

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
L. Casey Manning, Circuit Court Judge

**RECEIVED**  
**Nov 17 2020**  
**SC Court of Appeals**

Appellate Case No. 2019-001603  
Case No. 2019-CP-40-01615

T.D., by and through his guardians, A.D. and J.D.,

Appellants,

v.

Richland County School District Two,

Respondent.

SECOND AMENDED RECORD ON APPEAL - VOLUME II

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Attorneys for Respondent

November 17, 2020.

Volume I<sup>1\*</sup>

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<sup>1\*</sup> In accordance with guidance from the court issued by letter dated October 28, 2020, Appellants are submitting the this Second Amended Record on Appeal with the original organization and page numbers as the Record on Appeal filed on July 21, 2020, but with the documents identified in Appellants’ Motion to Seal placed in separate volumes. Accordingly, this Second Amended Record on Appeal is divided into the original Volumes I and II, with selected documents segregated into two separate volumes: Volume I – Not for Online Publication and Volume II – Not for Online Publication. Documents appearing in the “Not for Online Publication” Volumes are noted with an “\*”.

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<sup>2</sup> Audio files on CDs filed by Appellants on June 5, 2019, are in the possession of the Richland County Clerk of Court and audio files submitted by the Respondent (Exhibits 34, 35 and Additional Exhibit 19) are in the possession of the Honorable L. Casey Manning. Appellants will file a motion pursuant to Rule 210(f), SCACR, requesting an order to have the audio files delivered to this Court.

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<sup>3</sup> This transcript and the Transcript of Hearing before the Board on February 12, 2019, were prepared by Creel Court Reporting after the Appellant’s filed the Notice of Appeal and Appellant’s Initial Brief with this court. This Court granted the Respondent’s Motion to include these two transcripts in the Record on Appeal by Order dated April 23, 2020.

<sup>4</sup> See footnote 3 above.

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ADDITIONAL MATTER DESIGNATED BY  
THE PARTIES



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R462

Jasmine,

I received the attached records, including a number of incident reports for offenses that are not automatically reportable to the school district. Please forward any requests from the school district to the Richland County Sheriff's Department requesting incident reports for this student.

Please provide the audio for this student's hearing, as well as the expulsion summary sheet and any transcriptions of the proceedings.

Thank you.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
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---

**From:** Rhonda Foxworth [mailto:rfoxworth@hmwlegal.com] **On Behalf Of** Jasmine Rogers Drain  
**Sent:** Monday, January 14, 2019 4:16 PM  
**To:** MICHAEL MATHISON  
**Subject:** Student T.D.

Mike,

Attached please find records responsive to your request.

It is my understanding that [REDACTED]'s appeal will be considered by the Board during its January 22 meeting.

If you wish to supplement the student's appeal, please send that to us by the close of business on Thursday, January 17.

Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER  
THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
PH 803.254.4035 HMWLEGAL.COM  
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R463

**Jasmine Rogers Drain**

---

**From:** MICHAEL MATHISON <MATHISON.MICHAEL@richlandcountysc.gov>  
**Sent:** Tuesday, January 15, 2019 1:51 PM  
**To:** Jasmine Rogers Drain  
**Subject:** FW: Student T.D.

To be clear, we absolutely want the audio. As you might expect, denial of an impartial finder of fact will be a part of this appeal.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
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---

**From:** MICHAEL MATHISON  
**Sent:** Tuesday, January 15, 2019 10:11 AM  
**To:** Jasmine Rogers Drain (jdrain@hmwlegal.com)  
**Subject:** FW: Student T.D.

Jasmine,

I apologize, the records did include the expulsion summary sheet and transcript with the hearing office's rendition of the testimony.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
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---

**From:** MICHAEL MATHISON  
**Sent:** Tuesday, January 15, 2019 9:54 AM  
**To:** 'Jasmine Rogers Drain'  
**Subject:** RE: Student T.D.

Jasmine,

I received the attached records, including a number of incident reports for offenses that are not automatically reportable to the school district. Please forward any requests from the school district to the Richland County Sheriff's Department requesting incident reports for this student.

Please provide the audio for this student's hearing, as well as the expulsion summary sheet and any transcriptions of the proceedings.

Thank you.

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Reentry Attorney  
Richland County Public Defender's Office  
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Columbia, SC 29201  
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**Sent:** Monday, January 14, 2019 4:16 PM  
**To:** MICHAEL MATHISON  
**Subject:** Student T.D.

Mike,

Attached please find records responsive to your request.

It is my understanding that T.D.'s appeal will be considered by the Board during its January 22 meeting.

If you wish to supplement the student's appeal, please send that to us by the close of business on Thursday, January 17.

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Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

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---

**From:** MICHAEL MATHISON [mailto:MATHEISON.MICHAEL@richlandcountysc.gov]  
**Sent:** Thursday, January 10, 2019 4:53 PM  
**To:** Vernie L. Williams; Jasmine Rogers Drain  
**Subject:** Student T.D.

Vernie and Jasmine,

Our office is working with T. ■■■ D. ■■■, DOB: ■■■■■■■■■■ ("Student"), a student recently expelled from Blythewood Middle School. Like other similarly situated students, neither T. ■■■ nor his guardians have received a written notice of the decision to expel him for the remainder of the school year. They were advised of the decision over the phone. T. ■■■ was also previously recommended for expulsion earlier in the school year.

This is a request for all records and information related to both disciplinary proceedings against T. ■■■ including, without limitation, the recordings of proceedings, all correspondence to or from the hearing office, the expulsion packet, referrals, notices, witness statements, correspondence with law enforcement, disciplinary summaries, grades, documents, evidence, summaries of testimony, and any and all other relevant materials.

This is also a request for all documents and information in this student's cumulative pupil record or elsewhere related response to Intervention, behavioral interventions, referrals for family support services, special education services (504 and IDEA) or any other services offered or made available to this student or family. These materials are requested for purpose of appeal, and we would appreciate you making them available as soon as they become available.

Attached in an authorization executed by Mr. and Mrs. D. ■■■. Don't hesitate to contact me with any questions or concerns.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
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**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:03 PM  
**To:** MICHAEL MATHISON  
**Cc:** Vernie L. Williams  
**Subject:** RE: T.D. Recording - Part I

Mike,

Attached are records regarding the October 2018 expulsion recommendation.

We are not sure when we will be able to get the related audio recording to you- I'll send as soon as received.

Thanks,  
Jasmine

**JASMINE ROGERS DRAIN PARTNER**

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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---

**From:** MICHAEL MATHISON [mailto:[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)]  
**Sent:** Tuesday, January 15, 2019 2:03 PM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: T.D. Recording - Part I

Thank you. We have requested the records, audio and information from his prior recommendation/expulsion hearing.

Thanks.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
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recipient), please do not distribute, disseminate, or copy this communication. If you received this message in error, please delete immediately. Thank you.

---

**From:** Jasmine Rogers Drain [<mailto:jdrain@hmwlegal.com>]  
**Sent:** Tuesday, January 15, 2019 2:00 PM  
**To:** MICHAEL MATHISON  
**Cc:** Vernie L. Williams  
**Subject:** T.D. Recording - Part I

Mike,

This is the first part of the recording from the day of T [REDACTED]'s hearing.

Jasmine

JASMINE ROGERS DRAIN PARTNER  
THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:16 PM  
**To:** 'MICHAEL MATHISON'  
**Cc:** Vernie L. Williams  
**Subject:** RE: T.D. Recording - Part I  
**Attachments:** 2018-12-12 Continued T.D. BMS-Minutes-Chishom (2).MP3; Student records\_Redacted.pdf.pdf

The records are attached now.

Also, attached please find Part II of the recording from T.D.'s December 2018 discipline hearing.

Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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**Cc:** Vernie L. Williams  
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Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

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**Cc:** Vernie L. Williams  
**Subject:** T.D. Recording - Part I

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Jasmine

JASMINE ROGERS DRAIN PARTNER  
THE TOWER AT 1301 GERVAIS STREET, SUITE 1400

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**Jasmine Rogers Drain**

---

**From:** MICHAEL MATHISON <MATHISON.MICHAEL@richlandcountysc.gov>  
**Sent:** Tuesday, January 15, 2019 3:12 PM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: T.D. Recording - Part I

Jasmine,

There was no attachment to your last email.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
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**Cc:** Vernie L. Williams  
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We are not sure when we will be able to get the related audio recording to you- I'll send as soon as received.

