

# TENNESSEE PUBLIC CHARTER SCHOOL COMMISSION

## Disciplinary Hearing Authority Procedures

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Commission LEA Policy 6317 – Required Remands and Student Disciplinary Hearing Authority lays out the broad requirements and expectations for establishing and implementing a discipline appeals process, including the formation of a Disciplinary Hearing Authority (“DHA”). This document provides the standard operating procedures for compliance with state law and Commission LEA policy for Commission authorized charter schools. These procedures cover:

- [Charter School Discipline Appeals Process](#)
- [Establishing a DHA](#)
- [DHA Hearings](#)
- [Creating an Official DHA Record](#)
- [Special Circumstances Modification of Required Remand](#)
- [Required Policies and Procedures](#)
- [Forms and Appendices](#)

### **Charter School Discipline Appeals Process**

As required by Commission LEA Policy 6313 – Student Discipline, each authorized charter school shall adopt policies and procedures that outline the violations and infractions that may lead to disciplinary action. Specifically, schools shall be clear about infractions that warrant suspension from school and the length of that suspension. The following procedures outline the appeals process for the remand/suspension of a student at an authorized charter school. (See also the [Disciplinary Hearing Authority and Appeals Flow Chart](#) contained within these procedures.)

- **Suspensions of Ten (10) Days or Less:** Each school shall develop a policy to handle suspensions of ten (10) days or less that provides written notice to the student but shall not provide the student the right to appeal the suspension decision to a DHA. The Commission will monitor suspension data through the Commission’s student information system for compliance, as necessary.

Pursuant to T.C.A. § 49-6-3401(c)(3) and Commission LEA policy, if a student is suspended for more than five (5) days, the principal of the school shall develop a behavior improvement plan. The principal shall seek input for the behavior improvement plan from people with knowledge of the student’s behavior, including but not limited to the student, the student’s parent(s)/guardian(s), general education teachers, counselors, behavior interventionists, and special education teachers, if applicable.

- **Suspension of More Than Ten (10) Days (i.e. Expulsion):** If a student commits an infraction that warrants a suspension/expulsion of more than ten (10) days, that student shall be remanded to alternative school for the duration of the suspension/expulsion, [except under special circumstances](#) (detailed on page 5). Immediately following the decision to suspend/expel/remand for more than ten (10) days, the student and the student’s parent(s)/guardian(s) shall be immediately notified, in writing, of the suspension and the student’s right to appeal to a DHA within five (5) school days. The written notification shall be accompanied by copies of all school policies and procedures related to DHA appeals, Commission Policy 6317 - Required Remands and

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Student Disciplinary Hearing Authority, and this procedure document. The school shall also immediately notify the Commission of a decision to suspend/expel/remand a student for more than ten (10) days.

Within five (5) school days of the suspension/expulsion/remand decision, a student or the student's parent(s)/guardian(s) may appeal the suspension/expulsion/remand, orally or in writing, to the school DHA. The chair of the DHA shall then provide written notification to the parent(s)/ guardian(s) of the student, the student, and any other appropriate person(s), in a language that he or she understands, of the time, location, and date of the hearing. The chair should make every attempt, within reason, to accommodate the schedule and transportation restrictions of the parties involved, particularly those of the student or parent(s)/guardian(s). However, pursuant to T.C.A. § 49-6-3401(c)(4)(A), the hearing shall be held no later than ten (10) days after the beginning of the suspension/expulsion/remand.

The DHA hearing shall be held according to the policies and procedures set forth by the school and shall take one (1) the following disciplinary actions:

- Affirm the decision of the school principal;
- Order removal of the suspension/expulsion/remand unconditionally;
- Order removal of the suspension/expulsion/remand upon such terms and conditions as it deems reasonable;
- Assign the student to an alternative program or night school; or
- Suspend/expel/remand the student for a specified period of time.

However, the DHA may not suspend a student who has been remanded to alternative school unless the Director of Schools has approved a suspension as a [special circumstance](#). Within five (5) school days of the DHA rendering a decision, the student, student's parent(s)/guardian(s), principal, principal-teacher or assistant principal may request, orally or in writing, a review by the governing board, and the governing board shall review the official DHA record.

Each school shall determine how the governing board will conduct a review of the DHA appeal, including the timeline for a decision and attendance at the appeal hearing. As a best practice, schools shall outline in policy how attendance (whether in-person or virtual) shall be addressed for a governing board appeal. If outlined in the adopted by-laws, governing boards may follow the attendance/quorum requirements they have adopted. The deadline for the governing board to make a decision shall be set forth in each school's policy.

