

Birmingham Community Charter High School

SUSPENSION AND EXPULSION PROCEDURES

This Pupil Suspension and Expulsion Policy has been established in order to promote learning and protect the safety and wellbeing of all students at Birmingham Community Charter High School (the “Charter School”). When the policy is violated, it may be necessary to suspend or expel a student from regular classroom instruction. This policy shall serve as Charter School’s policy and procedures for student suspension and expulsion, and it may be amended to comport with legal requirements in compliance with guidelines applicable to material revisions to the Charter.

Staff shall enforce disciplinary rules and procedures fairly and consistently among all students. This Policy and its Procedures will clearly describe discipline expectations, and it will be printed and distributed as part of the Student & Parent Information Packet which is sent to each student at the beginning of the school year.

Discipline includes but is not limited to advising and counseling pupils, conferring with parents/guardians, detention during and after school hours, the use of alternative educational environments, suspension, and expulsion.

Corporal punishment shall not be used as a disciplinary measure against any student. Corporal punishment includes the willful infliction of or willfully causing the infliction of physical pain on a student. For purposes of the Policy, corporal punishment does not include an employee’s use of force that is reasonable and necessary to protect the employee, students, staff or other persons or to prevent damage to school property.

The Charter School administration shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures. The notice shall state the Policy for discipline shall be available upon request in the main office of the Charter School.

Suspended or expelled students shall be excluded from all school and school-related activities unless otherwise agreed during the period of suspension or expulsion.

A student identified as an individual with disabilities or for whom Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEIA”) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to regular education students except when federal and state law mandates additional or different procedures. Charter

School will follow all applicable federal and state laws when imposing any form of discipline on a student identified as an individual with disabilities or for whom Charter School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students.

I. DEFINITIONS

- a. Suspension: Removal of a student from ongoing instruction for adjustment purposes. A student may be suspended from one class or all classes and still remain in school during the period of suspension if the student is appropriately supervised and instructed.
- b. Progressive Discipline: Consequences that are identified as appropriate responses to misconduct and that provide the student with an opportunity to learn the skills necessary to avoid recurrence of misconduct.
- c. Chief Executive Officer or designee: The Chief Executive Officer is responsible for supervising all school operations, including discipline of students. The Chief Executive Officer may designate and specify in writing, any one or more administrators at the schools as a “designee” to assist in any disciplinary procedures in the event that the Chief Executive Officer is not available to complete items required within Element 10. The name(s) of the designee(s) shall be kept on file in the Chief Executive Officer’s office.
- d. Assistant Principal or designee: An Assistant Principal is an individual at the school responsible for overseeing the discipline process. The Assistant Principal may designate and specify in writing any one or more administrators, deans or certificated personnel at the school as the “designee(s)” to assist in disciplinary procedures. The name(s) of the designee(s) shall be kept on file in the Assistant Principal’s office.
- e. Parent: The term “parent” shall refer to the student’s parent, legal guardian, or other adult holding educational rights.

II. LEGAL AUTHORIZATION FOR SUSPENSIONS AND EXPULSIONS

A Pupil may be suspended or expelled for acts that are enumerated below and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

- a. while on school grounds;
- b. while going to or coming from school;
- c. during the lunch period, whether on or off the school campus; or
- d. during, going to, or coming from a school-sponsored activity.

III. ENUMERATED OFFENSES

Students may be suspended or expelled for any of the following acts when it is determined the pupil:

- a. Caused, attempted to cause, or threatened to cause physical injury to another person.
- b. Willfully used force or violence upon the person of another, except self-defense.
- c. Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.
- d. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.
- e. Committed or attempted to commit robbery or extortion.
- f. Caused or attempted to cause damage to school property or private property.
- g. Stole or attempted to steal school property or private property.
- h. Possessed or used tobacco or products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This section does not prohibit the use of his or her own prescription products by a pupil.
- i. Committed an obscene act or engaged in habitual profanity or vulgarity.
- j. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.
- k. Knowingly received stolen school property or private property.
- l. Possessed an imitation firearm, i.e.: a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- m. Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.
- n. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.
- o. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- p. Engaged in, or attempted to engage in hazing. For the purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this section, “hazing” does not include athletic events or school-sanctioned events.

- q. Made terroristic threats against school officials and/or school property. For purposes of this section, “terroristic threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
- r. Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual’s academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.
- s. Caused, attempted to cause, threatened to cause or participated in an act of hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall apply to pupils in any of grades 4 to 12, inclusive.
- t. Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading student rights by creating an intimidating or hostile educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.
- u. Engaged in an act of bullying including, but not limited to, bullying committed by means of an electronic act.
 - 1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students which would be deemed hate violence or harassment, threats, or intimidation, which are directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following: (A) Placing a reasonable student (defined as a student, including, but is not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with exceptional needs) or students in fear of harm to that student’s or those students’ person or property. (B) Causing a reasonable student to experience a substantially

- detrimental effect on his or her physical or mental health. (C) Causing a reasonable student to experience substantial interference with his or her academic performance. (D) Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.
- 2) “Electronic Act” means the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following: (A) A message, text, sound, or image. (B) A post on a social network Internet Web site including, but not limited to: (i) Posting to or creating a burn page. A “burn page” means an Internet Web site created for the purpose of having one or more of the effects as listed in subparagraph (1) above. (ii) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in subparagraph (1) above. “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated. (iii) Creating a false profile for the purpose of having one or more of the effects listed in subparagraph (1) above. “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile. Notwithstanding subparagraphs (1) and (2) above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.
- v. A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1).

