

**INFORMATION WHICH MUST BE PRESENTED TO THE STUDENT
AND HIS OR HER PARENTS**

When a student faces expulsion, Nebraska Statute §79-268(2) requires that the school district provide the student and his or her parents or guardian with the information described below. The school administrator should be thorough in his or her presentation.

- I. Notice of the policy or rule violated. This notice should specify all applicable sections of the student handbook and board policy.
- II. A summary of the evidence.
- III. A notice of the recommended penalty or any other penalty to which the student may be subject.
- IV. A statement that the parents or guardian have a right to request a hearing before the penalty goes into effect. (Include in the attached letter to parents or guardian). Note: If the school has decided that the student will be suspended until the hearing officer makes a recommendation to the superintendent of schools (e.g. because the student has been violent, or his return will be disruptive to the school), explain this in detail in the letter to the parent or guardian.
- V. A description of the hearing and appeal procedures.
- VI. A statement of the right to inspect the student's academic and disciplinary records, and any affidavits to be used at the hearing. (Included in the attached letter to parents or guardian.)
- VII. The right to know the names of the witnesses who will appear at the hearing and the substances of their testimony. (Included in the attached letter to parents or guardian.)
- VIII. A form to request a hearing.

Guidelines For The Completion of Class Work. The Student Discipline Act requires the school district to notify the student, at the time of expulsion, of the district's guidelines for the completion of class work which he or she will miss because of the suspension.

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Nebraska Statute §79-265 states as follows:

"Any student who is suspended pursuant to this section may be given an opportunity to complete any class work, including, but not limited to examinations, missed during the period of suspension. School officials shall develop and adopt guidelines stating the criteria that will be used in determining whether and to what extent such opportunity for completion will be granted to suspended students. The guidelines shall be provided to the student and parents or guardian at the time of suspension."

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LETTER TO PARENTS RECOMMENDING STUDENT EXPULSION

(DATE)

(Name of Parents)
(Name of Student)
(Address)

Dear Mr. and Mrs. (Name) and (Student's Name):

I am writing to inform you that it has been recommended that (Student's Name) be expelled for (One Semester, Two Semesters, A Calendar Year). The recommendation is based on (Student's Name) violation of (state the policies, rules, regulations, classroom rule and/or other standards which the student violated). The explanation of the misbehavior should be as detailed as possible.

Pursuant to Nebraska statutes, (Student's Name) has been suspended from school until the date that the expulsion takes effect, or if you request a hearing, the date that the hearing examiner makes the report of his or her finding and recommends the action to be taken by the superintendent of schools.

If you wish, you are entitled to a hearing on the proposed expulsion. In order to stay the imposition of the expulsion, you must request the hearing within five (5) school days of your receipt of this notice. A request form has been enclosed for your convenience. You may also waive the opportunity for a hearing. If you request a hearing after five (5) days but within thirty (30) days of receipt of this notice, you will receive a hearing, but the expulsion will take effect and remain in effect pending the outcome of the hearing.

If you request a hearing, a hearing examiner will be appointed and a hearing will be scheduled to be held within five (5) school days of the receipt of your request. The hearing examiner will recommend the disciplinary action, if any, that should be taken. The superintendent of school will review the hearing examiner's recommendation and will decide on the appropriate disciplinary action. The superintendent's decision may be different from the hearing examiner's recommendation; however, the final disciplinary action may not be more severe than that recommended by the hearing examiner. If you have requested a hearing within (5) school days of receiving this notice, the final

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disciplinary action will not begin until it is communicated to you.

Before any hearing, all academic and disciplinary records will be available for your examination along with any written statement to be used at the hearing, Upon request, you will be told the names of the witnesses which the school district will present and the substance of their testimony. If you need assistance in interpreting any academic or disciplinary records or in developing any information from the school district's records, a school official will be made available to help you.

At the hearing, a representative of the school will present the case supporting the proposed expulsion. You may bring a representative, including an attorney, to the hearing where you may question the school's witnesses and present witnesses, documents and evidence of your own. You will be given an opportunity to question any witnesses who are called on behalf of the administration. Likewise, the school's representative will have an opportunity to question anyone whom you call as a witness.