Thanks,  
Jasmine

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Thanks.

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F: (803) 766-5180  
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[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)

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---

**From:** Jasmine Rogers Drain [mailto:jdrain@hmvlegal.com]  
**Sent:** Tuesday, January 15, 2019 2:00 PM  
**To:** MICHAEL MATHISON  
**Cc:** Vernie L. Williams  
**Subject:** T.D. Recording - Part I

Mike,

This is the first part of the recording from the day of T [REDACTED]'s hearing.

Jasmine

JASMINE ROGERS DRAIN PARTNER  
THE TOWER AT 1301 GERVAIS STREET, SUITE 1400

CONFIDENTIAL

R474

PO BOX 11367 | COLUMBIA, SC 29211  
PB 803.254.4035 HMWLEGAL.COM  
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R 475

**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:51 PM  
**To:** MICHAEL MATHISON (MATHISON.MICHAEL@richlandcountysc.gov)  
**Subject:** 2018-12-12 Continued T. D. BMS-Minutes-Chishom (2).MP3  
**Attachments:** Student records\_Redacted.pdf.pdf

Mike,  
The records are attached now.

Also, attached please find a link below for Part II of the recording from T.D.'s December 2018 discipline hearing.

Let me know if you have any problems assessing the link.

<https://drive.google.com/file/d/1ZiWcpMbBxi2jn41Oly5SfES-RbuhQ5P-/view?usp=sharing>

Thanks,  
Jasmine

**JASMINE ROGERS DRAIN PARTNER**

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
PH 803.254.4035 HMWLEGAL.COM  
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**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:16 PM  
**To:** 'MICHAEL MATHISON'  
**Cc:** Vernie L. Williams  
**Subject:** RE: T.D. Recording - Part I  
**Attachments:** 2018-12-12 ContinuedT F. D BMS-Minutes-Chishom (2).MP3; Student records\_Redacted.pdf.pdf

The records are attached now.

Also, attached please find Part II of the recording from T.D.'s December 2018 discipline hearing.

Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:03 PM  
**To:** 'MICHAEL MATHISON'  
**Cc:** Vernie L. Williams  
**Subject:** RE: T.D. Recording - Part I

Mike,

Attached are records regarding the October 2018 expulsion recommendation.

We are not sure when we will be able to get the related audio recording to you- I'll send as soon as received.

Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
PH 803.254.4035 HMWLEGAL.COM



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R479

**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 15, 2019 3:51 PM  
**To:** MICHAEL MATHISON (MATHISON.MICHAEL@richlandcountysc.gov)  
**Subject:** 2018-12-12 Continued T. D. BMS-Minutes-Chishom (2).MP3  
**Attachments:** Student records\_Redacted.pdf.pdf

Mike,  
The records are attached now.

Also, attached please find a link below for Part II of the recording from T.D.'s December 2018 discipline hearing.

Let me know if you have any problems assessing the link.

<https://drive.google.com/file/d/1ZIWcpMbBxI2jn41Oly5SfES-RbuhQ5P-/view?usp=sharing>

Thanks,  
Jasmine

JASMINE ROGERS DRAIN PARTNER

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PH 803.254.4035 HMWLEGAL.COM  
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R480

**Jasmine Rogers Drain**

---

**From:** Rhonda Foxworth on behalf of Jasmine Rogers Drain  
**Sent:** Tuesday, January 22, 2019 12:22 PM  
**To:** 'MICHAEL MATHISON'  
**Cc:** Vernie L. Williams  
**Subject:** RE: Student T.D.  
**Attachments:** 201901221219.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Mike,

Attached please find additional documents responsive to your request for "any requests from the school district to Richland County Sheriff's Department requesting incident reports for this student."

Please note that the principal only asked for the incident report and was not aware that the school would be receiving all of the additional information that was provided by Sergeant Truluck.

Also, as you know, T [REDACTED]'s appeal is currently scheduled to be reviewed by the Board during tonight's meeting.

If you want to request that it be continued to the next Board meeting on February 12 to allow you additional time to supplement T [REDACTED]'s appeal, please let me know ASAP so that we can attempt to relay your request to the District in time.

Thank you,  
Jasmine



**HALLIGAN MAHONEY  
& WILLIAMS**

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
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---

**From:** MICHAEL MATHISON [mailto:MATHISON.MICHAEL@richlandcountysc.gov]  
**Sent:** Tuesday, January 15, 2019 9:54 AM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: Student T.D.

CONFIDENTIAL

R481

**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Tuesday, January 22, 2019 4:12 PM  
**To:** 'MICHAEL MATHISON'  
**Subject:** RE: Student T.D.

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Received. The supplement should be submitted by January 31.

Thanks,  
Jasmine



**HALLIGAN MAHONEY  
& WILLIAMS**

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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---

**From:** MICHAEL MATHISON [mailto:MATHISON.MICHAEL@richlandcountysc.gov]  
**Sent:** Tuesday, January 22, 2019 3:04 PM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: Student T.D.

Jasmine,

Please consider this email a request for additional time to supplement T. D.'s appeal.

Thank you.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1701 Main Street  
Columbia, SC 29201  
T: (803) 765-2592  
M: (843) 384-3761  
F: (803) 748-5018

**Jasmine Rogers Drain**

---

**From:** Jasmine Rogers Drain  
**Sent:** Wednesday, February 06, 2019 2:26 PM  
**To:** 'MICHAEL MATHISON'  
**Cc:** Vernie L. Williams  
**Subject:** RE: T.D.  
**Attachments:** D:\MINUTES.docx.docx

Mike,

As you will note, the "minutes" provided in connection with the hearings are only a condensed version and not verbatim.

What was previously provided to you is the only copy that exists. However, our office has supplemented portions of the recording from the actual hearing that may inadvertently not have been included. (The updated copy is attached.)

To the extent there are any particular additional portions of the recording/minutes that were not cited in your appeal that you wish to call to the Board's attention in connection with the appeal, could you let us know so that we may notify the District?

Thanks,  
Jasmine



## HALLIGAN MAHONEY & WILLIAMS

JASMINE ROGERS DRAIN PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
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---

**From:** MICHAEL MATHISON [mailto:MATHEISON.MICHAEL@richlandcountysc.gov]  
**Sent:** Tuesday, February 05, 2019 12:34 PM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: T.D.

Jasmine,

It will be requested separately, but we are also entertaining a class complaint to USDOE. I wanted the board to be aware that that issue is not being waived.

CONFIDENTIAL

R483

**Jasmine Rogers Drain**

---

**From:** MICHAEL MATHISON <MATHISON.MICHAEL@richlandcountysc.gov>  
**Sent:** Tuesday, February 05, 2019 12:34 PM  
**To:** Jasmine Rogers Drain  
**Subject:** RE: T.D.  
**Attachments:** 2019-02-05 D Appeal-Signed.pdf; Young v. Charleston Cnty. Sch. Dist., 397 S.C. 303, 725 S.E.2d 107, 279 Ed. Law Rep. 477 (S.C., 2012) - Bd Appeal Due Process.pdf

Jasmine,

It will be requested separately, but we are also entertaining a class complaint to USDOE. I wanted the board to be aware that that issue is not being waived.

Attached is a signed copy. No substantive changes have been made, but a few typos have been corrected – References to Ms. Mazyck were corrected to show Ms. Carter actually attended the hearing. "Board" for "moard." And the Attachment numbers have been corrected.

You have only provided six pages of transcribed minutes for the hour-long hearing on December 12. If additional transcript exists for the remaining discussions please produce it. The minutes clearly cut out a lot of discussion, including efforts by T.D.'s brother to educate Ms. Chishom about Snapchat and Ms. Chishom's Independent Investigatory tactics. Does a complete set of minutes exist or does Ms. Chishom just propose to submit her bowdlerized version to the Board? The appeal will require the full audio if that is the case. A Board's designee can't pick and choose what the designee wants the entire board to hear or consider. See, Young v. Charleston County Sch. Dist., 725 S.E.2d 107, 397 S.C. 303, (2012).

