulsion  
204 appropriate. An individual's comments made during this closed session shall  
205 be limited strictly to three (3) minutes. Comments shall be limited to mitigation  
206 only. There shall be no retrial of the issues surrounding the facts of the  
207 incident that merited expulsion. The Board's vote on the expulsion and entry of  
208 the final order will occur, without mention of the student's name or other  
209 personally-identifiable information, at the general meeting following this closed  
210 session.

211 b. If the student/parent did not request a hearing, the student/parent or legal  
212 guardian/representative will have an opportunity to express their views on the  
213 recommended penalty by making public comment at the meeting where the  
214 Board will issue the final order. Like other speakers offering comments on  
215 agenda items pursuant to Policy 1.03, such student/parent or legal guardian/  
216 representative can provide input and insight to the Board (regarding the  
217 proposed expulsion).

218 c. In considering the Superintendent's recommendation, the Board should  
219 impartially consider what, under all the circumstances, the penalty should be,  
220 as stated in AGO 87-33.

221 d. After the Board votes on the expulsion, the student/parents/guardian/  
222 representative will be notified in writing of the Board's decision.

223 i. If the Board votes to expel, a written notice of expulsion will be mailed to  
224 the student/parent/guardian/representative. The notice will detail the  
225 length of the expulsion, that the expulsion is with services or without  
226 services, and where the student will receive educational services, if  
227 applicable. The length of expulsion will be reduced to reflect time already  
228 spent at an alternative site, unless the Board votes otherwise (such as if  
229 the offense is a violent act listed in Policy 5.1814).

230 ii. If the Board votes to decline the expulsion, a notification will be sent to  
231 the student/parent/guardian/representative and the student will be  
232 referred to his/her respective Area Office for placement.

233 **6. Re-Entry after Expiration of the Expulsion**

234 a. Upon the expiration of the expulsion period, the student's Area Office shall  
235 place the student back into the regular education program of the School  
236 District. It is the responsibility of the student and his/her parent/guardian or  
237 representative to contact the appropriate Area Office for placement.

238 b. No student, after expiration of the expulsion, shall be transitioned back to the  
239 school where the incident meriting expulsion occurred unless the principal of  
240 the school is first notified and given the option of accepting the student back  
241 into that school. In accordance with the Fla. Stat. §§ 1002.20(5) and  
242 1006.13(5), students who have been victims of certain felony offenses by  
243 other students, as well as the siblings of the student victims, may need to be  
244 kept separated from the student offender at school and during school  
245 transportation.

246 7. All PBSD forms referenced within this policy are incorporated herein by reference,  
247 and can be located on the district's website at  
248 <http://www.palmbeach.k12.fl.us/Records/FormSearch.asp>

249 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2); 1001.43(1), 1006.07,  
250 1006.09(1)(c)2. 286.011

251 LAWS IMPLEMENTED: Fla. Stat. §§ 1001.43(1)(e), 1002.20; 1006.07; 1006.08;  
252 1006.09(1)(c)2; 1006.13

253 HISTORY: 9/13/2004; \_\_\_/\_\_\_2008



Legal Signoff:

The Legal Department has reviewed proposed Policy 5.1817 and finds it legally sufficient for development by the Board.

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Attorney

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Date