If you are dissatisfied with the superintendent of school's decision, you may appeal it to the board of education by filing a written appeal with the superintendent of schools or the secretary of the board of education within seven (7) days of receiving the decision. The disciplinary action will remain in effect during the appeal unless the board of education decides otherwise. The appeal shall be made solely on the record of the hearing except that the board of education may hear new evidence to avoid a substantial threat of unfairness.

If you are dissatisfied with the board of education's decision, you may appeal the decision to the district court within thirty (30) days after receiving notice of the board's determination.

I have enclosed a copy of our school district's Student Suspension, Expulsion, and Grievance Procedure Policy (and Firearms and Destructive Devices Policy) which sets out the hearing and appeal procedures.

If you have any questions, please contact me.
Respectfully,

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(Superintendent's Name)
Superintendent of Schools

Enclosure

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PARENTS OR GUARDIAN REQUEST FOR HEARING

(Date)

(Name of Superintendent of Schools)
Superintendent of Schools
Gage County School District No. 34
415 Eighth Street
Adams, Nebraska 68301-0259

Dear (Name of Superintendent of Schools):

We have received your letter dated (Date of Superintendent's Letter) notifying us that (Name of Student) has been suspended from school until a determination has been made on (his or her) possible expulsion.

Your letter stated that we have five (5) days school days from the date of the receipt of your letter if we choose to request a hearing to be held prior to the implementation of an expulsion order. Please accept this letter as our request for a hearing and the appointment of a hearing examiner.

Respectfully Submitted,

(Signature of Parent or Guardian)

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HEARING EXAMINER'S NOTICE TO PARENTS AND STUDENT

(DATE)

(Name of Parents)
(Name of Student)
(Address)

Dear Mr. and Mrs. (Name) and (Student's Name):

I have been appointed to serve as the hearing examiner regarding the proposed expulsion of (Student's Name) from Gage County School District No. 34 for the remainder of the second semester of 20__ - 20__ school year. By statute, the hearing which has been requested must be scheduled within five school days of the request for the hearing. As we discussed on the telephone, the hearing has been scheduled for (Date) beginning at (Time). The hearing will be conducted in the (Location of Hearing) of the Gage County School District No. 34. The address is 415 Eighth street, Adams, NE 68301-0259

As hearing examiner, I will preside over the hearing. I will be available prior to the hearing to answer any questions you or your attorney or representative may have regarding the nature and conduct of the hearing. I am available at my office between the hours of (Specify Hours). My office telephone number is (Phone Number).

You and your attorney, or representative have the right to examine (Name of Student)'s academic and disciplinary records and affidavits which might be used at the hearing concerning (his/her) alleged misconduct. You also have the right, upon asking the school administration, to know the identity of the witnesses who will appear at the hearing as well as the substance of their testimony and to review any written affidavits to be used at the hearing.

As hearing examiner, I am statutorily bound by the rules of evidence at the hearing. You will have the right to question any witnesses giving information at the hearing. (Name of Student) may testify and you may call witnesses to testify on (his/her) behalf and may introduce documents in support of (his/her) position. Witnesses whom you call may be questioned by the school administration regarding their testimony. The testimony of all witnesses will be given under oath. If (Name of Student) chooses

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not to testify, (he/she) will not be punished or threatened with punishment for choosing not to testify. I am available to assist you in obtaining the attendance of witnesses. Please contact me as soon as possible if you need assistance.

After the hearing has been concluded, I will review the testimony and documents. I will report my findings and recommendations to (Name of Superintendent), Superintendent of Schools. My recommendations may range from no action through the entire field of counseling to the expulsion recommended by the superintendent of schools. Superintendent (Name of Superintendent) will then send you a notice of his decision as well as my findings and recommendations.

I will enclose an outline of the hearing procedure. If you have any questions or if I can be of any assistance to you, please contact me.