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
C: (843) 384-3761  
[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)

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---

**From:** Jasmine Rogers Drain [<mailto:jdrain@hmwlegal.com>]  
**Sent:** Tuesday, February 05, 2019 11:49 AM  
**To:** MICHAEL MATHISON  
**Subject:** RE: T.D.

Mike,

CONFIDENTIAL

R484

**Jasmine Rogers Drain**

---

**From:** MICHAEL MATHISON <MATHISON.MICHAEL@richlandcountysc.gov>  
**Sent:** Friday, February 08, 2019 12:41 PM  
**To:** Jasmine Rogers Drain  
**Cc:** Vernie L. Williams  
**Subject:** RE: T. D. Appeal  
**Attachments:** 2019-02-08 Letter to Bd .pdf

Jasmine and Vernie,

Please see the attached letter.

Thank you.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
C: (843) 384-3761  
[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)

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-----Original Message-----

**From:** Jasmine Rogers Drain [<mailto:jdrain@hmvlegal.com>]  
**Sent:** Friday, February 08, 2019 10:01 AM  
**To:** MICHAEL MATHISON; MICHAEL MATHISON  
**Cc:** Vernie L. Williams  
**Subject:** T. D. Appeal

Mike,

The Board has agreed to allow you and your clients to make a personal appearance on February 12 in connection with the appeal. The location is R2i2.

The appeal will be heard during executive session which will begin at 5:00 p.m. Therefore, you and your clients should plan to arrive between 4:30 and 4:45 p.m. The student will need to attend.

CONFIDENTIAL

R485

Thanks,  
Jasmine

Sent from my iPhone

CONFIDENTIAL

R 486

**Jasmine Rogers Drain**

---

**From:** MICHAEL MATHISON <MATHISON.MICHAEL@richlandcountysc.gov>  
**Sent:** Tuesday, February 12, 2019 3:11 PM  
**To:** Vernie L. Williams  
**Subject:** RE: Richland School District Two/ D ■ T.  
**Attachments:** Attachments for Inclusion In the Record.docx

Vernie,

The family will be there. I will be recording the hearing as well. Attached is a list of records for Inclusion in the record. The district already has all but two of these documents. Also, I do not have the technical wherewithal to present the following YouTube video in a meaningful way. The following link would be part of our presentation. It would stand in the place of testimony from Student's brother that was excluded from the due process hearing:

<https://www.youtube.com/watch?v=pZAPtoXd-mY>

How to Change your Display Name on Snap chat.  
How to Create a Duplicate Account on Snap chat.

Thanks.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
C: (843) 384-3761  
[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)

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---

**From:** Vernie L. Williams [mailto:vwilliams@hnmwlegal.com]  
**Sent:** Tuesday, February 12, 2019 2:20 PM  
**To:** MICHAEL MATHISON  
**Subject:** Re: Richland School District Two/ D ■ T.

Mike, I have spoken with the administration. We think the safest approach is for family to be there tonight since we do not know what the Board will want to do in light of our inability to reach an agreement regarding a resolution. Vernie

Sent from my iPhone

On Feb 12, 2019, at 1:38 PM, MICHAEL MATHISON <[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)> wrote:

# CONFIDENTIAL

R487

Vernie,

I called you back. I was out to lunch.

---

**From:** Vernie L. Williams [<mailto:vwilliams@hnmwlegal.com>]  
**Sent:** Tuesday, February 12, 2019 1:32 PM  
**To:** MICHAEL MATHISON  
**Subject:** Re: Richland School District Two/ D T.

Mike, left you a message. Call me on my cell when you get a minute. Vernie

Sent from my iPhone

On Feb 12, 2019, at 12:49 PM, MICHAEL MATHISON <[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)> wrote:

Vernie,

I am confused by portions of your letter which states that "Items 2 and 3 in your request are matters that would have to be considered by the Board, and voted upon after their consideration and discussion of these items." Items 2 and 3 relate to reopening the record and securing witnesses for confrontation and cross-examination for a hearing scheduled for 4:30 p.m. today. Those items were part of our initial appeal submitted on February 4. Will my client have an opportunity to be heard on the need to reopen the record and cross-examine the witnesses?

It seems rather late in the game to for items 2 and 3 to be open questions. Both were posited at the time a personal appearance was requested. If a hearing is set for this afternoon at 4:30, it seems highly unlikely that that the Board would be considering those questions in good faith at this late hour. If today's hearing is simply for the purpose of making those preliminary decisions please advise.

Thank you.

D. Michael Mathison  
Reentry Attorney  
Richland County Public Defender's Office  
1420 Henderson Street  
Columbia, SC 29201  
T: (803) 766-5174  
F: (803) 766-5180  
C: (843) 384-3761  
[MATHISON.MICHAEL@richlandcountysc.gov](mailto:MATHISON.MICHAEL@richlandcountysc.gov)

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R488

---

**From:** Michele Page [mailto:mpage@hmwlegal.com] **On Behalf Of** Vernie L. Williams  
**Sent:** Tuesday, February 12, 2019 12:02 PM  
**To:** MICHAEL MATHISON  
**Cc:** Jasmine Rogers Drain  
**Subject:** Richland School District Two/ D T.

Please see attached correspondence in the above-referenced matter. Thanks, Vernie

<image001.jpg>

VERNIE L. WILLIAMS PARTNER

THE TOWER AT 1301 GERVAIS STREET, SUITE 1400  
PO BOX 11367 | COLUMBIA, SC 29211  
PH 803.254.4035 HMWLEGAL.COM  
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## Policy JKE Expulsion Of Students

Issued 3/10

Purpose: To establish the basic structure for the expulsion of students.

Expulsion is the removal of a student from a school for the remainder of the school year or until readmitted by the board. The board delegates to the board approved district hearing officers the authority to conduct administrative hearings and take disciplinary action including expelling students from the district. The decision of the hearing officers may be appealed to the board as indicated below.

A student may be expelled for the following reasons listed in the code of conduct, policy JICDA and administrative rule JICDA-R.

- commission of any crime, gross immorality, gross misbehavior or the violation of any other written rules and regulations established by the board, the school or the state board of education
- when the presence of the student is deemed to be detrimental to the best interest of the school community

Expulsion means the student cannot do the following.

- attend school or be on the school grounds
- attend any program at the school in the daytime or at night
- attend any school-sponsored activity
- ride a school bus

If procedures for expulsion are initiated, the parent/guardian of the student will be notified in writing of the time and the place of a hearing before the district hearing officer. At the hearing, the parent/guardian will have the right to legal counsel and to all other regular legal rights, including the right to question all witnesses. The right to appeal the decision to the board is reserved to either party. The board will generally consider appeals based on the written information submitted by the student, the hearing officer and school administration, with neither party personally appearing before the board.

The hearing will take place within 10 days of the written notification at a time and place designated by the hearing officer and a decision will be rendered within 10 days of the hearing. The student may be suspended from school and all activities during the time of the expulsion procedures. Pending the expulsion hearing outcome, students are allowed to complete and submit homework through a parent or designated guardian.

Every expelled student will have the right to petition for readmission for the succeeding school year.

Students recommended for permanent expulsion by the district hearing officers will be referred to the board. The authority to permanently expel a student from the school district rests solely with the board.

### Weapons

See policy JICI for expulsion relating specifically to weapons (firearms).

Adopted 8/27/96; Revised 2/11/97, 7/1/03, 6/23/09, 3/22/10

Legal references:

United States Code:

• 20 U.S.C. 7151 - Gun-Free Schools,

Education of Individuals with Disabilities, 20 U.S.C. Sec. 1400, *et seq.*

R490

4/17/2019

Document

29 U.S.C. Section 794 *et seq.* (Section 504 of the Rehabilitation Act of 1973, as amended).

Code of Federal Regulations, 34 CFR parts 300 and 301.

Code of Federal Regulations, 34 CFR Part 104.

S.C. Code, 1976, as amended:

Section 59-19-90(3) - Gives district trustees authority to prescribe rules of pupil conduct, including provisions for suspension or dismissal of those failing to comply with such rules.

