

TEACH Las Vegas Appeals Policy

TEACH Las Vegas (TLV) has always recognized the right of a parent/guardian to appeal a suspension or expulsion decision in a student-discipline case, and will continue to do so.

Recently, Nevada enacted a law, AB 194 (2021), requiring TLV to adopt a formal policy regarding the appeal process. The following policy traces the decisions leading up to a suspension/expulsion determination, the appeals process, and provides a summary of AB 194.

The following is an overview of the standard process:

Campus Leadership and/or Disciplinary Team

- Incident control
- Investigation; gathering of facts
- Decision (if minor sanction) or delegation to the School Safety Committee (if potentially major sanction)

School Safety Committee (SSC)

- Further investigation (if necessary)
- Hearing (if requested by the student/parent)
- Decision

Board of Directors

- Receipt of any student/parent appeal
- Appeal hearing
- Final TLV Decision

Campus Disciplinary Team

Each campus' leadership (in relatively minor situations) and/or Disciplinary Committee (in major situations) has the right to make any initial discipline determination on the basis of each specific case. Each discipline case has many aggravating and mitigating factors and

circumstances that may affect any decision. Each Campus Disciplinary Team acts in good faith and fairness to protect all persons on campus, campus property, and general campus safety.

A Campus Disciplinary Team has the authority to make a determination on its own, but at times, may ask the Central Office for support and input.

School Safety Committee (SSC)

During investigations of serious acts and/or when a Campus Disciplinary Team thinks an out-of-school suspension or expulsion is possible, that Committee will typically contact the School Safety Committee (SSC) and ask that committee to handle some or all of this process. In such situations, after an investigation is conducted and evidence is collected by the Campus Disciplinary Team, the matter will be brought to the SSC.

The SSC will be made up of various staff members on the campus who will be selected before the start of each school year (but may be adjusted from time to time depending on workloads, PTO, 2 recusals for conflicts of interest, and other factors). The initial SSC members will be the school's Executive Director, Director of Operations, and Chief Academic Officer.

If the SSC will be hearing a disciplinary matter, then that shall be included in a notice to the student and parents. In the written notice, the school will (i) state the charges against the student and (ii) provide a brief summary of the evidence. (Due process does not require that the description of the evidence be exhaustive, nor that it identify witnesses or other participants by name.) Also, when a parent is notified that a student will be suspended or is recommended for expulsion, the parent will be told that they can appeal and will be given a copy of this policy.

If the student/parent requests it, or the committee decides it's appropriate, the committee will hold a hearing. The hearing will generally follow the same rules and procedures described in the appellate process below (with appropriate modifications—e.g., evidence will be presented by the campus leadership and/or Campus Disciplinary Team, but the school will typically carry the burden of proof and no standard of review is applicable).

The SSC then meets together to make a determination in the case—e.g., a suspension (and what kind), no suspension, a recommendation for expulsion, and/or other stipulations tied to the SSC’s judgment (e.g., adoption of a restorative justice plan, detention or other sanctions, etc.).

Any recommendation by the SSC for an out-of-school suspension or expulsion will be alerted to the Board and parent/student.

Appeal Notice & Timeline

(The following provisions speak about the parent’s rights and/or options. The term “parent” includes a legal guardian. Also, if the student is 18 years or older, the student him/herself has the same rights and options as the parent.)

The student/parent has five (5) calendar days to appeal a suspension or expulsion decision by the SSC. A student/parent must notify campus leadership in writing (e.g., by letter, fax, or email) of his/her request for an appeal. The school will liberally interpret a request to be an appeal, even if the word “appeal” (or similar terminology) is not used, but the request may not be done orally (e.g., by telephone).

If 5 days have passed without an appeal, the school may treat the discipline decision as final.

Interim Education

If the student/parent(s) chooses to appeal a suspension, the student will be allowed to attend school until the appeal is heard, unless the student poses a danger and/or applicable law permits his/her exclusion (in which case the following paragraph applies). If the student attends school, TLV reserves the right to place the student in a somewhat restrictive environment (e.g., in a classroom removed from his/her peers), in part to protect everyone’s safety and avoid disrupting other students’ educations.

If the student/parent(s) chooses to appeal a recommendation for expulsion, the student will work from home while receiving instruction until the appeal is heard. The student and teacher(s) will

communicate at least once a day and follow other customary distance-learning protocols (similar to what quarantining students would experience).

No Contacts

Whether or not a family appeals, in all cases, the student may not directly or indirectly interact with any witnesses, victims, or co-conspirators involved in the case. Any violation of this prohibition will be independent grounds for consequence (e.g., as a bullying charge), as well as taken into account as an aggravating factor during the disciplinary appeal. This rule will be strictly enforced. A social media post may be considered a violation.

