

DAPSS EXPULSION HEARING PROCEDURE

When a cadet commits a violation that may result in a recommendation from the Disciplinary or Chief of Cadets for expulsion, the following procedure shall be followed:

Step 1:

The cadet shall be suspended for up to ten (10) days.

The Commissioner shall investigate all aspects of the discipline problem, including a conference with the cadet and his/her parents or guardians if possible, at which time the cadet will be informed of the offense and afforded an opportunity to tell his/her side of the story. If possible, this conference shall be held prior to the cadet's suspension.

The Commissioner shall normally complete the investigation within three school days of the incident under investigation.

If after the investigation, the Commissioner concludes that the cadet committed the offense and that the nature of the offense warrants a recommendation for expulsion, the Commissioner shall make such a recommendation in writing to the Chairman of the Board of Directors. The recommendation must be accompanied by a brief summary of the Commissioner's investigation.

Step 2:

Within ten (10) school days from the first date of suspension for the incident giving rise to the expulsion recommendation, notify the cadet and the cadet's parents or guardians of the intent to expel. The notice of intent to expel shall be sent by certified mail, hand delivered, or discussed in conference and shall state the reasons for the expulsion.

The Board will notify the cadet and the cadet's parents or guardians of the date, time, and location for a formal hearing on the recommendation for expulsion. The formal hearing should be held no less than three (3), and no more than ten (10) school days after the notice of intent to expel is given. The time period may be modified by agreement of both parties. The formal hearing shall be conducted by representatives of the Board of Directors.

The Board representative shall have full authority to control the conduct of the hearing, including authority to admit or exclude evidence. The Board representative in conducting the hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure. The Board shall exclude plainly irrelevant evidence. Unduly repetitive proof shall be excluded. The Chairman of the Board shall swear in the witnesses.

The cadet shall have the following rights:

- To be represented by counsel, at the cadet's expense;
- To question any witnesses who testify and receive a copy of any written statements and/or affidavits made by such witnesses;
- To request that any witness appear in person and answer questions or be cross-examined.
- Cadet witnesses will not be excused from classes or allowed to testify without subpoena or parent(s)/guardian(s) permission;
- To testify and produce witnesses on his/her behalf;

- To obtain upon written request, a copy of the transcript or tape of the Board hearing.

In place of a formal hearing with the Board, a cadet or his/her guardian, may elect to waive the hearing and admit to the violation charges. Cadets and their parents/guardians also have the right to not attend the hearing. In these circumstances, the cadet is not absolved from the required consequences for the violation under state law, the Code of Conduct, or the decisions of the Board.

Step 3:

Within ten (10) calendar days following the hearing, the Board shall decide whether to expel the cadet following a review of the evidence produced at the hearing. The Board's decision shall state conclusions of fact and the penalty to be imposed upon the cadet.

The Board may, at their discretion, based on the hearing include a homebound instructional program, online alternative program, or other alternative educational program in place of or as a component of expulsion. The duration of an expulsion is also within the discretion of the Board based upon the circumstances of each case. If expelled for less than one year, cadets will be readmitted at the beginning of a marking period.

Step 4:

A cadet is prohibited from being on DAPSS property during the expulsion period except when accompanied by a parent or guardian for a scheduled appointment with academy officials.

Cadet with a disability refers to a cadet eligible for special education or related services under either: (1) the Individuals with Disabilities Education Act (I.D.E.A.), as implemented by state regulations compiled in the Administrative Manual: Programs for Exceptional Children (AMPEC); or (2) Section 504 of the Rehabilitation Act of 1973.

If the IEP Team, including the Director of Cadet Services, determines that the offense is not directly related to the cadet's disability or the result of placement, the Commissioner will follow the Code of Conduct. In instances where the cadet with a disability presents a danger to himself or others, or is so disruptive to the educational environment as to interfere with the rights of other cadets to benefit from an education, emergency placements may be invoked by the academy, including homebound instruction. Refer to the Discipline of Cadets with Disabilities policy for additional details.

Notification of Expulsion to Division of Motor Vehicles:

In any case where a cadet is expelled from DAPSS, the Commissioner or designee shall send written notice of the expulsion to Division of Motor Vehicles. Under Delaware law, such notice serves as sufficient authority for the Division of Motor Vehicles to suspend, or refuse to renew any driver's license already issued to the expelled cadet, or to refuse to issue a license to the expelled cadet. An expelled cadet whose license has been suspended may have the license reinstated, or a new license issued if (a) the length of the expulsion is complete; (b) the expelled cadet is 19 years of age or older; (c) two years have elapsed since the date of the expulsion. Expelled cadets and their parents and/or guardians should refer to Title 14 of the Delaware Code, section 4130.