Section 59-63-210 - Grounds for suspension, expulsion or transfer

Section 59-63-235 - District must expel student.

Section 59-63-240 - Expulsion hearings - times, procedures, legal rights appeals.

S.C. Supreme Court:

*Davis v. The School District of Greenville County*, 374 S.C. 39, 647 S.E.2d 219 (S.C. 2007).

Richland County School District Two

R0238

## AR JKE-R Expulsion of Students

Issued 3/10

### Investigation and action taken by the principal

If an administrator or his/her designee investigates a report of student misbehavior and decides to recommend expulsion, the administrator should suspend the student and notify the student's parent/legal guardian of his/her right to meet with the administrator within three school days of the date of the suspension. If after meeting with the parent/legal guardian (or if the parent/legal guardian has not come in for a meeting by the third school day), the administrator still intends to recommend expulsion, the matter will be referred directly to the district hearing officer. This procedure will be followed in all cases, regardless of the offense charged.

### Notice of expulsion recommendation

By the end of the third school day following receipt of an expulsion recommendation, the hearing officer will notify the student and parent/legal guardian, in writing, of the following.

- rule(s) infraction alleged to have occurred
- summary of the evidence against the student
- right of the student to request copies of witnesses' statements from the administrator
- right of the student to a hearing on the evidence
- time and place of the hearing, which must be held within 10 days of the date of notification (unless the parent/legal guardian or his/her representative agrees otherwise)
- procedure to be followed at the hearing, including the right to be represented by counsel
- right of the student, the parent/legal guardian or the student's representative to examine the student's records

### Hearing procedure

The administrator, the administrator's representative, the student, the parent/legal guardian and/or the student's representative may be present at the hearing. If the hearing officer and the parent/legal guardian agree, the student may be dismissed during portions of the hearing. The administrator and the student, or their representatives, will be allowed to present witnesses or witnesses' statements and, within the discretion of the hearing officer, cross-examine the other party's witnesses. The hearing officer may ask the witnesses questions. The parent/legal guardian and/or the student's representative will be given an opportunity to argue their position or express their views on the case. A recording of the testimony and written minutes summarizing the hearing will be kept on file by the hearing officer.

### Action following the hearing

Within 10 school days of the hearing, the hearing officer will decide whether the student committed the alleged rule(s) violation or misconduct based upon the evidence presented at the hearing, and the appropriate punishment. If the hearing officer determines that grounds for expulsion exist, he/she may expel the student for the remainder of the current school year, permanently expel, or give punishment other than expulsion including, but not limited to, suspension or probation. Probation means special restrictions have been placed on the student's right to attend school. Violations of these restrictions will result in suspension and a recommendation for expulsion.

The hearing officer will report his/her decision in writing to the parent/legal guardian, the superintendent and the school. If the hearing officer determines that grounds for expulsion do not exist, all absences resulting from the suspension will be excused and the student's record cleared. The student will be permitted to complete all assignments pending the expulsion hearing.

## Appeals

The decision of the hearing officer may be appealed by either the student or the administration to the board, if written notice of appeal is made to the superintendent within five school days of notification of the hearing officer's decision. An appeal will normally be limited to the established record which will consist of the tape of the hearing, including any documentary evidence presented by either party. The record will also contain the hearing officer's decision letter and expulsion summary sheet and the appealing party's written notice of intent to appeal. Normally, the board will not grant a personal appearance to either party in an appeal, unless there are extenuating circumstances and the board, in its discretion, determines to grant such an appearance. The board may uphold, reverse or alter the decision of the hearing officer. Except in cases where a personal appearance is granted, the board will render a decision within 15 calendar days of the date of appeal. If the recommendation for expulsion is rejected on appeal, all absences resulting from the suspension will be excused and the student's record cleared. The student will be permitted to complete all assignments pending the appeal process.

## Permanent expulsion

Students who are incorrigible, including those who commit a single serious offense or who are expelled two successive school years, may be recommended for permanent expulsion.

## Petitions for readmission

A student who has been expelled for the remainder of the current school year may make a written request to the superintendent or his/her designee for readmission. The request must specify the reasons why the student should be allowed to return.

If the superintendent or his/her designee denies the student's request, or in all cases of permanent expulsion, the student may make a written request to the board for readmission and may include a request to appear before the board. If the request is denied by the board, the student may submit another request prior to the following school year.

Issued 8/27/96; Revised 2/11/97, 7/1/03, 4/26/05, 3/22/10

Richland County School District Two

## Policy JKD Suspension of Students

Issued 7/03

Purpose: To establish the basic structure for the suspension of students.

It is the policy of this board to provide due process of law to students, parents and school personnel through procedures for the suspension or expulsion of students that are consistent with federal law, state law and regulation and local policy.

According to state law, the board may suspend a student from school for commission of any crime, gross immorality, gross misbehavior, persistent disobedience or for violation of written rules and regulations established by the district board of trustees, a county board or the state board of education. The board may also suspend a student when the presence of the student is detrimental to the best interest of the school.

A student may be suspended for any reasons listed in the code of conduct, policy JICDA and administrative rule JICDA-R, for up to ten school days for any one offense. Out-of-school suspension means the student cannot attend school or be on the school grounds, cannot attend any school-sponsored activity, cannot attend any program at the school in the daytime or at night and cannot ride a school bus.

When a student is suspended, the parent/guardian of the pupil will be notified, in writing, of the reasons for such suspension and of a time and place when the administrator who initiated the suspension is available for a conference with the parent/guardian. The conference will be set within three days of the date of the suspension.

Suspensions may be appealed as follows.

To the principal if the decision to suspend was initially made by a school level administrator other than the principal.

To the district hearing officer if the decision to suspend was initially made by the building principal. In those cases where the appeal was held by the principal, the student may, if he/she chooses, petition the hearing officer for a second appeal conference. Any such petition must be in writing and served on the hearing officer within two school days of the student's receipt of the decision of the principal. The petition must state the specific basis upon which the student is requesting a second appeal. Whenever the hearing officer receives such a petition, he/she will review the suspension and the appeal, and determine whether to conduct a second appeal conference. Within two days of receipt of the petition, the hearing officer will respond, in writing, noting whether or not a second appeal will be conducted. If there is a second appeal hearing, the student and his/her parent/guardian will inform the hearing officer of their position regarding what has occurred. Following the hearing, if deemed necessary, the hearing officer may collect additional information from staff members, students or others. The hearing officer will provide a written decision on the appeal within two school days following the hearing. The decision of the hearing officer ends the appeals process for suspensions.

Students who are suspended for the third time and each time thereafter in any one school year must be recommended by the school administration to the district hearing officer for review and possible expulsion. Identified disabled students who are suspended for the third time in any one school year must be referred to the director of special services to determine the appropriateness of the student's placement.

A periodic report of all suspensions will be submitted to the superintendent or his/her designee.

Adopted 8/27/96; Revised 7/1/03

Legal references:

S.C. Code, 1976, as amended:

R494

4/17/2019

Document

Section 59-19-90(3) - Gives district trustees authority to prescribe rules of pupil conduct, including provisions for suspension or dismissal of those failing to comply with such rules.

Section 59-63-210, et seq. - Grounds for suspension, expulsion or transfer.

Section 59-63-240 - Expulsion hearings - times, procedures, legal rights appeals.

Richland County School District Two

R0245

## **AR JKD-R Suspension of Students**

Issued 7/03

### **Investigation of misbehavior**

When it appears that a student has engaged in misbehavior that may warrant suspension, an administrator will investigate the matter. The student will be advised, verbally or in writing, of the accusations against him/her. The administrator also will advise the student of the evidence against him/her and provide him/her the opportunity to tell his/her side of the story. If the student asks the administrator to talk to other witnesses, the administrator will do so, if possible.

After completing the investigation, the administrator will determine if suspension is in order and the number of school days, from one to ten, that the suspension will run.

### **Summary suspension**

If the administrator sees or is advised of any student misbehavior and concludes that the student should be removed from school immediately in order to restore order or to protect others at the school, he/she may summarily suspend the student for up to two school days. In these cases, the administrator does not have to investigate the matter first. By the end of the next school day following the summary suspension, however, the administrator should investigate the matter, as outlined in Section I above, and determine what, if any, additional suspension days, not to exceed a total of 10, are appropriate.