Alternatives to suspension or expulsion will first be attempted with students who are truant, tardy, or otherwise absent from assigned school activities.

Mandatory Expellable Offenses with No Administrative Discretion

The Chief Executive Officer or designee shall immediately suspend and recommend a student’s expulsion if he or she determines that the student committed any of the following acts at school or at a school activity off school grounds:

- a. Possessing, selling, or furnishing a firearm unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee, with the Chief Executive Officer or designee's concurrence.
- b. Brandishing a knife at another person.
- c. Unlawfully selling a controlled substance.
- d. Committing or attempting to commit a sexual assault or committing a sexual battery.
- e. Possession of an explosive unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee, with the Chief Executive Officer or designee's concurrence.

Expellable Offenses Subject to Limited Administrative Discretion

The Chief Executive Officer or designee shall recommend a student's expulsion if he or she determines that the student committed one or more of the following acts at school or at a school activity off school grounds unless the Chief Executive Officer or designee also determines that expulsion is inappropriate due to the particular circumstance:

- a. Causing serious physical injury to another person, except in self-defense.
- b. Possession of a knife or other dangerous object of no reasonable use to the student unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee, with the Chief Executive Officer or designee's concurrence.
- c. Unlawful possession of any controlled substance, except for the first offense for possession of not more than one ounce of marijuana.
- d. Robbery or extortion.
- e. Assault or battery upon any school employee.

NOTE: Serious physical injury is defined as "an injury that requires substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of function of a bodily member, organ, or mental faculty."

Additional Findings Required for Non-Mandatory Offenses

For any offense that is not a mandatory expellable offense, in addition to the finding that the student committed the offense, to expel the student, the governing board must also make one of the following findings:

- a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

- b. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

Therefore, the Chief Executive Officer or designee who makes the expulsion recommendation is responsible for providing the Expulsion Panel or Governing Board with additional evidence that will support one or both of the additional findings, in addition to evidence substantiating the allegation that is the immediate cause of the expulsion recommendation. In the event the Chief Executive Officer or designee does not provide sufficient facts or information to support at least one additional finding, the student may not be expelled.

IV. REQUIRED NOTIFICATION OF LAW ENFORCEMENT

The Charter School, prior to the suspension or expulsion recommendation of a student, notify the local law enforcement authority if certain specified acts have been allegedly committed by that student. The willful failure to make any report required by this section is an infraction punishable by a fine, to be paid by the Chief Executive Officer or designee who is responsible for the failure to report, of not more than five hundred dollars (\$500). Notification of law enforcement is required under the following circumstances:

- a. Assault with a deadly weapon. [Penal Code (P.C.) section 245]
- b. Possession or sale of narcotics or a controlled substance or sale or delivery of a substance represented as alcohol, a controlled substance, or any intoxicant. [E.C. sections 48900 (c) and (d)]
- c. Possession of a firearm(s) at a public school. [P.C. section 626.9]
- d. Possession of a dirk, dagger, ice pick, knife having a fixed blade longer than 2½ inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser or stun gun, BB or pellet or other type of air gun, or spot marker upon the grounds of any school within a K-12 school district. [P.C. section 626.10]

If the student is arrested, or released to a peace officer, the Assistant Principal or designee shall obtain the peace officer's name and contact information and take immediate steps to notify the parent regarding the place to which the student is reportedly being taken. The efforts to notify the parent must be documented.

Note: The Assistant Principal or designee shall not suspend a student at the time of arrest unless the student has been afforded the student due process rights to a conference as set forth in this policy, nor shall the Assistant Principal or designee suspend in absentia while the student is incarcerated. Assistant Principal or designee shall wait until the student is released from custody and then proceed with appropriate disciplinary action. However, the Assistant Principal or designee may begin to investigate the misconduct immediately.

V. CHILD ABUSE REPORTING

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California Penal Code sections 11164 and following require that incidents of suspected child abuse be immediately reported. Notify the local law enforcement or child protective agency immediately.

NOTE: The Los Angeles Unified School District (“LAUSD”) School Police Department is not a child protective service agency and is not authorized to take reports or to investigate allegations of child abuse/neglect.

VI. MANDATORY REPORTING OF STUDENT MISBEHAVIOR

For three years from the date of the offense, all teachers must be notified of students over whom they have supervisory control who have engaged in or who are reasonably suspected to have engaged in any of the acts enumerated in this policy, other than the use of tobacco.

VII. PROGRESSIVE DISCIPLINE

For Non-Mandatory Expulsion offenses, the Charter School shall use progressive discipline options rather than issuing a suspension. These options include but are not limited to the following:

- a. Counseling;
- b. Community Service;
- c. Establishing positive behavior support plan specific to the student that provides supports for identified behavior difficulties and behavior monitoring;
- d. Alternative programming, such as changes in the student’s schedule, classes or course content;
- e. Supplemental Education, including courses or modules on topics related to social-emotional behavior, used as a disciplinary consequence;
- f. Parent Supervision in School, whereby, consistent with the Charter School’s visitation policies, a parent comes to school and provides additional support and observes the student in his or her classes for a period or for the full school day; and/or
- g. In-school alternatives, such as academic tutoring and instruction related to the student’s behavior, or support in the development of social-emotional skills.

