

## **DISCIPLINARY HEARING POLICY & PROCEDURES**

### **Initiation of Hearing Process**

Hearings will be held as noted in this procedure and/or as required by applicable authority. Any recommendation of long-term suspension or expulsion will result in a hearing being scheduled for a scholar. The hearing should be held within ten (10) school days after the first day of suspension.

Any confiscated drugs, weapons or other criminal evidence should be transferred to the East Point police until needed for use during a disciplinary hearing and/or criminal case.

The Administrator in charge of discipline (or designee) will contact the Principal and initially report the incident as soon as practicable after the occurrence. The designated Administrator (or designee) should furnish the Principal, within two (2) local school-work days after the incident, the following information and documentation:

*witness/scholar statements; current year academic record (including progress reports); attendance record; complete behavioral record (include all write-ups and documents in permanent record and current year files); anecdotal report citing discipline, attendance and academic records, and behavioral interventions tried at Genesis to date, including SST/RTI referral, counseling sessions, and parent/guardian conferences with dates, reasons, and results; copy of police report (if any); special education, Section 504 or SST status (active enrollment or referral for any of these programs); SST/RTI reports; copy of the currently approved suspension letter that includes the administrator's recommendation for consequences, and any other information or evidence relevant to the incident(s).*

**Written Notice of Hearing:** When Long-Term Suspension or Expulsion is recommended by the school, a disciplinary hearing is required. The Principal shall provide written notice of the relevant procedures to the scholar's parent/guardian. The notification shall include the following:

1. A brief statement of the act(s) scholar is alleged to have committed, along with the portion of the Code of Conduct allegedly violated.
2. The maximum penalty which may be administered for the alleged misconduct, and a recommendation for discipline.
3. A copy of the Disciplinary Hearing procedures included in this document.
4. The date, time and place of the hearing.
5. Whether witnesses are expected to be called at the hearing and a short summary of evidence that may be presented.
6. A statement that a hearing is required unless the parent/guardian waives the hearing.
7. A statement that at the hearing the scholar is entitled to be represented by an advocate (spokesperson) of his choice, including an attorney if so desired.
8. A statement that all parties are afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses.

**Delivery of Notification:** The notice of hearing shall be delivered to the scholar and his parent/guardian either in person, by first class mail, certified mail return receipt requested, and/or delivery confirmation, to the last known address of the parent or guardian. If notice is delivered in person, a written confirmation of delivery should be obtained by the person delivering the notice to the parent/guardian. Service shall be deemed to be perfected when the notice is deposited in the United States mail with sufficient postage addressed to the last known address of the parent/guardian.

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**Continuance:** If good and sufficient cause exists, the Principal may reschedule a hearing. Upon rescheduling, the Principal must provide written notice of the rescheduled date and time of the hearing to the scholar's parent/representative/attorney either in person, by first class mail, certified mail return receipt requested, and/or delivery confirmation.

The scholar's parent/representative/attorney may request a continuance of the hearing from the Principal. Continuances should be requested no later than 24 hours in advance of the scheduled hearing date and time. Extenuating circumstances should be presented to the Principal for approval.

If a continuance is requested or caused by the parent/scholar's representative, the scholar will continue to serve his recommended school level discipline (ISS or OSS) during the time of the continuance and until the hearing is conducted and the Independent Hearing Officer has rendered a decision. If the continuance requested by parent/scholar's representative requires that the hearing occurs outside the 10-day maximum for suspensions, it is understood that the parent is knowingly waiving the right to accuse Genesis of not following approved due process procedures.

**Waiver of Hearing:** If the parent/representative/attorney waives the hearing, they may do so by requesting a waiver from the Principal prior to the notified date and time of the hearing. If no waiver request is received, or if the hearing may not be waived by the scholar's parent/representative/attorney, the hearing will be held as scheduled, whether or not the scholar/parent/representative/attorney chooses to participate.

**Record of Proceedings:**

- a. A verbatim record of the hearing shall be made and shall be available to all parties upon request. The cost of recording shall be borne by Genesis. Parents/scholar's legal counsel may request a copy of the recording. The cost of copies will be borne by the requestor.
- b. A written transcript will be prepared by the Independent Hearing Officer if the Board so requests; or if the decision of the Board is appealed to the State Board of Education.

**Burden of Proof:** The burden of proof is a preponderance of the evidence (more likely than not) and shall be on the school.

**Legal Representation/Involvement of an Attorney:** If the scholar is represented by an attorney, the Board attorney may be present. The Board attorney shall advise the Independent Hearing Officer as necessary. The scholar/parent/guardian must notify the Principal not less than 48 hours prior to the hearing if the scholar may be represented by an attorney. Failure to give such notice can result in the hearing being continued so the Board's attorney may be present.

**Presentation of Evidence:** The evidence for the school and scholar/scholar representative (if present) shall be presented to the Independent Hearing Officer. The administrator representing the school, the Board attorney, the scholar's representative, and the Independent Hearing Officer are entitled to question witnesses about any matters which are relevant to the charges against the scholar or the appropriate discipline. The Independent Hearing Officer has the authority to limit unproductively long or irrelevant questioning.