If the administrator determines that the student should not have been suspended, arrangements will be made for the student to make up any work she/he missed while on summary suspension. The administrator also will remove any reference to suspension from the student's record.

### **Sending a suspended student home during the school day**

When a student is suspended, the administrator will attempt to contact the parent/guardian to request that they pick up the student from school. If a parent/guardian cannot come for the student, the school may take the student home as long as a parent/guardian is at home to take charge of the student. If the administrator cannot reach the parent/guardian, the student must stay at school until the end of the school day.

If the student is summarily suspended, he/she may be removed from the school grounds immediately. Depending upon his/her age, however, it may be necessary to keep him/her at school until his/her parent/guardian can be reached.

### **Notification to parent/guardian**

By the end of the next school day following any suspension, the administrator will notify the parent/guardian in writing of the following.

- acts committed by the student
- rule(s) violated
- length of the suspension
- time and place when he/she will be available to meet with the parent/guardian for a conference

The conference is to be held not more than three school days after the date of the suspension and, if possible, before the date that the student is scheduled to return to school.

### **Suspension appeals**

If, after the conference with the administrator, the parent/guardian believes the student's suspension was unjustified, an appeal of the suspension may be taken.

Suspensions may be appealed as follows.

To the principal if the decision to suspend was initially made by a school level administrator other than the principal.

To the district hearing officer if the decision to suspend was initially made by the building principal. In those cases where the appeal was held by the principal, the student may, if he/she chooses, petition the hearing officer for a second appeal conference. Any such petition must be in writing and served on the hearing officer within two school days of the student's receipt of the decision of the principal. The petition must state the specific basis upon which the student is requesting a second appeal. Whenever the hearing officer receives such a petition, he/she will review the suspension and the appeal, and determine whether to conduct a second appeal conference. Within two days of receipt of the petition, the hearing officer will respond, in writing, noting whether or not a second appeal will be conducted. If there is a second appeal hearing, the student and his/her parent/guardian will inform the hearing officer of their position regarding what has occurred. Following the hearing, if deemed necessary, the hearing officer may collect additional information from staff members, students or others. The hearing officer will provide a written decision on the appeal within two school days following the hearing. The decision of the hearing officer ends the appeals process for suspensions.

The appeal will be conducted as an informal hearing. The administrator, parent/guardian and student may be present. If the hearing officer and the parent/guardian agree, the student may be dismissed during portions of the hearing. The parent/guardian, student and administrator will be allowed to address the hearing officer.

Within five days of the hearing, the principal/hearing officer will render a decision as to whether the suspension was proper. During the pendency of an appeal, the student will remain on suspension. If the principal/hearing officer decides that the suspension was not proper, all absences resulting from the suspension will be excused and the record cleared. The student will be allowed to make up all missed work.

#### **Limits on suspension**

A student may not be suspended for more than a total of 30 school days in one school year. An administrator may not suspend a student from school during the last 10 school days of the school year if the suspension would result in the loss of the course credit unless the school board approves, or if the student is an actual threat to the class or the school, or a hearing is granted by the end of the next school day following the suspension.

#### **Missed school work**

Students who have been suspended will be allowed to make up school work missed. In such cases, it will be the responsibility of the student to make up the missed work within a reasonable time as specified by the teacher.

Issued 8/27/96; Revised 7/1/03

Richland County School District Two

## Policy JIC Student Conduct

Issued 7/03

Purpose: To define the board's policy guidelines for student conduct.

The board expects students to conduct themselves in an orderly, courteous, dignified and respectful manner. This requirement refers to their actions toward other students and teachers, their language, their dress and their manners. The board believes self-discipline is an interpersonal goal of public education.

Students have a responsibility to know and respect the policies, rules and regulations of the school and district. Violations of such policies, rules and regulations will result in disciplinary actions.

The board directs the administration to establish rules and regulations necessary to create and preserve conditions essential to orderly operation of the schools. The board authorizes its school authorities to employ probation and suspension and to recommend expulsion, if necessary, to enforce this policy (see policies JKD and JKE).

For more specific information on student conduct, the board directs students to policy JICDA and the student handbook for their individual school.

Adopted 11/28/72; Revised 7/1/03

Legal references:

S.C. Code, 1976, as amended:

Section 59-5-65 - Minimum standards for student conduct, attendance and scholastic achievement; enforcement.

Section 59-19-90(3) - General powers and duties of school trustees - regulation of student conduct.

Section 59-63-210 - Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission.

Section 59-63-220 - Suspension of pupils by administrators.

Section 59-63-230 - Notices of suspensions, conferences with parents or guardian.

Section 59-63-240 - Expulsion for remainder of years; hearings.

Section 59-63-250 - Transfer of pupils.

Section 59-63-260 - Corporal punishment.

Section 59-63-270 - Regulation or prohibition of clubs or like activities.

Section 59-67-240 - Other duties of driver; discipline of pupils for misconduct.

Richland County School District Two

## Policy JICDA Code of Conduct

Issued 7/03

Purpose: To establish the basic structure for a code of conduct and discipline for students.

The board of trustees recognizes that rules of student conduct and consequences for violations are necessary for the orderly operation of the district's schools. It will be the philosophy of the district, however, to handle all student disciplinary matters at the lowest supervisory level possible and in the most reasonable manner possible. No disciplinary action will be taken without all procedural rights being afforded to students and their parents/guardians as provided by state law, state board of education regulation, or the policies of this district.

The administration is directed to develop appropriate rules of student conduct that will include a general listing of offenses, required or recommended disciplinary action for violations, and the times and places when such rules will be in effect.

Adopted 8/27/96; Revised 7/1/03

### Legal references:

S.C. Code of Laws, 1976, as amended:

Section 59-19-90 - General powers and duties of school trustees.

Sections 59-63-210 through 270 - Grounds for which trustees may expel, suspend or transfer pupils; petition for readmission; notices and parent conferences; expulsion for remainder of year and hearings; transfer of pupils; corporal punishment; regulation or prohibition of clubs or like activities.

Section 59-67-240 - Other duties of bus driver; discipline of students for misconduct.

State Board of Education Regulations:

R-43-279 - Minimum standards of student conduct and disciplinary enforcement procedures to be implemented by local school districts.

Richland County School District Two

## AR JICDA-R Code of Conduct

Issued 12/17

The following listing of offenses and the required or recommended dispositions are submitted for the information of students, parents/legal guardians, and school personnel. Disciplinary actions will include appropriate hearings, and review, and the removal of a student from the learning environment will occur only for just cause and in accordance with due process of law.

The following rules, regulations, and due process procedures are designed to protect all members of the educational community in the exercise of their rights and responsibilities. These rules apply to any student:

- who is on school property;
- who is in attendance at school or any school sponsored activity; or
- whose conduct at any time or in any place has a direct and immediate effect on maintaining order and discipline in the schools

### Level I - Behavioral Misconduct

Behavioral misconduct is defined as those activities engaged in by a student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which may disturb the classroom or school. The provisions of this document apply not only to within school activities, but also to student conduct on school bus transportation vehicles and other school sponsored activities.

Acts of behavioral misconduct may include, but are not limited to, the following:

- classroom tardiness
- cheating on examinations or classroom assignments
- lying
- abusive language between or among students
- failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones)
- cutting class
- school tardiness
- truancy (three consecutive unlawful absences from school or a total of five unlawful absences)
- possession of an electronic communications device as defined by and in conflict with district policy
- other acts of behavioral misconduct as determined and communicated by the administration

When a staff member observes, or is notified of and has verified acts of behavioral misconduct, the staff member will take immediate action to rectify the misconduct. Verification is defined as self admittance by the student, witnessed involvement of the student by staff, parental admission of student involvement, or evidence obtained through an investigation. The staff member will impose an appropriate consequence and/or intervention and maintain a record of the misconduct and the action taken.

If, either in the opinion of the staff member or according to policy, a certain misconduct is not immediately rectifiable, the staff member should refer the problem to the appropriate administrator for action specified by policy.