VIII. SUSPENSION FROM SCHOOL FOR ONE OR MORE SCHOOL DAYS

a. Informal Conference with the Student

Schools are required to be proactive and to implement interventions at the earliest sign that a student’s behavior is impeding his or her learning. When student misconduct requires disciplinary action, the Assistant Principal or designee shall conduct an informal conference with

the student. At this conference, the student shall be informed of the reason(s) for the disciplinary action and shall be given the opportunity to present facts and evidence in his or her defense. In addition, the Assistant Principal or designee should encourage the student to write a statement concerning the alleged misconduct and to sign and date it.

b. Suspension Conference with the Parent

If suspension is necessary, the Assistant Principal or designee shall notify the parent, remind the parent that suspension is a disciplinary action, and schedule a parent conference. The Assistant Principal or designee shall inform the parent that the parent is expected to respond without delay to any request from school officials to attend a conference regarding his or her child's behavior.

Note: No student shall be penalized for his or her parent's failure to attend a conference with a school official. The return of a suspended student shall not be contingent upon attendance by the student's parent at the school conference.

c. Emergency Situation

The Assistant Principal or designee may suspend a student without holding an informal conference only if an emergency situation exists. The term "emergency situation" means that the Assistant Principal or designee has determined that the immediate conditions constitute a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended from school without the conference, the Assistant Principal or designee shall notify both the parent and the student of their right to a conference and of their right to return to school for that purpose. The conference shall be held at the earliest time possible, but no later than 2 school days after the incident takes place unless the student waives this right or is physically unable to attend. In the latter instance, the conference shall be held as soon as the student is able to attend.

d. Notice to Parents/Guardians

At the time of suspension, the Assistant Principal or designee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension and the date of return following suspension. This notice shall state the specific offense committed by the student. In addition, the notice may also state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may request that the parent/guardian respond to such requests without delay.

e. Releasing the Student from School

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When a student is suspended from school, the student shall not be released from school before the end of the student's school day unless the parent picks up the student, or authorizes in writing (e.g., emergency card) another adult to do so. Authorization by phone is no longer permitted.

f. Suspension Time Limits

Suspensions, when not including a recommendation for expulsion, shall not exceed five (5) consecutive school days per suspension. The number of days for which a student in general education, including any student being served under Section 504, may be suspended from school shall not exceed 20 days in any school year unless the student is transferred to another school or program for adjustment purposes, in which case, the number of days of suspension may be increased by 10, making the total number of suspension days from school in any school year 30. Every attempt, however, shall be made to address student misconduct by implementing interventions and alternatives to suspension.

BCCHS will provide all assignments and tests that the student will miss while suspended and may require the completion of said tests and assignments from the student upon return.

IX. SUSPENSION FROM CLASS BY TEACHER

A teacher may suspend a student from class for any of the acts enumerated in this policy for a class period and for the following day.

a. Procedures

The teacher shall immediately report the suspension to the Assistant Principal or designee and send the student to the administrator for appropriate action, which may include suspension from school or other disciplinary measures. Removal of a student from a particular class shall not occur more than once every five (5) school days. For students who receive special education services, refer to the procedures stipulated in this bulletin. The same protections apply.

Prior to the close of the school day, Assistant Principal or designee shall generate a Class Suspension Notice, which are signed by both the Assistant Principal or designee and the teacher who issued the suspension. The Class Suspension Notice shall include an invitation for a parent teacher conference. The Assistant Principal or designee shall give the student being suspended from class a copy of the Class Suspension Notice. Additionally, the parents' copy of the Class Suspension Notice shall be mailed immediately to them.

The teacher shall confirm by telephone with the parent the date and time of the conference, as requested on the Class Suspension Notice, to discuss the reason(s) for the suspension.

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A student suspended from a class shall not be placed in another regular class during the period of suspension; rather, the student shall attend the supervised suspension classroom or remain in the front office. The student must attend all other classes from which he or she was not suspended.

The student shall not be returned to the class from which he or she was suspended during the period of suspension without the concurrence of the Assistant Principal or designee and the teacher who imposed the suspension.

A teacher must provide all assignments and tests that the student will miss while suspended and may require the completion of said tests and assignments from the student upon return. Students with disabilities should be provided with supports and services as outlined in their IEP.

b. Teacher Required Class visit

A teacher may require that the student's parent attend a portion of the class from which the student was suspended if the suspension was committing an obscene act/engaging in habitual profanity or vulgarity, or disrupting school activities/willfully defying the valid authority of school personnel.

The intent is to make class visits a positive experience that may enhance and encourage collaboration between the parent and school personnel. This procedure applies only to the parent who is actually living with the student. The class visit is not meant to replace the teacher-parent conference but, rather, to be a productive adjunct to it. Following a visit to the classroom, the parent is required to meet with the Assistant Principal or designee before leaving the school site.

- a. A teacher who plans to implement this policy shall clearly inform all parents of his/her students, in advance, of the details of the implementation. Furthermore, the teacher shall use his or her authority uniformly among all students.
- b. Upon receipt of the necessary information from the teacher, the Assistant Principal or designee shall prepare a written notice stating that the parent's attendance is required pursuant to E.C. section 48900.1 and mail the letter, along with the Class Suspension Notice and PAR, to the parent.
- c. To initiate a classroom visit, the teacher shall indicate on the Notice to Parents indicate on the PAR one of the two specified reasons cited under this law, and in the space provided for comments, indicate "class visit by parent - required by teacher," and state the date, time, and duration of the anticipated visit (thirty minutes to one hour in the class is suggested).