Following the review, the governing board, in writing, shall take one (1) of the following actions:

- Deny the request for a hearing and affirm the decision of the DHA;
- Deny the request for a hearing and overturn the decision of the DHA; or
- Grant the request for a hearing, then affirm or overturn the decision of the DHA.

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The governing board shall not impose a more severe penalty than that imposed by the DHA without first providing an opportunity for a hearing before the governing board. The notice of the hearing shall include a statement that, unless the student or the student's parent(s)/guardian(s) request an open hearing in writing within five (5) school days of receipt of the notice, the hearing shall be closed to the public. The decision of the governing board shall be final. The school shall immediately notify the Commission of the decision of the governing board.

**Zero-tolerance Offense Requiring Mandatory One Year Expulsion:** Certain zero-tolerance offenses as set forth in Commission Policy 6309 – Zero Tolerance and school policy require a mandatory one (1) year expulsion. Any student committing a zero-tolerance offense that requires a one (1) year expulsion shall receive a mandatory one (1) year expulsion from school and shall not be remanded to an alternative school unless the head of the charter school modifies the expulsion as outlined below. A student or parent/guardian may appeal the expulsion decision to the school's DHA within five (5) school days of the student receiving the expulsion. For a zero-tolerance offense, the student shall only be permitted to appeal regarding guilt or innocence of the zero-tolerance offense and/or whether the student was provided with proper due process. The DHA hearing shall follow the procedures set forth by the policy of the school.

- Following the DHA hearing, the student has the right to appeal the decision to the head of the charter school within five (5) school days of the DHA's decision in order to request a modification of the mandatory one (1) year expulsion. (NOTE: A student who does not wish to contest their guilt/innocence of the zero-tolerance offense or the due process provided to them, shall be allowed to forego an appeal to the DHA and to appeal directly to the head of the charter school for a modification of the mandatory one (1) year expulsion.) The student must notify the head of the charter school, in writing, of his/her appeal to modify the mandatory one (1) year expulsion using the [form](#) contained within these procedures. The head of the charter school may request a written recommendation from the DHA to accompany the official DHA record submitted for review. As part of the review, the head of the charter school shall consider the recommendation from the DHA, if any, regarding a proposed modification of the student's expulsion. The head of the charter school shall not be bound by the recommendation of the DHA, if any, and shall render a decision within seven (7) calendar days.
- Within five (5) school days of the head of the charter school rendering a decision, the student, student's parent(s)/guardian(s), principal, principal-teacher, or assistant principal may request, in writing, a review of the official DHA record by the governing board regarding the student's guilt/innocence of the zero-tolerance infraction and/or whether the student was provided with proper due process. (NOTE: A student who chooses not to appeal to the DHA and appeals directly to the head of the charter school for modification of the mandatory expulsion shall not be permitted to appeal to the governing board).
- Each school shall determine how the governing board shall conduct a review of the DHA appeal, including the timeline for a decision and attendance at the appeal hearing. As a best practice, schools shall outline in policy how attendance (whether in-person or virtual) shall be addressed

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for a governing board appeal. If outlined in the adopted by-laws, governing boards may follow the attendance/quorum requirements they have adopted. The deadline for the governing board to make a decision shall be set forth in each school's policy.

- Following the review, the governing board, in writing, shall take one (1) of the following actions:
  - Deny the request for a hearing and affirm the decision of the DHA;
  - Deny the request for a hearing and overturn the decision of the DHA; or
  - Grant the request for a hearing, then affirm or overturn the decision of the DHA.
- The governing board of the school shall not have the ability to modify the decision of the head of the charter school with regard to modification of the student's expulsion. If the governing board grants a hearing, the notice of the hearing shall include a statement that, unless the student or the student's parent/guardian requests an open hearing in writing within five (5) school days of receipt of the notice, the hearing shall be closed to the public. The decision of the governing board shall be final.

### **Establishing a DHA**

Annually, each school shall report all members of the DHA to the Commission by July 31<sup>st</sup> by submitting the [form](#) contained within this guidance document via the Commission's reporting calendar.

### **DHA Hearings**

Each school shall develop a policy for conducting a DHA hearing. The chair of the DHA is responsible for setting the time, location, and date of the DHA hearing and clearly communicating that information to all parties involved in a language that can be understood by the parties. The chair should make every attempt, within reason, to accommodate the schedule and transportation restrictions of the parties involved, particularly those of the student and the student's parent(s)/guardian(s). However, pursuant to T.C.A. § 49-6-3401(c)(4)(A), the hearing shall be held no later than ten (10) days after the beginning of the remand/suspension.