Yours truly,

(Name of Hearing Examiner)
Hearing Examiner

Copy: (Superintendent of Schools)

Enclosure

INFORMATION SHEET FOR DUE PROCESS HEARING PARTICIPANTS

This due process hearing will be conducted as follows:

- I. An electronic recording (voice or video) will be made of the entire hearing process. The recorder will be turned on as the hearing participants assemble.
- II. At the beginning of the hearing, the hearing examiner will explain the hearing procedure. If there are any questions regarding the hearing procedure, the hearing examiner will answer them at this time.
- III. An oath or affirmation will be administered to all those who testify.
- IV. A school official or representative will present information supporting the school charge or charges and proposed sanction. Other witnesses may also testify.
- V. The family or student's representative may question any school officials who testify and the information they present.
- VI. The student, family, or its representative will present any information they have relevant to the charge or charges and the proposed sanction. This would be the appropriate time for the student to give his/her account of the incident. Other witnesses may also testify.
- VII. The school official or representative will have an opportunity to question any witnesses who testify on behalf of the student and the information they present.
- VIII. The school official or representative will be given an opportunity to make a closing statement.
- IX. The family or its representative will be given an opportunity to make a closing statement.
- X. The hearing will be closed and the recorder will be turned off at the end of the hearing.

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XI. If a language interpreter, hearing devices, or other aids are needed please let the hearing examiner know in sufficient time prior to the hearing so that arrangements can be made.

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FOR HEARING EXAMINER ONLY.

HEARING EXAMINER'S OPENING STATEMENT

I. This hearing is being recorded electronically by a (tape or video) recorder.

II. I will read the following statement which explains the purpose of the hearing and the procedure we will follow during the hearing.

My name is (Name). I have been appointed to act as the hearing examiner in this case. The date is (Date) and the time is (Time). This hearing regarding the proposed (State the Proposed Sanction) of (Student's Name) will be conducted in compliance with Gage County School District No. 34's board of education policy and the laws of Nebraska. In accordance with these laws, the hearing must be recorded and is presently being recorded.

As a means of identifying for the record those who are present today, I will ask each individual to state his or her name and involvement in this hearing. _____, would you please begin by stating your name and your involvement in the hearing.

As the hearing examiner, I am responsible for considering the information presented today and making two decisions based on that information. The first decision will be whether (Student's Name) engaged in the action specified in the charge by the school. The second decision will be to recommend the appropriate sanction if I feel that any sanction is warranted. I will file a written report of my findings and recommendations with the superintendent of schools who will make the final decision.

It is important for everyone to understand that my recommendation will be based entirely on the information presented in the hearing.

Are there any questions regarding the purpose of this hearing?

It is the responsibility of each party to provide complete and accurate information about this matter. Charges may be withdrawn or modified until the close of this hearing.

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A recess of a few minutes may be granted when appropriate. However, the hearing will be postponed or delayed only for reasons that I judge to be sufficient.

The hearing will begin with the school representatives presenting the charge and evidence to support that charge. After the testimony of each witness called by the school, the parents or their representative will be given an opportunity to question the witness.

At the conclusion of the school's presentation, the parents or their representative will have an opportunity to present any evidence they have. After the testimony of each witness called by the family, the school officials or their representative will be given an opportunity to question the witness.

After the evidence has been presented, the school and family will be given an opportunity to make closing statements to summarize their positions.

At this time, I caution both sides that, following the closing comments, you will not have another opportunity to present more information unless all parties present today agree to a change of procedure.

Any witnesses who testify will be administered an affirmation prior to testifying. Witnesses will be excused by me when their testimony has been completed. Witnesses other than the principal parties will be excluded from the hearing.

If anyone has a question about procedure during the hearing, please feel free to ask it. Are there any questions?

(Name of School Administrator), will you please begin the presentation of the school's case by calling your first witness.

AFFIRMATION

Question: Do you affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth.

Response: I do.

Please proceed.

**FOR THE HEARING EXAMINER ONLY.
HEARING PROCEDURE GUIDE**

I. Procedure.

Turn on the recording device.
Distribute information sheets to the participants.
Read the procedure statement.