When implementing the procedures described in E.C. section 48900.1, it is important that the intent of the Legislature be observed:

- a. The teacher shall inform parents of counseling and other available resources within the school and the community that may assist the parent and the student.
- b. If possible, the teacher shall schedule the class visit on the same day as the parent conference and hold the conference before the class visit. The conference may then be used, in part, to develop a better understanding between teacher and parent as to the purpose and anticipated benefit of the visit.

X. IN-SCHOOL SUSPENSION PROGRAM

In-school suspension allows the Charter School to:

- a. Remove the disruptive student from general student body
- b. Consider student as being present for ADA purposes
- c. Reduce the number of out-of-school suspensions

Students suspended from school may be assigned by the Assistant Principal or designee to a supervised suspension classroom for the entire period of suspension if the student poses no imminent danger or threat to the campus, other students, or staff.

Students who (1) caused, attempted to cause, threatened to cause, or participated in an act of hate violence; (2) engaged in harassment, threats, or intimidation against a pupil or group of pupils or school district personnel; and/or (3) made terrorist threats against school officials or school property, or both may not be assigned to in-school suspension. In addition, if an action to expel the student will be or has been initiated, an in-school suspension is not permitted in lieu of a suspension from school by the Assistant Principal or designee.

Guidelines for Supervised Suspension Classroom

- a. At the time a student is assigned to a supervised suspension classroom, a school employee shall notify, in person or by phone, the student's parent. Whenever a student is assigned to a supervised suspension classroom for longer than one class period, the Assistant Principal or designee shall give the student a copy of the In-School Suspension Notice, signed by the Assistant Principal or designee, to take home to their parent. School personnel shall also mail the signed copies of the In-School Suspension Notice to the parent.
- b. Students assigned to a supervised suspension classroom shall be separated from other students at the school site for the period of suspension.
- c. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no class work is assigned, the certificated staff supervising the suspension classroom shall assign schoolwork.
- d. Students should have access to appropriate counseling services while serving in-school suspension.

- e. Students with disabilities shall be provided with supports and services as described in their IEP.

XI. SUSPENSION APPEAL PROCEDURES

A suspension can be rescinded only by the Chief Executive Officer. The Assistant Principal or designee is to advise the parents of the appeal procedures when they disagree with the suspension. If after the suspension conference, the parent still feels that the suspension is not justifiable and wishes to appeal the Chief Executive Officer or designee's decision, the parent may request a suspension appeal in writing to the Chief Executive Officer or designee. The appeal may only be submitted up to five (5) school days following the last day of the student's suspension. The Assistant Principal or designee shall provide the "Student Suspension Appeal Form" to the parent and advise the parent of the following appeal process:

Within five (5) school days following the last day of the student's suspension, the parent shall submit to the Assistant Principal or designee the suspension appeal packet including:

- a. The "Student Suspension Appeal Form" with a clear description of the complaint.
- b. The initial suspension documents.
- c. The supporting evidence for the appeal.
- d. Unless impracticable under the circumstances, within five (5) school days of receiving the appeal packet from the parent, Assistant Principal or designee shall form a Suspension Appeal Committee of certificated member(s) and conduct the suspension appeal review, during which the Committee shall review the documents submitted by the school and the parent. The school Assistant Principal or designee and/or parent may be present, if they have requested. The review will be limited to the suspension documents, including the student's discipline file, and any additional documents submitted by the parent.
- e. Within three (3) school days of the review, the Assistant Principal or designee will notify the parent in writing of the Committee's decision. The results of the appeal may include, but are not limited to:
 1. Uphold the suspension in all respects.
 2. Modify the suspension imposed (e.g., reduce the suspension duration).
 3. Overturn the suspension and expunge the suspension from the student's records.

If the parent files the appeal of suspension while the student is undergoing an expulsion process, the Assistant Principal or designee shall process the appeal in concurrence with the expulsion process. The decision of the Suspension Appeal Committee is the School's final decision. Parent's written objections to the appeal decision shall be included in the student's discipline records if the parent so requests.

XII. SUSPENSION RECORDS

The school Assistant Principal or designee shall issue and sign all Notices of Suspension and the teacher shall also sign the Notice of Suspension from Class. Appropriate personnel shall provide the signed Notice of Suspension, along with the requested conference appointment, to the parent.

All suspensions (including school suspension, class suspension, and in-school suspension) must be documented. Parent contacts, conferences, interventions, and remedial measures in response to student misconduct must also be documented.

All discipline records should be kept for a minimum of three (3) years from the date the student committed the act or was reasonably suspected to have committed the act.

For purposes of recording attendance, when a student is suspended and leaves school before the end of the day, he or she is counted as present for the portion of the day that class or classes were attended prior to his or her suspension.

XIII. INVESTIGATION PROCEDURES

The Assistant Principal or designee should investigate all student discipline matters. The investigation may include but is not limited to the following:

- a. Collect relevant information surrounding the incident.
- b. Identify and interview witness(es) and the accused student.
- c. Secure verbal and written statements from the accused student, victim(s), and witness(es) who observed the incident and may corroborate any piece of information obtained.
- d. Review the appropriate pupil records, such as cumulative record, attendance, social adjustment report, and, when applicable, Individualized Education Plan (IEP).
- e. Contact law enforcement, as applicable.
- f. Maintain contact with law enforcement and proceed with the discipline process as appropriate.

