

5.29 - Due Process

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DUE PROCESS

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The Alexander City Board of Education recognizes that observance of applicable substantive due process entails two basic considerations: (1) any objective sought relative to student governance must be legally defensible, e.g., based upon a rational or compelling state interest; and (2) the means taken to accomplish such objective must be within the constitutional limitations applicable to the in loco parentis position of school officials within the School District. To assure compliance with these two substantive aspects, the Board has approved the following guidelines as applicable to all policies, rules, and regulations.

1. Each local school policy, rule, or regulation shall specify its purpose as it relates to accomplishment of a legally defensible objective;
2. Each local regulation shall be based on a Board policy
3. All policies, rules, and regulations at any level shall be consistent with local, county, or city ordinances, statutes of the State of Alabama, and administrative regulations of duly authorized agencies; e.g. State Board or State Department of Education.
4. Both policies of the Board and regulations designated by local school administrators shall be specific and precise.
5. No Board policies or local school codes of conduct shall deny any student his constitutional rights.

6. Discharge of administrative responsibilities and exercise of authority shall recognize applicable legal parameters placed upon the in loco parentis position of school officials.

7. Exercise of all authority by administrators, teachers or school officials, be capable of withstanding close judicial scrutiny relative to freedom from arbitrary, capricious, discriminatory, or otherwise illegal practices.

8. Students, parents, teachers, and administrators should be participants in developing local school codes of conduct.

Procedural due process within the School System shall relate primarily to the area of discipline and disciplinary measures, e.g., short-term suspension, long-term suspension, and expulsion.

The degree of procedural due process afforded in each of the above situations shall be dependent upon: (1) the gravity of the offense a student is alleged to have committed; and (2) the severity of the contemplated penalty.

Before being punished for violation of Board policies or school regulations, a student shall have the right of the following minimum due process procedures:

1. The student shall be given oral or written notice of the charges against him;

1. The evidence against the student shall be explained to him; and

1. The student shall be given an opportunity to present his own version of the facts concerning the charges.

When a student is facing possible long-term suspension based on findings of the Discipline Review Committee (DRC) hearing (more than 10 days) or expulsion, the Board shall afford the student the following:

1. The right of a hearing before the Board of Education;

1. The right to be represented by counsel;

1. The opportunity for cross-examination of witnesses;

1. A written record at the hearing;

1. A written record of the decision; and

1. The right of appeal.

A school may not unilaterally expel, or cease the provision of educational services to a student with a disability whose education is governed by an individualized education plan (IEP).

REFERENCE(S):

CODE OF ALABAMA

16-28A-1, 16-28A-2, 16-28A-3, 16-28A-5

HISTORY:

ADOPTED: 2006

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