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*"Educating Georgia's Future"*

# Guidance to Accompany State Board Rule 160-4-8-.15 Student Discipline

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Version 1 - July 12, 2016	Initial version of guidance.

# *Guidance to Accompany State Board Rule 160-4-8-.15 Student Discipline*

This companion document provides clarification and best practices regarding State Board Rule 160-4-8-.15 Student Discipline. It is intended for use by local school systems as they consider amending or implementing local policy, procedures and operations.

## Training of Discipline Hearing Officers, Disciplinary Tribunal and Panel Members.

State Board Rule 160-4-8-.15 (2)(j) states, “Each local board of education shall make available to all Qualified Student Discipline Hearing Officers and Disciplinary Tribunal or Panel Members the initial and ongoing tribunal training course prior to the individual(s) serving in such capacity. The local board of shall ensure initially trained student discipline hearing officers and disciplinary tribunal or panel members undergo continuing education so as to continue to serve in such capacity.”

The rule delineates that continuing education shall be provided for previously trained hearing officers and disciplinary tribunal or panel members. To meet this requirement the Georgia Department of Education recommends that continuing education for discipline hearing officers and disciplinary tribunal or panel members be provided at least every two years after the initial training.

## Qualified Student Discipline Hearing Officer or Disciplinary Tribunal or Panel Member

State Board Rule 160-4-8-.15 (1)(g) inserts a new definition that outlines the qualifications for a student discipline hearing officer or disciplinary tribunal or panel member. One of the acceptable qualifications provided in the definition is, “an individual selected by the local system who... has experience as a teacher, counselor, or administrator in a public school system...” We received questions as to which category of positions would be included in the term “counselor.” As the term “counselor” is broad in nature, we want to clarify that as used in the rule, the term would include school counselor, guidance counselor, school social worker, or school psychologist.

## Tribunal Training Course

State Board Rule 160-4-8-.15 (1)(e) introduces a new definition for tribunal training course which states that it is, “a course of least five (5) hours duration which

1. includes instruction on:
  - (i) all student disciplinary provisions in Title 20 of the Official Code of Georgia Annotated
  - (ii) due process requirements under federal and state law
  - (iii) applicable rules of evidence

(iv) leading federal and state judicial and administrative decisions, and

(v) applicable ethical standards and the role of the hearing officer and panel member as independent, neutral arbiter;”

The initial and ongoing training course is a critical component in the successful implementation of a hearing or tribunal program. Below we include a model curriculum to provide additional insight and direction for topics that should be included in a tribunal training course adopted by a local school system. The model, while not exhaustive, is representative of the detail and depth of topics to be taught.

## Model Tribunal Training Course Curriculum

- 1) All student disciplinary provisions in Title 20 of the Official Code of Georgia Annotated
  - a) State Laws (including but not limited to)
    - i) Title 20 Chapter 2 Article 16 Part 2 – Student Discipline, including but not limited to
      - (1) OCGA 20-2-750 through 20-2-759 Public School Disciplinary Tribunal Act
      - (2) OCGA 20-2-765 Chronic Disciplinary Problem Student
      - (3) OCGA 20-2-768 Expulsion or Suspension of Students for Felonies
    - ii) Title 20 Chapter 2 Article 25 – School Law Tribunals; Appeals
      - (1) OCGA 20-2-1160
    - iii) Title 50 Charter 13 Article 1 – Administrative Procedures – General Provisions
      - (1) OCGA 50-13-13 Opportunity for Hearing in Contested Cases
    - iv) Title 16 Chapter 11 Article 4 Part 3 – Carrying and Possession of Firearms
      - (1) OCGA 16-11-127.1 – Carrying weapons within school and other associated locations
    - v) Title 15 Chapter 6 Article 1
      - (1) OCGA 15-6-36 Notice of Student’s Felony Conviction to School Superintendent
  - b) State Board Rules (including but not limited to)
    - i) Rule 160-1-3-.04 School Law Tribunals and Appeals
    - ii) Rule 160-4-8-.15 Student Discipline
  - c) Other References and Considerations (including but not limited to)
    - i) Local Student Code of Conduct
    - ii) Age Appropriate Behavior
    - iii) Cultural Awareness
    - iv) Strategies to Improve School Climate
- 2) Due process requirements under federal and state law (including but not limited to)
  - a) OCGA 20-2-735 Adoption of Policies by Local Boards to Improve Student Learning Environments
  - b) OCGA 20-2-752 Establishment of Disciplinary Hearing Officers, Panels or Tribunals
  - c) The Fifth and Fourteenth Amendment to the US Constitution
  - d) Types of Due Process
  - e) Individuals with Disability Education Act (IDEA) Manifestation Hearing and Ten Day Rule
  - f) General Procedures for Hearing, Tribunal and Appeals
    - i) Hearing Foundations, Process, and Mechanics
    - ii) Associated Documents to Accompany Hearing
    - iii) De Novo Appeals
- 3) Applicable Rules of Evidence

- a) Established rules governing the proof of facts
- b) Written statements and testimony
- 4) Leading federal and state judicial administrative decisions (including but not limited to)
  - a) Goss v. Lopez
  - b) Tinker v. Des Moines, SD
  - c) Goldberg v. Kelly
  - d) T.O. v. New Jersey
- 5) Applicable ethical standards and the role of the hearing officer and panel member as independent, neutral arbiter
  - a) Neutral arbiter not to take on role of advocate in proceeding nor testify or otherwise offer evidence.
  - b) Neutral arbiter should not engage in written or oral communication with one participant in the proceeding to the exclusion of other participants.