

Board of Education Agenda Item

Board Meeting of: January 23, 2019

Title and Subject: Midyear Update on Nisbet Investigation

Originator: Rob Stein

Action/Information/Discussion: Information

Time Needed: 10 minutes

Update:

At the May 9, 2018 board meeting, I updated the board on a student incident that had disciplinary and legal implications. The district had engaged a third party, Larry Nisbet, to review this situation and present his findings to the board. Mr. Nisbet is a retired school superintendent with experience as an expulsion officer and expertise in human resources, school discipline procedures, and interest based bargaining. Mr. Nisbet conducted a document review and interviewed the involved parties as part of his investigation. His report established seven recommendations for future action. Following is a midyear update on progress toward fulfilling those recommendations.

1. Investigate all charges of misconduct or unlawful behavior immediately and establish a follow-up plan as warranted. Confirm the role of the School Resource Officer as a liaison to the court system for providing all necessary documentation to the school.

All secondary administrators were trained in August on policies and procedures involving student involvement in criminal cases. They also reviewed due process for legal and disciplinary matters. Rob Stein and Jeff Gatlin met with School Resource Officers and formalized their role as the liaison with the justice and as the conduit for information about student matters that have been subject of legal action. That SRO role has also been codified in the intergovernmental agreement with the police departments.

2. Use the disciplinary/expulsion hearing process to formalize a plan in all cases where there might be grounds for expulsion (see grounds in policy [JKD-E](#)). Bringing in a third party to officiate over a hearing allows all parties to be heard and all facts to be examined, and protects the rights of all parties involved.

All secondary administrators were trained in August on the expulsion process and encouraged, when in doubt, to request a hearing. The purpose of a disciplinary hearing is not only to determine if there are grounds for expulsion, but to put together plans, such as safety and behavior plans, to make sure that all parties receive the necessary support. Procedures for requesting hearings, and for pre-and post-hearing documentation, were tightened up to make sure that the superintendent is better able to monitor and

that the board receives more timely notification after hearings. High school administrators reviewed the revised procedures in November.

3. Train all secondary administrators on the legalities of student discipline, due process, suspension, expulsion, and documentation.

All secondary administrators were trained on the legalities and policies regarding student discipline, due process, suspension, expulsion, and documentation in August.

4. Update written discipline policies and procedures to serve as an easy and clear reference for challenging situations.

Lyn Bair, principal of Bridges High School, has volunteered to rewrite the discipline handbook in a more user-friendly fashion that aligns with, and incorporates, work from the Culture and Climate team. The discipline handbook will focus on the 20 behavioral infractions that are reportable to the state. Lyn is developing a guide for how to respond to each infraction at the state, district, teacher parent, and student level. She is also assembling a set of resources on due process, parent communications, restorative discipline, and other topics of use to administrators. The key users of this handbook will be administrators, to ensure that they can navigate challenging disciplinary situations, follow due process, and respect students' rights. This handbook will be completed before the end of the school year.

5. Affirm with the board its role in delegating responsibilities to the superintendent and administrators for suspension and expulsion of students. Establish a more transparent appeal process for those times when an appeal should go to the board.

Policy [JKD](#) along with regulation [JKD-R](#) and exhibit [JKD-E](#) detail the procedures for suspension and expulsion of students. In policy JKD, the board delegates authority to district, staff, including:

Delegate	Power delegated
"principals of the school district or to a person designated in writing by the principal"	"the power to suspend a student in his school for not more than five school days on the grounds stated in C.R.S. 22-33-106(1)(a), (1)(b), (1)(c) or (1)(e) or not more than 10 school days on the grounds stated in C.R.S. 22-33-106 (1)(d) unless expulsion is mandatory under law"
"superintendent of schools"	"the authority to suspend a student , in accordance with C.R.S. 22-33-105, for an additional 10 school days plus up to and including an additional 10 days necessary to set up an expulsion hearing"
"superintendent of schools or to a designee"	"The authority to deny admission to or expel for any period not extending beyond one year any student whom the

who shall serve as a hearing officer”	superintendent, in accordance with the limitations imposed by Title 22, Article 33, of the Colorado Revised Statutes, shall determine does not qualify for admission to or continued attendance at the public schools of the district”
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As a part of delegating the authority to expel to the superintendent, the board policy requires that “the superintendent shall report on each case acted upon at the next meeting of the Board, briefly describing the circumstances and the reasons for action taken” (JKD, p. 2). This fall, during the process of tightening up procedures for requesting and documenting hearings, we recommitted to adhering to our policy of notifying the board of all hearings.

In addition to describing the delegation of authority, policy JKD and regulation JKD-R also describe the board’s role in the expulsion process, which is to assure that due process has been followed, including determining if due process was violated in the event of an appeal.

In the event that a student is recommended for suspension or expulsion, a hearing will be held and a written decision issued. Should the suspended or expelled student object to that decision, “within ten school days after the decision of the superintendent, the student may appeal the decision to the Board” (JKD-R, p. 3).

Per JKD-R and state statute, “the appeal shall assure that due process has been followed” (policy JKD, p. 2) and may be made under three circumstances:

1. “An appeal may be made if there is a question whether the procedural rights of the student were followed.
2. An appeal may be made if there were grounds that there was a misinterpretation of the law.
3. An appeal may be made if the appellant was not allowed to introduce evidence in the original hearing” (JKD-R, p. 3).

Should an appeal be granted, the process is documented in regulation JKD-R (beginning page 3). Specifically, the board is tasked with "make[ing] final determination regarding the expulsion of or denial of admission to the student" and then "inform[ing] the student and his parent/guardian of the right to judicial review" (JKD-R, p. 4).

In our current policy, CASB recommended policies, and state statute, there is no process by which someone who does not have standing can request an appeal from the board.

In the event that someone without standing takes issue with a decision, they must follow the process outlined in [policy KE](#) regarding public concerns and complaints. Policy KE states:

“The Board believes that complaints and grievances are best handled and resolved as close to their origin as possible. Therefore, the proper channeling of complaints involving instruction, discipline or learning materials will be as follows:

1. Teacher
2. Principal
3. Superintendent
4. Board of Education

Any complaint about school personnel shall always be referred back through proper administrative channels before it is presented to the Board for consideration and action.”

Policy KE also details a procedure for “when a complaint is made directly to an individual board member” (policy KE, p. 1). The policy states:

1. The board member shall refer the person making the complaint to the appropriate person, as listed in items 1-4 above.
2. If the person will not personally present his complaint to the principal or superintendent, the Board member shall then ask that the complaint be written and signed. The Board member will then refer the complaint to the superintendent for investigation.
3. If at any time the person making a complaint feels that he has not been given a satisfactory reply from a teacher or principal, he should be advised to consult with the superintendent and, if still not satisfied, to request that the complaint be heard by the Board of Education. If the matter concerns a staff member or student, in order to afford the appropriate rights of individual employee or student, any discussions will take place privately in executive session. (KE, p. 1)

6. Many of the above recommendations will assist in achieving the recommendation that the school remove inconsistencies in managing serious discipline issues for all concerned.

No specific action.

7. Provide further education for all students concerning the whole area around sexual responsibility.

See [this](#) memo on current status of health and sexual education, including topics of emotional and social well-being, positive communication, and violence prevention. The athletic directors have also decided to provide training in Coaching Boys into Men and Athletes as Leaders curriculum through the Advocate Safehouse for all coaches starting this spring.