

BOARD POLICY**VIRTUAL LEARNING ACADEMY OF ST. CLAIR COUNTY****SUBJECT: STUDENT DISCIPLINE**

The Board of Directors of the Virtual Learning Academy of St. Clair County desires to establish an orderly and safe environment within the Academy that is conducive to learning and the success of the Academy's educational process. The Board also desires to comply with federal and state laws as they relate to the regulation of student behavior and student discipline.

The purpose of this policy is to provide direction to the Academy staff for the development and implementation of policy for the regulation of student conduct that is unruly, abusive, disorderly, threatening or otherwise disruptive to the Academy's educational process and that comports with the applicable federal and state laws.

Discipline in General

Those persons charged with the responsibility for the safety and welfare of students of the Virtual Learning Academy of St. Clair County (the "Academy") shall take reasonable efforts to maintain the behavior of students while in attendance at the Academy, Academy related events and work based instruction.

When deemed appropriate under the circumstances, Academy instructors may impose disciplinary measures in order to manage behavioral problems. Such discipline may include, but is not limited to, giving written or oral warnings, conducting student and/or parent conferences, making referrals to resource agencies or persons, placing the student on behavioral probation, giving supervised detention, placing a student on in-house suspension and/or removing a student from Academy related activities. As required by law and Board policy, any form of corporeal punishment is strictly prohibited.

Illicit Substances, Weapons, Arson and Criminal Sexual Conduct

A student who commits an act of arson or criminal sexual conduct or is in possession of an illicit substance in a "drug free school zone" or dangerous weapon in a "weapon free school zone", while engaged in or attending an Academy or Academy sponsored events or otherwise in a manner which affects the safety and welfare of other students and staff in the Academy shall be expelled from the Academy and, when appropriate, referred to the criminal justice or juvenile delinquency system and/or the appropriate county department of social services or community mental health agency.

Suspension and Expulsion

The Director of the Academy may order the suspension for up to ten (10) school days and/or recommend to the Board of Trustees (the "Board") suspension for more than ten (10) school days or the expulsion of a student who possesses a weapon, commits arson or criminal sexual conduct or is guilty of some other gross misdemeanor or persistent disobedience, when the interest of the Academy is served thereby. In such case, if there is reasonable cause to believe the student is handicapped, the student shall be evaluated immediately by the Virtual Learning Academy of St. Clair County.

If the Board receives a written request by a student and/or his/her parents within five (5) days of receiving notice of the recommendation for suspension in excess of ten (10) school days or expulsion, a student is entitled to a hearing on the matter of guilt or innocence, the nature or length of the discipline or the procedure utilized in the process. Such hearings will be conducted by the Board or Board designee and shall be held in compliance with the minimum due process requirements of law. The Board reserves to itself the authority to expel a student from the Academy.

An expelled student may petition the Board for reinstatement. A Board appointed committee will review the petition and may recommend reinstatement, conditional reinstatement or against reinstatement. Expulsion for the possession of a weapon or the commission of arson or criminal sexual conduct shall be done in accordance with the applicable laws and any procedures or guidelines established for implementation of the Policy.

Date: _____

Board Approved

VIRTUAL LEARNING ACADEMY OF ST. CLAIR COUNTY

Guidelines for the Implementation of STUDENT DISCIPLINE POLICY

The following guidelines have been developed by the Academy administration for the purpose of implementing the Board of Trustee's Student Discipline Policy. All student discipline shall be conducted in accordance with these guidelines.

I. Behavior Management:

The objective of these guidelines is to establish parameters for the management of student behavior that is unruly, abusive, disorderly, threatening or otherwise disruptive to the Academy's educational process. Academy Staff are required to utilize positive student management techniques in order to address student classroom behavior that does not require disciplinary action.