II. Affirmation (Oath) You may wish to swear all the witnesses in at the beginning of the hearing. This is helpful in cases when parents cannot restrain themselves from testifying or arguing during the hearing.+9

III. Administration's Presentation.

A. Presentation by school official(s) or representative.

1. Charges.
2. Supportive information.
3. Recommendations.

B. Swearing in of witnesses (affirmation).

C. Questioning of the witnesses by the parents.

IV. Student's Presentation.

A. Presentation by student, parents, or representative.

This is the appropriate time for the student to give an account of the incident.

B. Swearing in of witnesses (affirmation).

C. Questioning of the witnesses by school representatives.

V. Closing Statement.

Permit closing statements by the school and then the student, parents, or representative.

VI. READ: I will consider the evidence, make findings of fact and make a recommendation to the superintendent of schools about the appropriate action to be taken. After reviewing my

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report, the superintendent of schools will decide what sanction to impose but may not impose one that is more severe than the one I recommend. The superintendent of schools' determination will be the final and will be communicated to the parents and student. If they are not satisfied with it, they have the right to appeal it to the board of education.

VII. READ: This hearing is closed at _____ (A.M./P.M.)

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**HEARING EXAMINER'S CONVEYANCE LETTER TO THE
SUPERINTENDENT OF SCHOOLS**

(Date)

(Name of the Superintendent of Schools)
Superintendent of Schools
Gage County School District No. 34
415 Eighth Street
Adams, Nebraska 68301-0259

Re: (Name of Student)
Recommendation for Expulsion

Dear (Name of Superintendent of Schools):

Enclosed are my findings and recommendation regarding the proposal to expel (Name of Student) from Gage County School District No. 34. Based on the information that was presented at the hearing, I have recommended that (Name of Student) be expelled for the remainder of the 20 ____ - 20 ____ school year.

By statute, you are responsible for deciding what sanction to impose, if any. Section §79-282(2) of the Nebraska statutes permits you to "change, revoke, or impose the sanction recommended by the hearing examiner". If you change the sanction, you may not impose one that is 'more severe' than my recommendation. However, as I have recommended expulsion, any alternative sanction would be less severe than the recommendation.

Your decision will take effect when it and a copy of my findings and recommendations are communicated to (Name of Student) and his/her parents. Nebraska Statute §79-283(1) states that you may notify the parents of your decision by certified or registered mail or by personal delivery to the student or the student's parents or guardian. If you have any questions about any of these findings or my recommendation, please let me know.

Your truly,

(Name of Hearing Examiner)

Enclosure

SAMPLE FINDINGS OF FACTS

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IN THE MATTER OF THE _____)
EXPULSION OF (Name of Student))

HEARING EXAMINER'S
RECOMMENDATION

The matter of the proposed expulsion of (Student's Name) from Gage County District No. 34 for the (first or second) semester of the 20 ____ - 20 ____ school year was heard on (Date). The hearing was conducted in the (Specific Location of the Hearing) at 415 Eighth Street, in Adams, NE 68301-0259. The hearing commenced at (Time) and concluded at (Time).

Hearing Examiner (Name of Hearing Examiner) conducted the hearing. (Name of Student) was present as were (his/her) parents, Mr. and Mrs. (Name). (Name of Student) was represented by (Name of Attorney), his attorney. Superintendent of Schools (Name) was present and was represented by (Name of Attorney), attorney at law. The hearing was recorded by (tape or video) recording.

The administration introduced evidence, consisting of oral testimony and Exhibit Nos. (Specify Exhibit Numbers). The following persons testified on behalf of the administration: (Names of the Witnesses). Evidence was introduced on behalf of (Name of Student), consisting of oral testimony and Exhibit Nos. (Specify Exhibit Numbers). The following persons testified on behalf of (Name of Student): (Names of the Witnesses).

Having reviewed the testimony and documents introduced at the hearing, I make the findings and recommendation set forth below.

