

72-8903. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs. (a) The formal hearing provided for in K.S.A. 72-8902, and amendments thereto, shall be conducted in accordance with regulations relating thereto adopted by the board of education. Such regulations shall afford procedural due process including, but not limited to, the following:

- (1) The right of the pupil to have counsel of the pupil's own choice present and to receive the advice of such counsel or other person whom the pupil may select;
- (2) the right of the parents or guardians of the pupil to be present at the hearing;
- (3) the right of the pupil and the pupil's counsel or advisor to hear or read a full report of testimony of witnesses against the pupil;
- (4) the right of the pupil and the pupil's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;
- (5) the right of the pupil to present the pupil's own witnesses in person or their testimony by affidavit;
- (6) the right of the pupil to testify in the pupil's own behalf and give reasons for the pupil's conduct;
- (7) the right of the pupil to have an orderly hearing; and
- (8) the right of the pupil to a fair and impartial decision based on substantial evidence.

(b) In all extended-term suspension and expulsion from school cases, there shall be made a record of the hearing of an appeal of the suspension or expulsion, whichever is applicable, by mechanical or electronic recording or by an official court reporter, and the costs thereof shall be paid by the school district.

(c) At the conclusion of a formal hearing which results in a suspension for an extended term or an expulsion, the person or committee conducting the hearing shall make a written report of the findings and results of the hearing. The report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil who is suspended or expelled and, if the pupil is a juvenile, to the parents or guardians and counsel or other advisor of the pupil. If the pupil is an adult, the report shall be open to the inspection of the parents or guardians and counsel or other advisor of the pupil only upon written consent of the pupil. Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed. Whenever the person or committee conducting a hearing fails to make the findings specified above, the report of the hearing shall provide that the suspension or expulsion of the pupil shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever occurs sooner. Any such pupil shall be provided with information concerning services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the conduct upon which the suspension or expulsion was based. If the pupil is a juvenile, the information shall also be provided to the parents or guardians of the pupil.

History: L. 1970, ch. 300, § 3; L. 1971, ch. 247, § 2; L. 1976, ch. 145, § 232; L. 1977, ch. 260, § 2; L. 1994, ch. 307, § 3; May 12.