

TEACH Las Vegas Appeals Policy

TEACH LV 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 TEACH 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:

School Leadership

1. Incident control.
2. Investigation; gathering of facts.
3. Decision (if minor sanction) or delegation to the Central Office Safety Committee (if potentially major sanction).



Board of Directors

1. Receipt of any student/parent appeal.
2. Appeal hearing.
3. Final CASLV Decision.

School Leadership

The Executive Director and School Leadership Team (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. The school leadership team acts in good faith and fairness to protect all persons on campus, campus property, and general campus safety.

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 Executive Director. A student/parent must notify the ED and School Board Chair *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, TEACH LV 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 will present the facts and evidence of the case. The school 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 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 decisionmaker 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 Committee or the Central Office safety committee. The choice of

designee 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

- TEACH LV 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, TEACH LV 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 an 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 CASLV 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 a 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.