FINDINGS OF FACT

- I. By letter dated (Date), (Exhibit No. ___) (Name of Administrator) notified Mr. and Mrs. (Name of Parents) and (Name of Student) of the proposal to expel (Name of Student) for the remainder of the (first or second) semester of the 20 ___ - 20 ___ school year. The letter met all requirements of the Student Discipline Act, Sections §79-255 to §79-292 of the Nebraska statutes.
- II. Mr. and Mrs. (Name of Parents) requested a hearing on the form provided by the school district (Exhibit No. ___). The school district received the request on (Date Received).
- III. By letter dated (Date), the Hearing Examiner notified Mr. and Mrs. (Name) and (Student's Name) of the time, date, and place of the hearing (Exhibit No. ___).
- IV. By letter dated (Date), (Exhibit No. ___) (Name of Administrator) notified Mr. and Mrs. (Name) of the names of the witnesses and who would testify at the hearing and provided them with written statements of the witnesses. The letter was sent by certified mail (Exhibit No. ___).
- V. Mr. and Mrs. (Name) and (Student's Name) were notified of the proposal to expel (Student's Name) and of the hearing as required by law.
- VI. Specify the facts of the case.
- VII. Specify the facts of the case.
- VIII. Specify the facts of the case.
- IX. The rules of conduct are contained in the Student Handbook (Exhibit No. ___). See "Suspension and Expulsion" on pages ___ and ___ in particular. The rules of conduct are clear and definite.
- X. The rules of conduct contained in the student handbook are reasonably necessary to carry out or prevent interference with carrying out the educational function of the school.
- XI. The rules of conduct in the student handbook were distributed to (Name of Student) and his parents at the beginning of the

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20 __ - 20 __ school year. Exhibit No.__ is a receipt signed by (Name of Student) attesting to (his/her) receipt of a copy of the handbook as well as (his/her) agreement to read it and to take a copy to (his/her) parents to read.

XII. The rules of conduct were posted in conspicuous places in the school throughout the school year.

XIII. (Name of Student)'s possession and use of the (knife) violated the rules of conduct contained in the student handbook which provide for out-of-school suspension or expulsion for the following kinds of misbehavior:

- #. The commission of serious act of defiance toward a teacher or staff member, either in acts or words.
- #. Any act of violence against the person or property of any teacher, school official, or student.
- #. The possession, use, or transmittal of any object or material which is ordinarily or generally considered a weapon.
- #. Continued willful disobedience.
- #. Failure to follow established rules and procedures.

XIV. (Name of Student)'s possession and use of the (knife) violated Nebraska Statutes. Section §79-267 of the Student Discipline Act, states in pertinent part:

The following student conduct actions shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on the school grounds or during an educational function or event off school grounds.

- (1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purpose.
- (2) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon."

XV. The knife in (Name of Student)'s possession is ordinarily or generally considered a weapon.

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XVI. (Name of Student)'s actions were threatening and intimidating and constituted a substantial interference with school purposes.

XVII.(Name of Student)'s actions took place on school grounds.

XVIII. Section §79-283(3) of the Student Discipline Act of the Nebraska Statutes permits expulsion for the remainder of the school year for "the knowing and intentional possession, use, or transmission of a firearm, or other dangerous weapon..."

XIX. (Name of Student) is not identified as a student who qualifies for special education services.

RECOMMENDATIONS

I recommend that (Name of Student) be expelled from Gage County School District No. 34 for the remainder of (first or second) semester of the 20 __- 20 __ school year. Though expulsion is the severest sanction authorized by law, it is my judgment that it would be in both (Student's Name) and the school district's best interests if (he/she) be expelled.

(Name of Student)'s behavior poses a danger to all other persons in Gage County School District No. 34. (his/her) behavior has been volatile and (he/she) has displayed a quick and strong temper. (Name of Student) poses too great a danger to other students and to staff to permit (him/her) to be retained as a student.

(Name of Student) poses a danger to (himself/herself). A sanction as severe as expulsion is warranted and necessary to impress upon (Name of Student) the gravity of (his/her) misbehavior and to effect a change in (his/her) behavior. I am convinced by the testimony that Superintendent (Name) does not take expulsion lightly and that the recommendation to expel (Name of Student) was reached after careful and deliberate consideration of the consequences.

I, therefore, recommend that (Name of Student) be expelled from Gage County School District No. 34 for the remainder of the (first or second) semester of the 20 __ - 20 __ school year.

(Name), Hearing Examiner

Dated this ____ day of _____, 20 __.