Each school's DHA policy shall state whether a student is allowed to have an attorney present and, if applicable, what role an attorney may play in the DHA hearing. Additionally, an official record shall be created for each DHA hearing.

### **Creating an Official DHA Hearing Record**

Each school shall create an official record of every DHA hearing. The official record of a DHA hearing shall include minutes and a recorded version of events. The method of recording shall be determined by the school and outlined in the school's DHA policy. Acceptable methods of recording include:

- Transcription
- Audio recording
- Video recording with audio

The official record of a DHA hearing shall be reviewed in the event that a DHA decision is appealed. If an appeal is brought to the head of the charter school or charter school governing board, the chair of the

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DHA shall immediately provide all documentation (minutes, transcriptions, recordings, etc.) to the appellate body.

**Special Circumstances Modification of Required Remand**

If a special circumstance arises that the school believes justifies a disciplinary action other than the required remand to alternative school, the school may submit documentation for a special circumstances modification. Within five (5) school days of the disciplinary decision, the school shall notify the Director of Schools, or designee, in writing of the special circumstance using the [form](#) contained within these procedures to outline:

- The disciplinary infraction committed by the student;
- The proposed modification of disciplinary action; and
- A detailed explanation outlining the special circumstances and reasons for requesting a modified disciplinary action.

Following receipt of the form, the Director of Schools, or designee, will consult with the school regarding the special circumstance and will make a decision regarding the proposed modification of the required remand within seven (7) school days. The school shall be responsible for informing all necessary parties of the decision, including, but not limited to, the student, the student’s parent(s)/guardian(s), and the student’s teachers.

**Required School Policies and Procedures**

The following are required to be developed by each school pursuant to these procedures:

- Student Discipline Policy
- Disciplinary Hearing Authority (DHA) Policy and Procedures

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### Forms and Appendices

The following forms and appendices are included to supplement these procedures:

- [Disciplinary Hearing Authority and Appeals Flow Chart](#)
- [Zero Tolerance Modification Appeal Form](#) – *required*
- [Request for a Disciplinary Hearing Authority Appeal](#) – *sample template*
- [Request for Governing Board Appeal](#) – *sample template*
- [Charter School Disciplinary Hearing Authority Membership Form](#) – *required*
- [Request for Review of Disciplinary Actions under Special Circumstances](#) – *required*

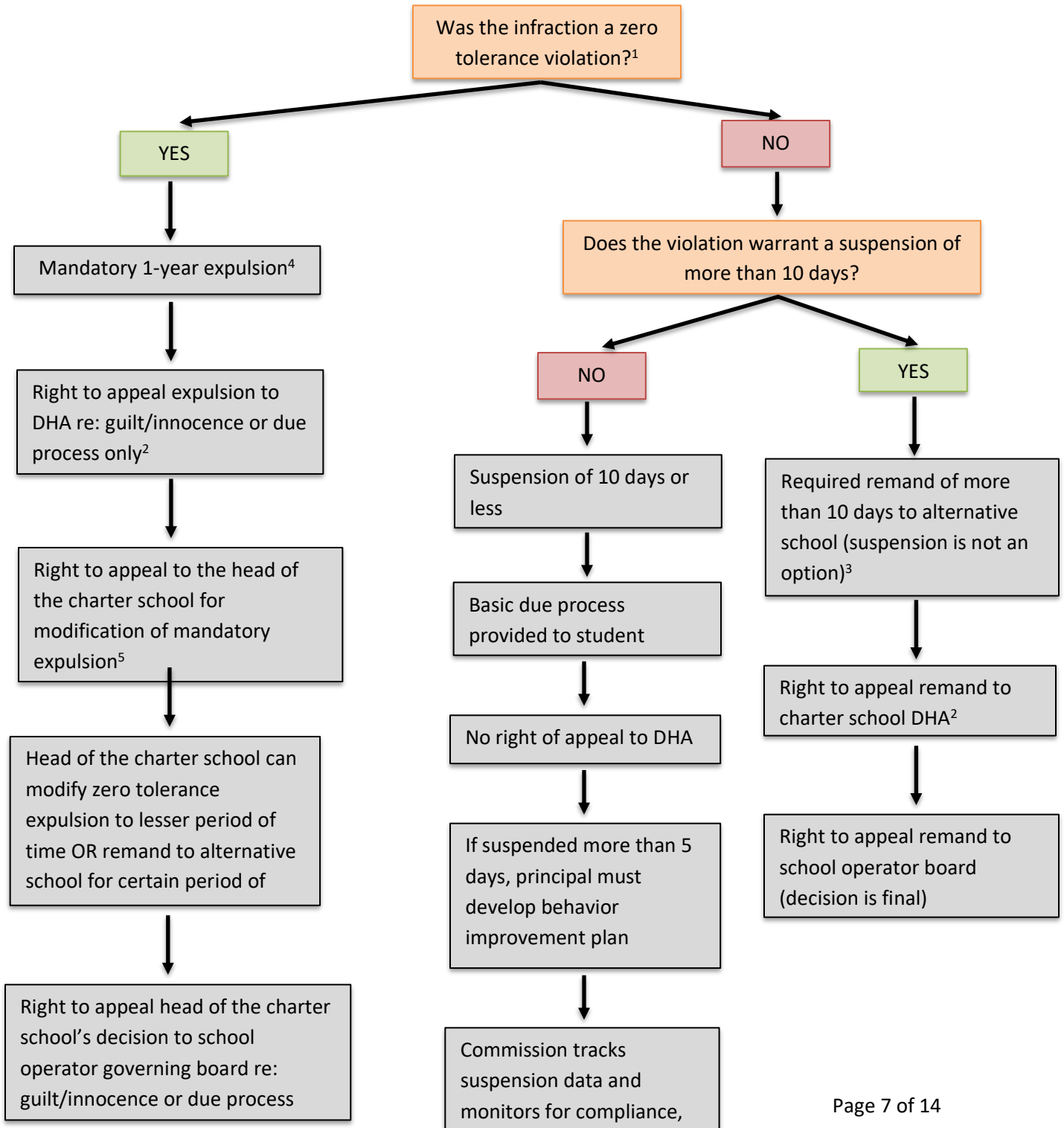
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### Disciplinary Hearing Authority and Appeals Flow Chart