**Procedural Objections:** Objection to the sufficiency of the notice and/or other procedural objections shall be waived unless written notice thereof is filed with the Principal no less than 24 hours prior to the

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time the hearing is scheduled to begin. The hearing may be postponed until such defects have been removed or remedied.

**Independent Hearing Officer:** Disciplinary Hearings will be conducted by an Independent Hearing Officer. The Hearing Officer will be approved by the Board but must also be qualified as per the requirements of SBOE rule 160-4-8-.15. The Independent Hearing Officer will serve as the presiding officer(s) and will rule on issues of procedure and admissibility of evidence presented during the hearing.

The Independent Hearing Officer, after conducting the hearing and receiving all evidence, shall render a decision based solely on the evidence received at the hearing and shall determine if the recommendation forwarded by the school will be upheld. If not, the Independent Hearing Officer may recommend other disciplinary action, such as, short-term suspension, long-term suspension, expulsion or no action at all.

**Appeals:** Any party may appeal the hearing decision to the Genesis Board by filing a written notice of appeal within twenty (20) calendar days of the date of decision. The appeal letter should be addressed to the attention of the Chairman of the Board of Genesis Academy and delivered to Genesis Academy (the letter must be a hard copy; e-mail is not an acceptable format for an appeal letter). The letter should contain specific reasons for the appeal that relate to the procedural or legal violations that require an additional hearing.

The Genesis Board shall have the authority to suspend the decision of the disciplinary hearing officer during the period of appeal by the scholar to the Genesis Board. Upon the appeal of a decision of the Independent Hearing Officer to the Genesis Board, the Genesis Board will address the appeal at its next called meeting and render its decision within 10 days after that meeting, excluding weekends and public and legal holidays. The decision shall be in writing and a copy shall be provided to the scholar/parent/guardian, and the Principal.

The Genesis Board will discuss the appeal in Executive Session. The parties shall have the right to be represented by legal counsel during the appeal to provide clarification, if needed by the Board, during its review. The Genesis Board's review will be based solely on the record and written arguments submitted by the scholar (and family) and the Principal, if briefs are submitted. The Genesis Board shall not hear any oral arguments as part of any appeal, nor shall it consider any evidence that was not presented at the disciplinary hearing.

The Genesis Board may take any action it deems appropriate. Any party may appeal the Genesis Board's decision to the State Board of Education pursuant to O.C.G.A. §20-2-1160 (b) through (f) and regulations of the Georgia Board of Education governing such appeals. If an appeal to the State Board is requested, a written transcript of the disciplinary hearing will be prepared and submitted to the State Board as provided in this Rule. The decision of the Genesis Board will not be suspended during the State Board appeal period.

### **Scholars with Disabilities:**

Nothing in this policy shall be construed to infringe on any right provided to scholars pursuant to the Federal individuals with Disabilities Education Act, Section 504 of the Federal Rehabilitation Act of 1973, or the Federal Americans with Disabilities Act of 1990.

Any scholar who is receiving special education services or has been identified as a scholar with a disability under the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act, and

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whose acts are determined by the school Administration to warrant long term suspension or expulsion, will be scheduled for a disciplinary hearing as per the aforementioned process (which applies to all scholars).

Prior to the disciplinary hearing, the disciplinary documentation and a copy of the scholar's IEP (and other documents relevant to understanding of the scholar's disability) will be referred to the IEP/504 Committee prior to a disciplinary hearing for a Manifestation Determination meeting. The IEP/504 committee is responsible for determining if the scholar's conduct is a manifestation of his disability and whether such conduct warrants a change in placement or amendments to the Individual Education Plan (IEP) or 504 Plan.

If the IEP/504 committee determines that the scholar's conduct is a manifestation of the scholar's disability, the school will follow the recommendation of the IEP committee as it pertains to amendments of an IEP or 504 Plan.

If the IEP or Section 504 committee determines that the scholar's conduct is not a manifestation of the scholar's disability, the Disciplinary Hearing will proceed as scheduled within 10 days of the Manifestation Determination meeting, and within the parameters stated in this document. The IEP/504 committee will recommend a change of placement to ensure that the student is being served until the date of the Disciplinary Hearing. Nothing in this rule shall alter or adversely affect the rights of scholars with disabilities under applicable federal and state laws.

### **Group Hearing:**

When scholars are charged with violating the same rule(s) and have acted in concert, and the facts are basically the same for all scholars, a group hearing may be conducted for them if the Principal believes that the following conditions exist: (a) a single hearing will not likely result in confusion and (b) no scholar will have his/her interests substantially prejudiced by a group hearing.

If during the disciplinary hearing, the Independent Hearing Officer find that a scholar's interests will be substantially prejudiced by the group hearing, they may order a separate hearing for that scholar. Any scholar objections to participation in a group hearing should be in writing and received by the Principal no less than 48 hours before the hearing.