At the conclusion of the investigation, the Assistant Principal or designee should make a reasonable effort to have the following documents, which may also be used during an expulsion hearing:

- a. Administrative Statement: This is a memorandum prepared for the Chief Executive Officer or designee by the Assistant Principal or designee assigned to the case describing the circumstances surrounding the incident and subsequent actions that led to the expulsion recommendation.
- b. Written statements of the witness(es) and the accused student(s)

1. These statements must be original handwritten statements that are signed and dated, and should include information sufficient to identify a person and to describe specific details.
 2. If the witness is too young or otherwise incapable of writing his or her own statement, or if the statement needs to be translated into English, a school official may write or translate the statement on the witness's behalf. The transcription should be exactly as dictated. **NOTE:** Student witnesses should be advised that they may be asked to testify at a hearing, and should be encouraged to give complete and accurate information.
 3. The school may use the "Anonymous Sworn Declaration of Witness" statement for fear of reprisal, when applicable.
- c. Physical evidence and/or a photograph or photocopy of the evidence. **NOTE:** Before law enforcement books the physical evidence into custody, the school shall always take a photograph or make a photocopy of the physical evidence alongside a ruler to show the scale.
 - d. Discipline Record: The detailed account of the student's discipline referrals indicating the date, specific infraction(s), and behavioral intervention(s) received for each incident that took place for the duration of a minimum of preceding two years. If the student attended the referring school for less than two years, the referring Assistant Principal or designee must contact the previous school(s) and obtain the student's disciplinary records to include in the report. The report should also accurately reflect all the dates of the student's entering and leaving the school(s).
 - e. Methods of communicating school rules.
 - f. The student's original cumulative student record folders and current grades or most recent progress report.

Due to the sensitive nature sexual assault and battery cases, the Assistant Principal or designee shall consider following these additional procedures:

- a. Immediately advise the alleged victim, the accused student, and any other witness(es) to refrain from contacting each other in any way during the expulsion process.
- b. Do not hinder or obstruct the investigation of law enforcement, which is a separate process from student discipline. However, the Assistant Principal or designee must proceed with the school's own investigation and issue the suspension at the conclusion of the investigation, as appropriate.
- c. Provide counseling assistance and/or other resources to the victim, as appropriate.
- d. Contact the parents of the alleged victim as soon as reasonably possible and notify them of the expulsion hearing, requesting their child's testimony at the hearing, and advising them of the rights of the complaining witness.

In some instances, sexual harassment, sexual battery or sexual assault may also constitute child abuse. Child abuse reporting procedures, sexual harassment policies and procedures, and disciplinary policies and procedures must be effected in a coordinated manner. If child abuse is suspected or alleged, it must be reported immediately by first calling the local law enforcement agency that has the jurisdiction.

XIV. EXPULSION PROCEDURES

Expulsions must be processed in accordance with this policy and in accordance with generally accepted principles of due process.

a. Pre-Expulsion Conference

In furtherance of these principles, a decision to recommend expulsion may not be made until after the Assistant Principal or designee has concluded a pre-expulsion conference with the parent. The student may also be present, unless the Assistant Principal or designee determines the student's presence on campus would cause a disruption or be a danger to the student or others. At the conclusion of the conference, if the Assistant Principal or designee determines not to recommend expulsion, the student will complete the suspension and then be returned to his/her educational program.

The Assistant Principal or designee shall make every reasonable effort to contact the family, including by phone and by mail, to schedule the pre-expulsion conference. The Assistant Principal or designee shall conduct the conference and arrange for a second school official to be present as a witness. At the conference, the Assistant Principal or designee shall:

- a. Inform the student and the parent of each applicable charge.
- b. Provide the student and the parent with the opportunity to discuss the allegation(s).
- c. Ask the student to respond, verbally and in writing, to the allegation(s) and provide the student opportunity to admit, deny, or qualify his or her participation and to present any explanation, justification, or other information relevant to the alleged misconduct.
- d. Keep record of all pertinent comments made during the conference, particularly those made by the student or parent.
- e. Advise the student and parent of their obligation to not engage in harassment, intimidation, or threatening behavior against potential witnesses.

- f. Explain the expulsion procedure and the process for Expulsion Recommendation and Referral, as set forth within Element 10, including the process for an interim placement should the Chief Executive Officer or designee recommend expulsion.
- g. If student and parent do not attend the pre-expulsion conference, the Assistant Principal or designee shall:
 - 1. Exercise all due diligence to reschedule the conference within a reasonable period of time and document the details of each attempt.
 - 2. Carefully review all information and documents gathered from the investigation of the alleged misconduct and meet with other administrators, staff, and witnesses, as needed.
 - 3. If expulsion is warranted, proceed with the expulsion recommendation.
 - 4. Mail to the parent's last known address copies of Element 10 of the Charter.
- h. At the Assistant Principal or designee's discretion, the suspension and pre-expulsion conferences may be combined and held as one.
- i. When the accused is a student who has an IEP or a 504 Plan, the manifestation determination IEP or Section 504 Link Determination Meeting must be held prior to the pre- expulsion conference.

b. Expulsion Recommendation and Referral

For mandatory expulsion offenses, the Assistant Principal or designee must make a recommendation for expulsion.

For all non-mandatory expulsion offenses, the Assistant Principal or designee may make a recommendation based upon either of the following determinations: (1) the pupil's presence will be disruptive to the education process; or (2) the pupil poses a threat or danger to others. Upon either determination, the Assistant Principal or designee will give notice of his or her decision to Chief Executive Officer or designee. If the Assistant Principal or designee does not recommend the student for expulsion, the student will complete the suspension and then be returned to his/her educational program.