Board of Directors; Appellate Process

If the family appeals, the Board of Directors will do its utmost to schedule and conduct a hearing as soon as possible, ideally within 5 days of receiving notice of the appeal (or on a timeframe otherwise agreed with the family).

In the hearing:

- Campus leadership, the Campus Disciplinary Team, and/or a member of the SSC will present the facts and evidence of the case. TLV may read out any statements from the victim(s) of the incident, and should identify any other aggravating or mitigating circumstances. The school may ask its legal counsel to present arguments and address questions of law.
- The school reserves the right to interview and question the student facing discipline.
- The student/parents may state their case for appeal. Fundamental procedural due process (i.e., an “opportunity to be heard”) will be afforded.

Unless otherwise required by law, the Board is not required to follow Nevada’s or any Court’s civil procedure rules, rules of evidence, or similar laws or regulations—e.g., hearsay may be ruled admissible. Similarly, the Board may freely adopt any burden(s) of proof and standard(s) of review which he/she/it deems appropriate, although in most cases, it should consider the following:

- The party appealing the existing decision will bear the burden of proof in favor of an alternative determination regarding guilt and/or consequence.
- Any factual determinations made by a prior decision maker will be reviewed for “clear error.” Any legal determinations will be reviewed de novo (i.e., with no deference to the earlier decision).

In accordance with applicable law, all meetings/hearings conducted under this Policy will be closed sessions and not subject to Nevada’s Open Meeting Law. (See NRS 388A.495(2); 392.467(4).) The school administration will nonetheless keep a general record of the proceedings, noting all major findings/conclusions in writing.

The Board will make a final decision on the appeal, and instruct the school’s administrative staff to provide the student/parents with written notice of its determination.

Designee

Applicable law permits the Board to appoint a designee to handle disciplinary appeals. Although the school does not currently anticipate appointing a designee for that purpose, the Board (i) reserves the right to have a designee hear and decide an appeal in extraordinary circumstances (e.g., the volunteer Board of Directors cannot assemble in a prompt fashion); and (ii) hereby empowers the Executive Director to appoint such designee under such circumstances. The designee will not be a member of the relevant Campus Disciplinary Team or the School Safety Team. The choice of 4 designees may be adjusted from time to time depending on workloads, PTO, recusals for conflicts of interest, and other factors. The designee may, but need not be, a member of the Board.

AB 194 (2021)

Assembly Bill (AB) 194 from the 2021 Legislative Session creates a requirement for the governing bodies of charter schools to adopt a process for appealing a suspension or expulsion, Section 5 of that law outlines the requirements of that policy, noting that the timelines included in the policy that is adopted must align with timelines that are established by the Nevada Dept. of Education (“NDOE”) through regulation, as required in Section 8 of AB 194 (2021).

NDOE has issued interim guidance on temporary timelines, as allowable by Section 7 of AB 194 (2021), until such time that those timelines can be provided through regulations. These temporary timelines, to be used during the 2021-22 school year, are as follows:

- **Initial notification of right to appeal:** Information on the right to appeal a suspension or expulsion and the current process for doing so must be provided to the parent or guardian of the pupil on the same day that the suspension or expulsion is issued.
- **Filing of the appeal:** The student, or, if the pupil is under 18 years of age, the parent or legal guardian of the pupil, may file an appeal within five (5) days of the suspension or expulsion.
- **Hearing on the appeal:** The governing body of a charter school or designee of the body shall schedule a hearing on an appeal of a suspension or expulsion of a pupil within five (5) days of the appeal being filed. Note that AB 194 (2021) prohibits any increase in the length of the suspension or expulsion following an appeal (i.e., the final penalty may not be harsher than the original one).

Legal Information

- TLV reserves the right to amend this policy from time to time in its discretion, and will endeavor to keep the school community aware of any changes.
- In developing this policy, TLV has endeavored to comply with its legal obligations, including those in (i) its Charter Contract with the State Public Charter School Authority; (ii) all applicable state and federal laws and regulations (including, e.g., NRS Chapters 388A and 392); and (iii) any Constitutionally-required due process. In the event this policy conflicts with such authority, the authority controls. That means, among other things, if there is a change in an authority (e.g., a statutory amendment) and a conflict develops, then that change shall take effect immediately and automatically, regardless of whether or not TLV has formally updated this policy and/or provided notice to the school community of the change.
- The fundamental aim of this Policy is to outline the school's general practices in disciplinary matters, and to ensure each student/parent has an appellate right. This policy is not intended to and shall not provide a basis on which any person or entity may assert

negligence, liability, breach-of-contract, due process, or other claim. Any process or procedure described herein is only intended to describe a general set of practices, not a set of binding commitments, the technical violation of which would prevent the school from disciplining an individual. As long as the overall process provides fundamental due process and includes a reasonable right to appeal, the school reserves the right to deviate from any process or procedure described in this Policy, without notice and without creating any cause of action against the school.