The administrator should meet with the reporting staff member, and, if necessary, the student and the parent/legal guardian, and impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract.

Consequences that may be applied in cases of behavioral misconduct may include, but are not limited to, the following:

- verbal reprimand
- withdrawal of privileges
- detention (silent lunch, after school, weekends, or another time that does not interfere with the instructional day, work detail)
- other consequences as approved and communicated by the administration

## Level II - Disruptive Conduct

Disruptive conduct includes those activities in which students engage that are directed against persons or property and the consequences of which tend to endanger the health or safety of themselves or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative consequences and court proceedings.

The administration may reclassify behavioral misconduct (Level I) as disruptive conduct (Level II) if the student engages in the activity more than three documented incidents.

Acts of disruptive conduct may include, but are not limited to, the following:

- violation of a Level I intervention plan and/or behavioral contract
- use of an intoxicant
- fighting
- harassment
- vandalism (minor)
- stealing
- threats against others
- trespassing
- abusive language to staff
- repeated refusal to comply with directives from school personnel or agents (such as volunteer aides or chaperones)
- simple assault
- possession or use of unauthorized substances, as defined by law and/or local school board policy
- illegally occupying or blocking school property in any way with the intent to deprive others of its use
- unlawful assembly
- disrupting lawful assembly
- hazing
- inappropriate use of technology (see also IJND-R)
- use of forged notes or excuses
- other acts as determined and communicated by the administration

When an administrator observes, or is notified of and has verified an offense, the administrator will investigate the circumstances of the misconduct.

The administrator will notify the parent/legal guardian of the student's misconduct and related proceedings. The administrator will meet with the student and, if necessary, the parent/legal guardian, confer with them about the student's misconduct, and impose the appropriate disciplinary action and/or intervention. The administrator will maintain a record of the misconduct and action taken.

The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action.

The administrator or school official may refer Level II misconduct to the school resource officer or other law enforcement authorities only when the conduct rises to the level of criminality or the conduct presents an immediate safety risk.

The administration may apply consequences in cases of disruptive conduct which may include, but are not limited to, the following:

- temporary removal from class
- assignment to an alternative education program
- in-school suspension
- out-of-school suspension
- referral to outside agency
- expulsion
- restitution of property and damages, where appropriate
- other consequences as approved and communicated by the administration

### Level III - Criminal Conduct

Criminal conduct includes those activities in which students engage that result in violence to themselves or to another's person or property or which pose a direct and serious threat to the safety of the students themselves or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of the school resource officer or other law enforcement authorities, and/or action by the board. Interventions may be used when a student returns to school after a suspension or on strict probation.

Acts of criminal conduct may include, but are not limited to, the following:

- aggravated assault
- extortion
- threat of the use of a destructive device (bomb, grenade, pipe bomb, or similar device)
- possession, use, or transfer of weapons
- sexual offenses
- vandalism (major)
- theft, possession, or sale of stolen property
- arson
- furnishing or selling unauthorized substances, as defined by law and/or board policy
- furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons)
- illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities; maliciously transmitting sexual images of minors, other than images of the student or images transmitted with the uncoerced consent of the individual in the images)
- threatening to take the life of or inflict bodily harm upon a teacher, principal, or members of their immediate family
- intimidation or bullying

When an administrator observes, or is notified of a criminal offense, the administrator must contact the school resource officer or local law enforcement authorities immediately.

An administrator will notify the student's parent/legal guardian as soon as possible.

An administrator will impose the appropriate disciplinary action and maintain a record of the conduct and consequence. If warranted, the administrator should immediately remove the student from the school environment.

Staff will follow established due process procedures when applicable.

The administration may apply consequences in cases of criminal conduct which may include, but are not limited to, the following:

- out-of-school suspension
- assignment to an alternative education program
- expulsion
- restitution of property and damages, where appropriate (should be sought by school authorities)
- other consequences as approved and communicated by the administration

**Extenuating, Mitigating, or Aggravating Circumstances**

The board confers upon the superintendent and his/her designee the authority to consider extenuating, mitigating, or aggravating circumstances that may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction.

**Student Conduct Away From School Grounds**

The board expects principals to investigate student conduct away from school grounds that may have a direct and detrimental effect on the discipline or general welfare of district schools. When assessing the impact of out-of-school behavior on his/her school, the principal should take into consideration the seriousness of the alleged out-of-school offense and the protection of teachers and students from the effects of violence, drugs, and/or disruptions.

Principals are directed to evaluate each situation on a case-by-case basis. At a minimum, principals or their designees should meet with the student upon his/her arrival at school, give the student notice of the concerns based on the reported out-of-school behavior, and allow the student an opportunity to present his/her side of the story. Based upon all of the circumstances, including a finding that the alleged conduct will have a direct and immediate effect on the school, the administration may either permit the student to attend classes as usual or may take appropriate disciplinary action including, but not limited to, in-school suspension or out-of-school suspension in order to conduct an investigation into the matter. The parents/legal guardians of students will be notified of any action taken by the administration and offered the opportunity for a conference with the administration.

In the event that the student is incarcerated based on his/her out-of-school conduct, the principal or his/her designee will notify the student that he/she is to meet with the administration prior to returning to school.

At the conclusion of the investigation, the principal should take appropriate action that may include, but is not limited to, the following:

- returning the student to his/her normal class schedule and removing all evidence of suspension
- placing the student on probation and allowing the student to resume his/her normal class schedule
- placing the student on probation, allowing the student to continue classwork, but restricting the student's participation in extracurricular activities and/or designated school activities, for example, clubs, study halls, pep rallies, student government activities, and so forth
- recommending suspension
- recommending expulsion from regular school and placement in the district's alternative school
- recommending expulsion for either the remainder of the semester or year

The disciplinary action taken must be supported by the evidence and take into full consideration the impact of the student's presence at school on the discipline, educational environment, and safety of others students and the school's faculty and staff.

If procedures for expulsion are initiated, the parents/legal guardians of the student will be notified in writing of the time and the place of a hearing before the district hearing officer. At the hearing, the parents/legal guardians will have the right to legal counsel and to all other regular legal rights, including the right to question all witnesses. The right to appeal the decision to the board of trustees is reserved to either party. The board will generally consider appeals based on the written information submitted by the student, the hearing officer, and school administration, with neither party personally appearing before the board.

The hearing will take place within 10 days of the written notification at a time and place designated by the hearing officer, and a decision will be rendered within 10 days of the hearing. The student may be suspended from school and all activities during the time of the expulsion procedures.

Every expelled student will have the right to petition for readmission for the succeeding school year.

*Note regarding special education students: Administrators must also ensure that all procedural safeguards afforded to special education students are also implemented in such circumstances.*

### **Discipline of Students with Disabilities**

Students with disabilities are not exempt from school disciplinary processes, nor are they entitled to remain in a particular educational program when their conduct substantially impairs the education of other students in the program. However, federal and state laws and regulations require schools to meet the individual educational needs of such students to the extent possible.

The process of disciplining a student who receives special education services involves both administrative authorities who are responsible for discipline and the special education department, including teachers and administrators who have been assigned specific responsibilities in the implementation of the student's Individualized Education Program (IEP).

#### Program prescriptions

An IEP team may prescribe or prohibit specified disciplinary measures for an individual student by including appropriate provisions in the student's IEP. The IEP team must take into consideration the student's disabling condition when deciding whether or not staff may use a particular form of discipline. Administrative authorities will observe any such provisions contained in a student's IEP.

#### Suspensions

A student identified as disabled pursuant to Section 504 of the Rehabilitation Act of 1973 (hereinafter "Section 504-disabled"), or as disabled pursuant to the Individuals with Disabilities Education Act (hereinafter IDEA-disabled) may be suspended from school for not more than 10 consecutive school days, and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a "change in placement" under federal standards.

Whether a "change in placement" would occur depends upon a number of factors, including, but not limited to, the following:

- length of each suspension
- proximity of the suspensions to one another
- total amount of time the student is excluded from the classroom

The determination whether a change in placement would occur must be made on a case-by-case basis, based on the circumstances of each case.