For all expulsions, the Chief Executive Officer or designee will review the recommendation for expulsion. If in agreement, the Chief Executive Officer or designee will extend the pupil's suspension pending the results of an expulsion hearing, and provide parents with written notice of the extended suspension and recommendation for expulsion. If the Chief Executive Officer or designee does not agree with the recommendation to extend the suspension, the student will complete the suspension and then be returned to his/her educational program.

When a student is recommended for expulsion, the Assistant Principal shall provide the student with an educational plan that explains the interim placement during the time period prior to the

expulsion hearing. Students that pose an imminent danger to other shall be placed at Independence High School, Aggelar High School, or CDS West Hollywood. Students who do not pose an imminent danger will be housed separately on the BCCHS campus.

XV. THE EXPULSION HEARING

A student may be expelled either by the Governing Board following a hearing before it or by the Governing Board upon the recommendation of an Administrative Panel to be assigned by the Governing Board as needed. The Administrative Panel should consist of at least three nonpartisan members who are certificated and neither a teacher of the pupil or a Board member of the Governing Board. The Administrative Panel may recommend expulsion of any student found to have committed an expellable offense, so long as it makes all necessary findings required by this Policy.

Students recommended for expulsion are entitled to a hearing to determine whether the student should be expelled. Unless postponed for good cause, the hearing shall be held within thirty (30) school days after the Assistant Principal or designee determines that the Pupil has committed an expellable offense.

In the event an administrative panel hears the case, it will make a recommendation to the Governing Board for a final decision whether to expel. The hearing shall be held in closed session unless the pupil makes a written request for a public hearing three (3) days prior to the hearing.

a. Written Notice of Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten (10) calendar days before the date of the hearing. Upon mailing the notice, it shall be deemed served upon the pupil. The notice shall include:

- a. The date and place of the expulsion hearing;
- b. A statement of specific facts, charges and offenses upon which the proposed expulsion is based;
- c. A copy of Charter School's disciplinary rules which relate to the alleged violation;
- d. Notification of the student's or parent/guardian's obligation to provide information about the student's status at the school to any other school district or school to which the student seeks enrollment;
- e. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel or a non-attorney advisor;
- f. The right to inspect and obtain copies of all documents to be used at the hearing;
- g. The opportunity to confront and question all witnesses who testify at the hearing;

- h. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf including witnesses.

b. Special procedures for Expulsion Hearings Involving Sexual Assault or Battery Offences

The Charter School may, upon finding a good cause, determine that the disclosure of either the identity of the witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Governing Board, administrative panel, or the hearing officer. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

- a. The complaining witness in any sexual assault or battery case must be provided with a copy of the applicable disciplinary rules and advised of his/her right to (a) receive five days' notice of his/her scheduled testimony, (b) have up to two (2) adult support persons of his/her choosing present in the hearing at the time he/she testifies, which may include a parent, guardian, or legal counsel, and (c) elect to have the hearing closed while testifying.
- b. The Charter School must also provide the victim a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.
- c. At the discretion of the person or panel conducting the hearing, the complaining witness shall be allowed periods of relief from examination and cross-examination during which he or she may leave the hearing room.
- d. The person conducting the expulsion hearing may also arrange the seating within the hearing room to facilitate a less intimidating environment for the complaining witness.
- e. The person conducting the expulsion hearing may also limit time for taking the testimony of the complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours.
- f. Prior to a complaining witness testifying, the support persons must be admonished that the hearing is confidential. Nothing in the law precludes the person presiding over the hearing from removing a support person whom the presiding person finds is disrupting the hearing. The person conducting the hearing may permit any one of the support persons for the complaining witness to accompany him or her to the witness stand.
- g. If one or both of the support persons is also a witness, the Charter School must present evidence that the witness' presence is both desired by the witness and will be helpful to the Charter School. The person presiding over the hearing shall

permit the witness to stay unless it is established that there is a substantial risk that the testimony of the complaining witness would be influenced by the support person, in which case the presiding official shall admonish the support person or persons not to prompt, sway, or influence the witness in any way. Nothing shall preclude the presiding officer from exercising his or her discretion to remove a person from the hearing whom he or she believes is prompting, swaying, or influencing the witness.

- h. The testimony of the support person shall be presented before the testimony of the complaining witness and the complaining witness shall be excluded from the hearing during that testimony.
- i. Especially for charges involving sexual assault or battery, if the hearing is to be conducted in the public at the request of the pupil being expelled, the complaining witness shall have the right to have his/her testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are not alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examination in another place communicated to the hearing by means of closed-circuit television.
- j. Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before such a determination regarding extraordinary circumstances can be made, the witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

c. Record of Hearing

A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

d. Presentation of Evidence

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the

conduct of serious affairs. A recommendation by the Administrative Panel to expel must be supported by substantial evidence that the student committed an expellable offense.