The flow chart below outlines the path a disciplinary action may follow and/or be appealed under Commission LEA Policy 6317 – Required Remands and Student Disciplinary Hearing Authority. Answer the questions in the orange boxes to follow the correct course of action.<sup>i</sup>



**Zero Tolerance Modification Appeal Form**

Pursuant to T.C.A. § 49-6-3401(g), the head of the charter school may modify a mandatory one (1)-year expulsion for a zero tolerance offense on a case-by-case basis. Completion of this form shall serve as official written notice of appeal for modification of the one (1)-year expulsion. This form must be submitted to the Director of Schools of the Commission within five (5) school days of the decision by the head of the charter school to modify the expulsion.

**Student Name:** \_\_\_\_\_

**Student Phone Number:** \_\_\_\_\_

**School Name:** \_\_\_\_\_

**Date of Incident:** \_\_\_\_\_      **Date of DHA Appeal:** \_\_\_\_\_

Use the space provided below to provide a description of why the mandatory one (1)-year expulsion for a zero tolerance violation should be modified.

\_\_\_\_\_  
Signature of Student

\_\_\_\_\_  
Date



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**Request for a Disciplinary Hearing Authority Appeal**

Within five (5) school days of the suspension decision, a student or the student’s parent(s)/guardian(s) may appeal the suspension/expulsion/remand, orally or in writing, to the school’s Disciplinary Hearing Authority (“DHA”). Completion of this form shall serve as official written notice of request for a DHA appeal.

**Student Name:** \_\_\_\_\_

**Student Phone Number:** \_\_\_\_\_

**School Name:** \_\_\_\_\_

**Date of Incident:** \_\_\_\_\_

**Date Suspension/Expulsion/Remand was Issued:** \_\_\_\_\_

Pursuant to T.C.A. § 49-6-3401(c)(4)(A), the DHA hearing shall be held no later than ten (10) days after the beginning of the suspension/expulsion/remand. Use the space provided below to identify days or times in which you and/or your parent(s)/guardian(s) are **unable** to attend a DHA appeal hearing due to transportation limitations. Every effort will be made to accommodate the schedules of all parties involved.

Monday	Tuesday	Wednesday	Thursday	Friday

\_\_\_\_\_  
Signature of Student/Parent/Guardian

\_\_\_\_\_  
Date

**FOR DHA USE ONLY**

Date Received: \_\_\_\_\_

DHA Appeal Date: \_\_\_\_\_

Student/Parent Notification Date: \_\_\_\_\_

DHA Chairman Initials: \_\_\_\_\_

*\*Attach the written notification of appeal date, time, and location to this request.*

**Request for Governing Board Appeal**

Within five (5) school days of the DHA rendering a decision, the student, student’s parent(s)/guardian(s), principal, principal-teacher or assistant principal may request, orally or in writing, a review by the governing board, and the governing board shall review the official DHA record. Completion of this form shall serve as official written notice of request for a governing board appeal.

