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Dr. Cade Brumley
State Superintendent of Education
Louisiana Department of Education
1201 North Third Street
Baton Rouge, LA 70802

Ms. Sandy Holloway
President
Louisiana Board of Elementary and Secondary Education
1201 North Third Street
Baton Rouge, LA 70802

Dear Superintendent Brumley and President Holloway:

COVID-19 has, in many ways, put us in uncharted waters. Schools are facing several issues that may expose the limits on application of usual and customary school operations. I write to bring your attention to the process utilized by some school systems for the expulsion of students.

I have been made aware that Ka'Mauri Harrison, a fourth grade student at Woodmere Elementary in Jefferson Parish, has been recommended for expulsion due to "possession of a weapon prohibited under federal law." My office has opened an investigation into the handling of this matter. Pursuant to our investigation, we have discovered that several other students are experiencing the same treatment by this and other school systems.

Setting aside other constitutional concerns, I would like to direct you to a specific issue: whether parents and their child have a right to appeal to the School Board and, thereafter, seek judicial review of a decision by the Superintendent when the child has been recommended for expulsion. We believe the law is clear and unambiguous; they do.

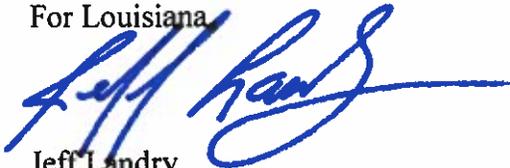
The facts, as we appreciate them so far, tell us that Ka'Mauri and at least two other children were "recommended for expulsion" based upon allegations of conduct that occurred at their homes (in at least three cases, the children were in their bedrooms) while testing or watching school instruction via the "Zoom" platform. In all three cases, the children were automatically recommended for expulsion by their school principals based upon (an incorrect reading of) existing laws. The parents and the children in at least two of these cases requested and obtained a "due process" hearing with the district superintendent, who converted the ultimate discipline to a period

of suspension (and added other conditions). Because the children were not expelled, the district has interpreted State law as rendering the Superintendent's decision as "final" and providing no right to appeal the Superintendent's decision to the School Board. This is an incorrect interpretation of Louisiana Revised Statutes 17:416(C)(1). Also troubling is the misreading of the plain text of the law by the Chief Legal Counsel for the Jefferson Parish School Board who has cited to Board *policy* as authority for *superseding* rights that are unambiguously provided in statute. That too is wrong.

Louisiana Revised Statutes 17:416(C)(1) plainly and clearly sets forth specific appeal rights afforded to the child and his parents upon "the *recommendation* by a principal for the expulsion of any student" ¹ Once that recommendation is made, the child is statutorily *vested* with the full complement of appeal rights listed by statute. ² This is hornbook constitutional law on procedural due process. Thus, it is not proper to divest this student and his family (or any others) of vested appeal rights simply because the discipline on the back ends in a suspension. In accordance with State law, an appeal to the Board, with the subsequent right to judicial review, is afforded to the parents and student once the principal recommended expulsion.

Please note that the systematic violation of student constitutional rights could also have implications for school systems' eligibility for state and federal funds. Should you have any questions, please do not hesitate to contact my office.

For Louisiana



Jeff Landry
Attorney General

cc: BESE Board Members
Louisiana School Superintendents
Chairmen of Louisiana School Boards

¹ This is consistent with the United States Supreme Court's recognition that the child has a property interest in mandatory education and a liberty interest in his or her reputation and honor. See *Goss v. Lopez*, 418 U.S. 565 (1975).

² The right to due process is conferred not by legislative grace but by constitutional guarantee. See *Lapointe v. Vermillion Par. Sch. Bd.*, 2015-0432 at 8 (La. 6/30/15), 173 So.3d 1152, citing *City of Cleveland Bd. Of Educ. v. Loudermill*, 470 U.S. 532, 541 (1985), quoting *Arnett v. Kennedy*, 416 U.S. 134, 167 (1974).