Findings of fact shall be based solely on the evidence at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay and sworn declarations may be admitted as testimony from witnesses of whom the Governing Board, Panel or designee determines that disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

If, due to a written request by the accused pupil, the hearing is held at a public meeting, and the charge is committing or attempting to commit a sexual assault or committing a sexual battery as defined in this Policy, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public.

e. Decision

The decision of the Administrative Panel shall be in the form of written findings of fact and a written recommendation to the Governing Board who will make a final determination regarding the expulsion. The final decision by the Governing Board shall be made within ten (10) school days following the conclusion of the hearing. The Governing Board may order one of the following actions:

- a. Expulsion without Suspended Enforcement– The student is expelled and the student is not allowed to attend the Charter School for the term of the expulsion;
- b. Expulsion with Suspended Enforcement – The student is expelled but is allowed to attend the Charter School on a probationary basis. Students who have been placed on expulsion with suspended enforcement may have their suspended enforcement status revoked and be expelled outright if it is determined that, during the period of suspended enforcement, the student committed another violation(s) of this discipline policy or otherwise violates the terms of probation. When a student violates a suspended expulsion order, the student will not be provided with an opportunity for a hearing; however, the student shall receive written notice of the violation and another copy of the expulsion order explaining the rehabilitation plan and opportunity for readmission to BCCHS.
- c. No Expulsion– The Governing Board may choose not to expel the student, at which time, the student shall immediately be returned to his/her educational program.

The decision of the Governing Board is final.

f. Written Notice to Expel

The Assistant Principal or designee following a decision of the Governing Board to expel shall send written notice of the decision to expel, including the Governing Board's adopted findings of fact, to the student or parent/guardian. This notice shall also include the following:

- a. Notice of the specific offense committed by the student, including the additional findings required for the non-mandatory expulsion offenses.
- b. The date for readmission, not to exceed one (1) calendar year.
- c. A rehabilitation plan
- d. Notice of the student's or parent/guardian's obligation to inform any new district or school in which the student seeks to enroll of the student's status with the Charter School.

The Chief Executive Officer or designee shall send a copy of the written notice of the decision to expel to the student's district of residence.

g. Appeals

Parents/guardians may appeal the expulsion decision of the Board by submitting a written request to the Board within five (5) school days of the Expulsion Order. Unless impracticable under the circumstances, within ten (10) school days of receiving the written request for appeal, the Board will convene an Expulsion Appeal Panel ("EAP") made up of administrators from other public schools or public charter schools. Administrators on the EAP shall not have previously been involved with the student's suspension or expulsion, including having been involved when the conduct at issue initially occurred. The pupil and his or her guardian or representative may attend to present the student's appeal. The Appeal Panel's decision will be limited to the following questions:

- a. Whether the governing board acted without or in excess of its jurisdiction, including
 - i. Whether the expulsion hearing was commenced within the timelines set forth in this policy;
 - ii. Whether the Expulsion Order is based upon the acts enumerated in this policy; and
 - iii. Whether the acts fall within the legal authority set forth in this policy.
- b. Whether there was a fair hearing before the governing board.
- c. Whether there was a prejudicial abuse of discretion in the hearing, including
 - i. Whether school officials have not met the procedural requirements of the Expulsion Procedures;
 - ii. Whether the decision has the appropriate additional findings for non-mandatory expellable offenses; and
 - iii. Whether the findings are supported by the evidence.

- d. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

Within five (5) school days of the appeal hearing, the Appeal Panel shall issue a written decision either upholding or reversing the expulsion. The Appeal Panel decision shall be final. During the pendency of the appeal hearing, the student shall be considered suspended.

h. Alternative Education during the Period of Expulsion

The Charter School does not have the authority to order placement at another public school or public charter school. However, upon expulsion, the Charter School will work with the student's school district of residence to find an appropriate alternative educational placement during the term of the expulsion. For students who reside within the boundaries of the Los Angeles Unified School District, the Charter School shall refer expelled students to the LAUSD Student Discipline and Expulsion Support Unit and assist with transition to an alternative placement within LAUSD.

Possible alternative placements during the period of expulsion may include another public charter school, community schools run by the student's district of residence, continuation schools run by the student's district of residence, or county operated community day schools. For students residing within LAUSD, options may include West Hollywood CDS or other community day schools within LAUSD.

i. Rehabilitation Plans

Students who are expelled from the Charter School shall be given a rehabilitation plan upon expulsion as developed by the Governing Board at the time of the expulsion order. The rehabilitation plan will be commensurate with the student's offense and may include, but is not limited to, compliance with all rules and laws applicable to any educational program in which he/she is enrolled; improved behavior, as evidenced by discipline records and/or participation in drug awareness, counseling, or anger management courses; satisfactory record of academic progress with no more than one failing grade during any grading period; regular attendance free from tardies and unexcused absences; and/or making adequate progress toward graduation. The rehabilitation plan may be subject to periodic review and shall be reviewed if the student seeks readmission at the conclusion of the term of expulsion. The rehabilitation plan should include a date not later than one (1) year from the date of expulsion when the pupil may reapply to the Charter School for readmission.

j. Readmission

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To support students in the readmission process, the Assistant Principal or designee shall send written notice reminding the student of the date of possible readmission and that students must satisfy the rehabilitation plan set forth in the Expulsion Order. Notices will be sent six (6) months, three (3) months, and two (2) weeks prior to the date of readmission. One week before the readmission date, Charter School staff will call the parent or guardian to determine whether the parent/guardian/student wishes to schedule a reinstatement appointment.

For students residing within the boundaries of LAUSD, the Charter School will refer the student to the Student Discipline and Expulsion Support Unit and AB 922 Expulsion Support Services, which provides support for expelled students to assist students in achieving rehabilitation goals and to facilitate successful reinstatement at another public school or the Charter School. LAUSD's Student Discipline and Expulsion Support Unit will only assist BCCHS' expelled students with the admission process into LAUSD, and will only assist with educational placements after the LAUSD Board of Education accepts the student into the District. AB 922 staff will only service students after they have been admitted into the District.