**Requestor Name:** \_\_\_\_\_

**Requestor Phone Number:** \_\_\_\_\_ **Requestor Role:** \_\_\_\_\_

**School Name:** \_\_\_\_\_

**Date of Incident:** \_\_\_\_\_ **DHA Appeal Date:** \_\_\_\_\_

**Would you like to request an open hearing?**     Yes, I want the hearing open to the public.

No, I want the hearing closed to the public.

Use the space provided below to identify days or times in which you and/or your parent(s)/guardian(s) are **unable** to attend a governing board appeal hearing due to transportation limitations. Every effort will be made to accommodate the schedules of all parties involved.

Monday	Tuesday	Wednesday	Thursday	Friday

\*If you are not the student requesting this hearing, provide the student’s name and phone number:

**Student Name:** \_\_\_\_\_ **Student Phone Number:** \_\_\_\_\_

\_\_\_\_\_  
Signature of Requestor

\_\_\_\_\_  
Date

**FOR GOVERNING BOARD USE ONLY**

Date Received: \_\_\_\_\_                      Governing Board Appeal Date: \_\_\_\_\_

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Student/Parent Notification Date: \_\_\_\_\_ Governing Board Chair Initials: \_\_\_\_\_

*\*Attach the written notification of appeal date, time, and location to this request.*

**Charter School Disciplinary Hearing Authority Membership Form**

A charter school authorized by the Commission shall submit the names of individuals appointed to serve as members of the school’s Disciplinary Hearing Authority (“DHA”). Appointments by the governing board are for one (1)-year terms and subject to reappointment. This form must be completed by the chair of the governing board and submitted to the Commission by July 31<sup>st</sup> of each year via the Commission’s reporting calendar.

**Name of Charter School:** \_\_\_\_\_

**School Year of Appointment:** \_\_\_\_\_

*(The school year of appointment will begin July 1<sup>st</sup> and end June 30<sup>th</sup>)*

Member Role	Member Name <sup>1</sup>	School Position/Relationship <sup>2</sup>	Holds Valid TN Educator License? (Y/N) <sup>3</sup>
Chair			
Member			

<sup>1</sup> The DHA shall consist of at least two (2) members. If there are more than ten (10) members of the DHA, please complete a second form for additional space. The number of members may not exceed the number of members of the governing board.

<sup>2</sup> No member of the governing board shall serve as a member of the DHA.

<sup>3</sup> At least one (1) member of the DHA must be a licensed employee of the charter school.

\_\_\_\_\_  
Signature, Governing Board Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name, Governing Board Chair

**Request for Review of Disciplinary Actions under Special Circumstances**

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Completion of this form shall serve as official written notice of request for modification of the required remand for suspensions of more than ten (10) days. This form must be submitted to the Director of Schools of the Commission within five (5) days of the disciplinary decision.

**Student Name:** \_\_\_\_\_

**Student Phone Number:** \_\_\_\_\_

**Principal/Requestor Name:** \_\_\_\_\_

**School Name:** \_\_\_\_\_

**Date of Incident:** \_\_\_\_\_ **Date Discipline Action was Determined:** \_\_\_\_\_

Use the space provided below to provide a description of the special circumstances justifying modification of the required remand.

\_\_\_\_\_  
Signature of Principal/Requestor

\_\_\_\_\_  
Date

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<sup>i</sup> The following footnotes are applicable to the flow chart, as indicated:

<sup>1</sup> As defined by Commission LEA policy and Tennessee Code Annotated.

<sup>2</sup> Commission LEA policy would specify the need to have a policy on DHAs and what each policy needs to contain.

<sup>3</sup> If a special circumstance arises that the school believes justifies a disciplinary action other than the required remand to alternative school, the school shall immediately notify the director of schools, or designee, of the special circumstance. The director of schools, or designee, will consult with the school regarding the special circumstance and will come to a decision regarding a proposed modification of the required remand within seven (7) business days.

<sup>4</sup> Commission LEA policy 6309 – Zero Tolerance and the school’s discipline policy outline which zero-tolerance offenses require a mandatory one (1)-year expulsion.

<sup>5</sup> As outlined in this procedure document, a student may choose not to appeal to the DHA and to instead appeal directly to the head of the charter school for modification of a mandatory one-year zero-tolerance expulsion. The student shall be advised that by doing this they are choosing not to contest their guilt/innocence or due process provided to them and are seeking only a modification of the mandatory one (1)-year expulsion. Students who choose to forego the initial appeal to the DHA shall not be permitted to appeal to the governing board.