However, students who bring weapons to school or a school function, knowingly possess or use illegal drugs, or solicit the sale of controlled substances, or inflict serious bodily injury upon another person while at school or a school function may be removed for up to 45 school days at a time. If school officials believe that a student with a disability is substantially likely to injure him/herself or others in the student's regular placement, they may ask an impartial hearing officer to order that the student be removed to an interim alternative educational setting for a period up to 45 school days.

#### Expulsions

Before considering whether a Section 504-disabled or IDEA-disabled student may be expelled, a multidisciplinary team must determine whether or not the student's conduct was caused by or had a direct and substantial relationship to the student's disability.

If the multidisciplinary team determines that the student's misconduct was a manifestation of his/her disability, the student may not be expelled. However, changes in the student's program may be considered by the Section 504 or Individual Education Plan (IEP) team.

If the multidisciplinary team determines that an IDEA-disabled student's misconduct was not a manifestation of his/her disability, the student may be expelled from school, subject to procedural safeguards; however, educational services, as determined by the IEP team, must be continued for the student. Such services may be provided in the home, in an alternative school or in another setting.

If the multidisciplinary team determines that a Section 504-disabled student's misconduct was not a manifestation of his/her disability, the student may be expelled in the usual sense. In such cases, the district is not obligated to continue educational services.

#### Court injunctions

In appropriate circumstances, the district may seek a court injunction to allow disciplinary removals or other actions regarding students with disabilities beyond any time or other limitations set forth above.

Issued 8/27/96; Revised 5/26/98, 6/26/01, 7/1/03, 6/23/09, 8/28/12, 12/5/17

Richland County School District Two

## Policy JK Student Discipline

Issued 7/03

Purpose: To establish the basic structure for student discipline.

The school is a community. It is responsible for educating those children who attend and, therefore, it must establish and enforce guidelines and procedures that provide for reasonable order and an atmosphere where learning can take place.

In keeping with the philosophy that discipline is a means of teaching and that most effective teaching is done in a positive manner, disciplinary efforts are to be as positive as possible. Positive means of working with students include individual discussion and counseling, involvement of students in defining acceptable behavioral standards and involvement of parents.

Under the direction of the superintendent, school personnel will establish, periodically review and, if necessary, revise procedures for disciplining students.

All procedures and guidelines will be fair, just, flexible and in the best interest of the individual students and the school community. In addition, all procedures and guidelines will comply with the appropriate statutes and constitutional provisions.

Adopted 11/28/74; Revised 7/1/03

Legal references:

S.C. Code, 1976, as amended:

Section 59-19-90(3) - Gives district trustees authority to prescribe rules of pupil conduct including provisions for suspension or dismissal of those failing to comply with such rules.

Section 59-63-210 - Grounds for suspension, expulsion or transfer.

Section 59-63-220 - Suspension of administrators.

Section 59-63-230 - Notice of suspension, conferences with parents.

Section 59-63-240 - Expulsion hearings.

Richland County School District Two

## Policy JRA Student Records

Issued 7/03

The principal of each school is the legal custodian of all student records for that school. Students and parents/legal guardians will have access to the students' school records. Schools will notify parents and adult students on an annual basis of their rights concerning student records.

School records include all materials directly related to a student which a school maintains. Records and notes maintained by a teacher, administrator, school physician, guidance counselor or school psychologist for his/her own use, and which are not made available to others, are exempted from the definition of school records.

The school district will maintain student records in a confidential manner and will comply with all state and federal laws, including the Family Educational Rights and Privacy Act., concerning the publication and dissemination of student records.

Adopted 5/26/98; Revised 7/1/03

### Legal references:

United States Code, Annotated:

Section 438 of the General Education Provisions Act, as amended - The Family Educational Rights and Privacy Act [20 U.S.C.1232g].

South Carolina Code of Laws, 1973, as amended:

Section 20-7-3300 - Juvenile records and information provided to a public or private school.

Section 59-63-50 - Provides for students to be fingerprinted.

Section 20-7-780 - Pertains to confidentiality of student records.

Court order:

*Alexander S. by through Bowers v Flora Brooks Boyd* 876 F.Supp 773 (1995).

Richland County School District Two

## AR JRA-R Student Records

Issued 8/16

### Student Records

In order to provide students with appropriate educational services, the district must maintain accurate records. In recognition of the confidential nature of student records, the district will only grant access to a student's school records in accordance with the provisions of the Family Educational Rights and Privacy Act and other applicable state and federal laws and regulations.

### General Provisions

A student's "education records" are those records directly related to a student and which the district or a party acting for the district maintains.

"Parent" means a parent of a student and includes a natural parent, a legal guardian, or an individual acting as a parent in the absence of a parent or a legal guardian. A parent has an absolute right to review records unless a court of competent jurisdiction precludes that right. Custody alone does not affect one's parental rights.

Section 20-7-100 of the Code of Laws of South Carolina states that each parent, whether the custodial or non-custodial parent of the child, has equal access and the same right to obtain all educational records ... of their minor children and the right to participate in their children's school activities unless prohibited by order of the court.

Whenever a student is 18 years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent/legal guardian of the student will thereafter only be accorded to, and required of, the eligible student unless the district has received notice that a court has awarded legal guardianship beyond the age of the majority. The school will document such notice.

"Directory information" includes the student's name, address, photographs including electronic images (as related to school or district-sponsored events, activities, and special recognitions), participation in officially recognized activities and sports, weights and heights of members of athletic teams, diploma or certificate and awards received, and other similar information. With the exception of electronic images related to school-sponsored or district-sponsored events, activities, and special recognitions, the district will treat all video recorded of students through surveillance videos on district property or school buses as student records entitled to confidentiality pursuant to the Family Educational Rights and Privacy Act and other applicable federal and state laws. Accordingly, the district will release or allow viewing of video only in certain defined situations consistent with federal and state law.

A district employee's personal records on a student are not part of the student's education record as long as that person keeps the notes solely for his/her own use and maintains them separately from the school files. A substitute who performs the employee's duties on a temporary basis may use these personal records; however, the employee may not pass the records on to a successor.

### Annual Notification of Rights

Schools will notify the parent/legal guardian of students and/or eligible students annually of the following:

- the type of records kept
- the procedure for inspecting and copying student records
- the right for interpretation of data contained in student records
- their right to challenge data thought to be erroneous and the procedures for expunging such data or inserting a rebuttal statement
- the type of information the district deems to be directory information

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- the process for refusing to permit the release of all or some information as directory information
- the right to lodge a complaint with the U.S. Department of Education

### Location of Student Records

The school or the district records office (if a student is no longer enrolled) will maintain a cumulative record folder which contains directory information, scholastic information, standardized test data, health records, and other similar information. This cumulative record may include, but is not limited to, the following:

- name (last, first, and middle) as well as the preferred name (nickname)
- date of birth (verified), along with sex and ethnic background
- address and telephone number
- name of parent/legal guardian
- health record, including surveys for vision, speech, and hearing
- standardized test scores
- test scores as required by the state or district
- attendance and scholarship record card
- academic plan and related conference documentation
- appropriate correspondence with parent/legal guardian
- disciplinary action information for conduct that posed a significant risk to the student or others

Except as provided in the last paragraph of this section, if the district has performed or received a psychological evaluation of a student, the district will maintain copies of psychological reports and related records under the following conditions:

- in the district office
- in the student's school and/or
- in a special education records room designated by the director of special education

The appropriate personnel in the district office and/or at the appropriate school will keep records concerning students who have been involved in administrative hearings.

No information about student discipline will be kept in the cumulative/permanent student record. Information in a student discipline record will be cumulative and will be maintained separately from the student's cumulative/permanent student record. Discipline records from past school years may be maintained on back-up diskettes. Information regarding all student discipline, including suspension and expulsion, and all correspondence related to suspension and expulsion, will be included in the student discipline record (except when authorized by state law).

Once a student graduates, the district will file the student's records at his/her high school. If a student drops out of school before graduation, his/her school files the records for five years and then transfers the records to the district's central office for record storage.