Assistant PrincipalAssistant Principal

The decision to readmit a pupil or to admit a previously expelled pupil from another school, school district or charter school shall be in the sole discretion of the Governing Board. When a student is eligible to be considered for readmission, the Assistant Principal or designee will facilitate a Reinstatement Review meeting with the pupil and the pupil's parent or guardian. The Assistant Principal or designee will consider (1) whether the pupil has successfully completed the rehabilitation plan, and (2) whether the pupil poses a threat to others or will be disruptive to the school environment. If it is determined that the student has made sufficient progress and meets these criteria, the Assistant Principal or designee will recommend readmission to the Governing Board. The Governing Board will make all final decisions regarding readmission. The pupil's readmission is also contingent upon the Charter School's capacity at the time the student seeks readmission. If the student is reinstated, the Assistant Principal or designee will collaborate with the student and parent(s) or guardian to promptly re-enroll the student at BCCHS.

XVI. ADDITIONAL CONSIDERATION FOR STUDENTS WITH DISABILITIES

a. Special Procedures for the Consideration of Suspension and Expulsion of Students Receiving Qualified for Special Education under the IDEA

In addition to the procedures described above, when suspension is being considered for a student receiving special education services, the school staff must review the implementation of the current Individualized Education Program (IEP). If the student's current IEP includes a Behavior Support Plan (BSP), school staff must review its implementation and progress monitoring information including services tracking in Welligent. The following procedures apply:

Before any suspension: There will be an informal conference with the student as there is for their non-disabled peers.

After a suspension: If the student has been suspended two (2) times, or the total days of suspension accumulate to five (5), eight (8), or ten (10) school days, an IEP meeting must be convened upon the student's return to school to determine appropriate services/placement. During the meeting, the IEP team should review, develop, or modify the student's entire program including the behavior intervention plans (such as BSP, BIP) used with the student in an effort to prevent the recurrence of the misconduct.

If the behavior meets the definition of "serious," a Behavior Intervention Case Manager (BICM) must participate in the IEP meeting to determine the most appropriate behavioral assessment. If the student has a Functional Analysis Assessment (FAA), and there is a Behavior Intervention Plan (BIP) or Behavior Support Plan (BSP) in the IEP, an IEP meeting should be held to review the plan and its implementation to determine if the supports and services are appropriate and make any necessary changes to the behavior plan.

If the number of cumulative days of suspension reaches 10 or more days or the student is recommended for expulsion, the IEP team shall hold an IEP meeting to conduct a manifestation determination analysis. This analysis is to include discussion and documentation of the misconduct and relationship between the misconduct and the student's disability to determine:

- a. Was the misconduct caused by, or directly and substantially related to, the student's disability?
- b. Was the misconduct a direct result of the District's failure to implement the IEP?

If the answer to either or both questions is "yes," the IEP team shall address the behavior through implementing behavioral interventions, additional assessments, and/or changes in the student's IEP. If the answer to both questions is "no," the school shall continue to support and guide the student throughout implementation of all the services required in the IEP.

b. Special Circumstances

Charter School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with an IEP who violates a code of student conduct.

The Assistant Principal or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

- a. Carries or possesses a weapon, as defined in 18 USC 930, to or at school, on school premises, or to or at a school function;

- b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function;
or
- c. Has inflicted serious bodily injury, as defined by 20 USC 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

The student's interim alternative educational setting shall be determined by the student's IEP team.

c. Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to IDEIA and who has violated the Charter School's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the Charter School had knowledge that the student was disabled before the behavior occurred.

The Charter School shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

- a. The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to Charter School supervisory or administrative personnel, or to one of the child's teachers, that the student is in need of special education or related services.
- b. The parent has requested an evaluation of the child.
- c. The child's teacher, or other Charter School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other Charter School supervisory personnel.

If the Charter School knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to IDEIA-eligible children with disabilities, including the right to stay-put.

If the Charter School had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. The Charter School shall conduct an expedited evaluation if requested by the parents; however the student shall remain in the education placement determined by the Charter School pending the results of the evaluation.

The Charter School shall not be deemed to have knowledge of that the student had a disability if the parent has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible.

d. Special Procedures for the Consideration of Suspension and Expulsion of Students Receiving Section 504 Plan Services

Before any suspension: There will be an informal conference with the student as there is for their non-disabled peers.

A student who has a Section 504 Plan may not be subjected to a disciplinary action which changes placement (e.g., recommendation for expulsion) or when the total number of suspension days in a school year totals 10 or more days, unless the Section 504 Team first determines the following:

- a. Was the misconduct caused by, or directly and substantially related to, the student's disability?
- b. Was the misconduct a direct result of the District's failure to implement the Section 504 Plan?

If the Section 504 Team determines that there is no direct link between the misconduct and the student's disability and that the misconduct is not a direct result of the District's failure to implement the Section 504 Plan, the school may suspend the student in the same manner as it would a student without disability.

If the Section 504 Team determines that there is a direct link between the misconduct and the student's disability and/or the misconduct is a direct result of the District's failure to implement the Section 504 Plan, the Section 504 Team should consider revising the student's Section 504 Plan and/or reviewing implementation strategies. This may include updating the accommodations and/or revising or developing a "Section 504 Behavior Support Plan."

Suspensions totaling fewer than 10 days in a school year may be affected without holding a Section 504 Team Meeting. However, a noted pattern of misbehaviors may determine that a Section 504 Team meeting is needed to review and, if appropriate, modify the current Section 504 Plan, including developing a behavioral support plan.