

2017 HEARING OFFICER UPDATE

SPONSORED BY THE GEORGIA ASSOCIATION OF EDUCATIONAL LEADERS WITH
SUPPORT FROM THE GEORGIA DEPARTMENT OF EDUCATION POLICY DIVISION



QUALIFICATIONS TO PARTICIPATE IN TRAINING

- All persons participating in this video training/update must have completed the basic five hour course for Hearing Officers and Tribunal Members.
- Individuals that have not completed the basic course should contact Jimmy Stokes at jstokes@gael.org to secure dates and times for the training. The 2017 basic training will be provided at GAEL Conferences and through selected RESAs.
- Credit for participation in this training will be provided through an affidavit provided later in the presentation.



REVIEW OF DUE PROCESS

DUE PROCESS

1. **Notice**
2. **Opportunity to present and cross examine evidence**
3. **Decision based on evidence presented in the case**



EVIDENCE RULES

- 1. WRITTEN STUDENT/WITNESS STATEMENTS can be used in a hearing only if the student/witness writing the statement is present to be cross examined.
- 2. Under Federal Evidence Rules administrators may testify and be cross examined on interviews that they have conducted with students/witnesses not present at the hearing. Administrators must stand the test of being an expert witness.



2017 LEGISLATION

- The 2017 General Assembly passed **NO** legislation that directly impacts conducting student disciplinary hearings. However educational leaders should be aware that legislation to limit placement in alternative school to two semesters was **DEFEATED** on the last day of the session.
- It is strongly **suggested** that hearing officers and tribunals seriously evaluate routine placement in alternative school that exceeds two semesters. Serious offenders are an exception to that suggestion.



CHRONIC DISCIPLINARY STUDENTS

- **TITLE 20. EDUCATION
CHAPTER 2. ELEMENTARY AND SECONDARY EDUCATION
ARTICLE 16. STUDENTS
PART 2. DISCIPLINE
SUBPART 3. CHRONIC DISCIPLINARY PROBLEM STUDENTS**

- **O.C.G.A. § 20-2-765 (2011)**

- **§ 20-2-765. Notification of parent or guardian of chronic disciplinary problem student; observance of child by parent or guardian; attendance of conference with principal or teacher or both**

Any time a teacher or principal identifies a student as a chronic disciplinary problem student, the principal shall notify by telephone call and by either certified mail or statutory overnight delivery with return receipt requested or first-class mail the student's parent or guardian of the disciplinary problem, invite such parent or guardian to observe the student in a classroom situation, and request at least one parent or guardian to attend a conference with the principal or the teacher or both to devise a disciplinary and behavioral correction plan.

HISTORY: Code 1981, § 20-2-765, enacted by Ga. L. 1995,



OCGA CODE SECTIONS 20-2-154.1, 20-2-735, 20-2-768

- It is the policy of this state that it is preferable to reassign disruptive students who are subject to mandatory attendance pursuant to Code Section 20-2-690.1 to an alternative education program rather than suspending for more than ten days or expelling such students from school.
- If a local system does not intend to provide services to students subject to mandatory attendance if they are expelled from alternative school, it is suggested that such systems have a policy permitting such expulsion without services.
- 20-2-768 permits refusal or readmittance to student convicted or charge with a felony.



STUDENTS CHARGED/CONVICTED OF FELONIES

20-2-768

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(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Section 15-11-28 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student's parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.



OCGA 20-2-690.1

- The requirements of this subsection shall apply to a child during the ages of mandatory attendance as required in subsection (a) of this Code section who has been assigned by a local board of education or its delegate to attend an alternative public school program established by that local board of education, including an alternative public school program provided for in Code Section 20-2-154.1, regardless of whether such child has been suspended or expelled from another public school program by that local board of education or its delegate, and to the parent, guardian, or other person residing in this state who has control or charge of such child. **Nothing in this Code section shall be construed to require a local board of education or its delegate to assign a child to attend an alternative public school program rather than suspending or expelling the child.**



FERPA REQUIREMENTS FOR VIDEOS USED IN HEARINGS

- Interpretation of the FERPA policies regarding the use of unredacted videos in hearings have been inconsistent. Based on what is known at present, the following is a guideline:
- 1. If your system has capability to redact student bystanders' faces from hearings in which bus and security videos are used then the faces of bystanders should be redacted.
- 2. If your system does not have such capability, videos may be used without redaction.
- www.ed.gov/policy/gen/guid/fpc/index.html



TELEPHONES

- Courts continue to support the use of telephone evidence in the form of videos, text messages, emails, and social media.
- School administrators must refrain from indiscriminately searching student telephones for possible evidence. It is strongly suggested that administrators ask the student to call up the appropriate area of the phone memory prior to search.
- Electronic copies of messages and photos which are printed out are preferred for presentation in hearings.
- School administrators are not authorized to permanently confiscate student telephones or personal property.



SCHOOL CLIMATE/ENVIRONMENT DISCIPLINE PREVENTION

- 20-2-155 School Climate Management Program; Codes of Behavior and Discipline
- 20-2-735 Board shall adopt policies to improve student learning environment
- 20-2-741 LBOE to send copies of policies to GADOE
- 20-14-33 Education Accountability Assessment: indicators of quality learning



GAEL HEARING AND DISCIPLINE HELP LINE

If you have questions regarding hearings and/or disciplinary matters, please do not hesitate to contact:

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770-601-3798

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PARTICIPATION AFFIDAVIT

When you have completed viewing this update, please send an email to:

jstokes@gael.org

Please affirm in the email that you have watched the Hearing Officer Update presentation.