### Directory Information

Within 15 days after the distribution of notification of privacy rights, the parent/legal guardian of the student or the eligible student has the right to refuse to permit the release of any or all of the categories of directory information and/or any or all of the additional information referenced above. The parent/legal guardian's or eligible student's refusal must be in writing. The written refusal will become part of the student's education record. The principal of the school the student is attending is responsible for notifying appropriate personnel of the refusal, filing the refusal in the student's cumulative folder and marking the folder as specified by the superintendent or his/her designee.

The district will not release directory information to any person or agency for commercial use.

The district expects its employees to use good judgment in releasing directory information so that any release of information serves the students' best interests.

### Release of Personally Identifiable Information

The Family Education and Privacy Act of 1974 requires procedures to be followed when releasing personally identifiable information.

In addition to the information referenced in this administrative rule, personally identifiable information may include other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

The parent/legal guardian or eligible student will provide a signed and dated written consent before the district will disclose personally identifiable information from the student's education records, except as provided below:

- The information constitutes "directory information" and is released as provided above.
- The disclosure is to other district employees, including teachers and school psychologists under contract with the district, who have legitimate educational interests in the information.
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll. (Generally, when a student transfers from a school in the district to a school outside the district, the school will send a copy of a transcript of the student's record to the receiving school.)
- The disclosure is to state and federal officials requesting the information as authorized by statute or regulation(s) implementing statute(s).
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for aid; determine the amount of aid; determine the conditions for the aid or enforce the terms and conditions of the aid.
- The disclosure is to organizations conducting studies for, or on behalf of, the district for the purpose of developing, validating, or administering predictive tests; administering student aid programs and/or improving instruction, as long as students and/or their parents/legal guardians are not personally identified and the records are destroyed when no longer needed for the prescribed purpose.
- The disclosure is to accrediting organizations to carry out their accrediting functions.
- The disclosure is to comply with a judicial order or lawfully issued subpoena, as long as the district makes a reasonable effort to notify the parent/legal guardian or eligible student of the order or subpoena in advance of compliance.
- The disclosure is in connection with a health or safety emergency, if knowledge of the information is immediately necessary to protect the health or safety of the student or other individuals.

The district will keep a record of each request for access to and each disclosure of personally identifiable information from the education records of each student unless the request or disclosure is made pursuant to court orders or lawfully issued subpoenas or the disclosure is of directory information or is to a parent/legal guardian or eligible student. The record, filed in the student's cumulative folder, will provide the following:

- the name of the party requesting or receiving the information
- the legitimate purpose for which the data was requested

### Request for Inspection

Anyone who wishes to inspect a student's educational records must make the request for inspection to the principal of the school in which the student is enrolled or where the record is housed. A person may also request an explanation or interpretation of records from the principal.

Principals or designated district office administrators will set a time and place for the inspection of such records within a reasonable period of time, but in no case more than 45 days after the request has been made. If a hearing concerning the student is pending, the employee will honor the request for inspection of the student's record prior to the hearing.

At the inspection, the principal will have appropriate personnel available to interpret information in the records.

The district is responsible for the maintenance of each student's record. Therefore, school personnel are not to turn the original record or microfilmed copy of a record over to any person or organization unless they have a written and specific judicial order for such action.

If the parent/legal guardian or eligible student should believe that the information in the education record is inaccurate, misleading, or violates the privacy or other rights of the student, he/she can request an amendment to the record. The school official receiving the request will either amend the record, if appropriate, or notify the parent/legal guardian or eligible student within 15 working days in writing that the request is denied and that he/she has the right to request a hearing as provided below.

Each parent/legal guardian of a student has the right to inspect and review the student's record unless the district has written evidence that there is a legally binding instrument or court order governing such matters as divorce, separation, or custody which provides to the contrary. (The same applies to parental requests for disclosure to other individuals and organizations.)

A parent/legal guardian or eligible student has the right to give written authorization for a representative to inspect and review the student's education records.

#### **Hearings to Challenge Information in Students' Records**

The parent/legal guardian or the eligible student will make requests for hearings to the principal of the school where the record is housed. The principal or his/her designee may conduct the hearing.

Principals or administrators will set a date, time, and place for the hearing and notify the requesting party in writing of the date, time, and place. The principal or administrator will establish the hearing date within 15 working days of receipt of the request. The principal or administrator must mail written notice of the hearing to the parent/legal guardian or eligible student within a reasonable time prior to the hearing.

A district official, including the principal or his/her designee, who does not have a direct interest in the outcome, will conduct the hearing.

At the hearing, the principal or administrator will try to have present the person(s) who entered the information in question should the person(s) be known and reasonably available. The parent/legal guardian or eligible student who requested the hearing will have the right to question that/those person(s), if present, and will be able to show evidence that would correct inaccurate, misleading, or otherwise inappropriate information. Such evidence will become a permanent part of the student's record.

The parent/legal guardian of the student or eligible student will have a full and fair opportunity to present relevant evidence and may be assisted or represented, at their expense, by legal counsel.

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it will amend the record accordingly and inform the parent/legal guardian or eligible student of the amendment in writing.

If, as a result of the hearing, the district decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, it will inform the parent/legal guardian or eligible student in writing that he/she has the right to place in the education record a statement commenting upon the information in the record and/or setting forth any reasons for disagreeing with the decision. Any such

statement must remain with the record as long as the contested portion remains in the record. Disclosure of the contested portion must include the statement of the parent/legal guardian or eligible student.

The district will send its decision, including a summary of the evidence and the reason(s) for the decision, in writing to the parent/legal guardian of the eligible student within five working days after the conclusion of the hearing. The district will base its decision solely on evidence.

### **Management and Destruction of Education Records**

The district will protect the confidentiality of personally identifiable information on students during collection, storage, disclosure, and destruction of applicable records.

The district may destroy data which are no longer needed for providing direct educational services in accordance with the guidelines established by the South Carolina Department of Archives and History, as long as the following conditions are met:

- There is no outstanding request to inspect and review the education record.
- The district keeps the record of disclosures as long as it maintains the education record to which it relates.
- The data do not concern the referral, evaluation, staffing, or placement of a disabled student or a student suspected at one time of having had a disability. Such data will be sent to the office of programs for the disabled when no longer needed for providing direct educational services to a student.

No one may remove the following items from a student's cumulative record at any time:

- name (last, first, and middle) and/or the preferred name (nickname)
- date of birth (verified), along with sex and ethnic background
- address and telephone number
- name of parent/legal guardian
- health record, including surveys for vision, speech, and hearing
- standardized test scores
- test scores as required by the state or district policy
- attendance and scholarship records

### **The Family Policy Compliance Office**

Parents/Legal guardians and eligible students have the right to file written complaints concerning alleged violations of the Family Educational Rights and Privacy Act. The Family Policy Compliance Office has the responsibility for investigating, processing and reviewing alleged violations. The office will refer appropriate cases to a review board for adjudication. Written complaints should be sent to the following address:

Family Policy Compliance Office

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202-4605

### **Appropriate Access to Student Test Scores and Use of Test Data**

The Family Education Rights and Privacy Act allows the release of students' education records without the consent of their parents/legal guardians to "school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate education interest, including the educational interests of the child for whom consent would otherwise be required."

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4/17/2019

Document

Richland School District Two recognizes the legitimate educational interest of teachers and administrators in test scores for individual students as well as groups of students. With stringent accountability requirements at the state and federal level, more than ever, teachers and administrators share responsibility for ensuring the success of every student and securing favorable ratings for the entire school and district. Given the need for improving scores generally, planning for future students, investigating the short and long-term impact of interventions, or comparing and monitoring scores of subgroups, educators need access to information for students they serve directly and those that they are not currently teaching.

Technology has made access to student information more accessible than ever. While recognizing the legitimate interest of teachers and administrators in student data, the district expects that such access will be used for legitimate educational purposes only and that the confidentiality of student data will be maintained.

Adopted 8/26/80; Revised 5/26/98, 7/1/03, 2/22/05, 8/23/16

Richland County School District Two

Certification of Counsel

Counsel for the Appellants certifies that the Record on Appeal contains all material proposed to be included by the parties and not any other material.

**RECEIVED**  
**Nov 17 2020**  
**SC Court of Appeals**

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November 17, 2020.