II. Student Code of Conduct:

The Director shall develop and publish a Student Code of Conduct. The Student Code of Conduct shall, at a minimum, define those behaviors that are subject to disciplinary action, define the levels of discipline for violations and define the procedure for disciplinary hearings and appeals as provided under these guidelines. The Student Code of Conduct shall regulate student misconduct in Academy buildings, facilities and vehicles, on Academy grounds, during Academy sponsored activities and events and other misconduct that affects the safety and welfare of other students and staff and/or the Academy's educational process.

The Student Code of Conduct must be approved annually by the Board.

The Student Code of Conduct shall be distributed annually to all students attending Academy or programs of the Academy. The Director for each Academy building shall implement a procedure for the maintenance of student sign off sheets to be signed by students acknowledging receipt of the Student Code of Conduct.

III. Discipline Authority and Procedure:

The Academy Director has been designated by the Board of Trustees with the responsibility of student discipline in his/her Academy. All student behavior that is in violation of the Academy's Code of Conduct is subject to disciplinary action and shall be referred by Academy staff to the Academy Director.

Except as otherwise expressly provided in these guidelines, only the Director, or his/her designee, is authorized to make disciplinary decisions for students enrolled in his/her Academy. The Director may impose detention, in-Academy suspension, out-of-Academy suspension up to 10 days, probation and implement behavior management plans. Out-of-Academy suspensions are limited to students who commit gross misdemeanors and/or persistent disobedience.

In instances of serious violations or violations of the law, the Director may report the matter to a law enforcement agency, as appropriate. If the behavior involves a dangerous weapon or illicit

substances, the Director shall immediately either confiscate the dangerous weapon or illicit substance or contact the local enforcement agency to respond and confiscate the dangerous weapon or illicit, as the circumstances require. The Director shall give any dangerous weapon or illicit substance confiscated to the law enforcement agency and shall not release it to any other person, including the owner of the dangerous weapon or illicit substance.

Decisions to suspend students in excess of ten (10) days or expulsion/termination of enrollment are made in the discretion of the Board. The Director shall make a recommendation to the Board for suspensions in excess of ten (10) days or expulsion/termination of enrollment, as appropriate. Unless otherwise determined by the Director, a student will be placed on suspension status pending the disposition of a recommendation for suspension in excess of ten (10) days or expulsion/termination of enrollment. This period will count toward the length of the final suspension or expulsion period and is not to be considered additional punishment for the same offense. A student will not lose any credit for the period of the suspension status that is in excess of the length of the final suspension or expulsion.

Regular classroom teachers (excluding substitute teachers), are authorized to immediately impose a one (1) day suspension from a class, subject or activity for conduct that imminently threatens the safety of students and/or staff. In such case, the teacher must take the following steps:

- 1) Immediately report the suspension and refer the student to the Director's office for appropriate further action;
- 2) Notify the student's counselor, social worker or Academy psychologist, as appropriate, of the parent-teacher conference and request their attendance;
- 3) Request the attendance of the Director at the parent-teacher conference, if requested by the parent/guardian or desired by the teacher.

IV. Corporal Punishment:

The use of corporal punishment by staff, volunteers and contractors is strictly prohibited. Corporal punishment means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training or reasonable physical force as necessary:

- 1) To restrain or remove a student whose behavior is interfering with the orderly exercise and performance of Academy functions within a Academy or at a Academy -related activity, if that student has refused to comply with a request to refrain from further disruptive acts.
- 2) For self-defense or the defense of another.
- 3) To quell a disturbance that threatens physical injury to any person.
- 4) To obtain possession of a weapon or another dangerous object upon or within the control of a student.
- 5) To protect property.

The following is a list of alternatives to the use of corporal punishment:

- 1) Provide direct instruction to students in social skills and problem-solving strategies.
- 2) Use positive reinforcement to teach and maintain the use of appropriate problem-solving and social skills.

- 3) Use social reinforcers such as teacher feedback, peer pressure, and other self-esteem enhancing activities to support and maintain the use of problem-solving and social skills.
- 4) Apply logical consequences that will teach students personal responsibility for their actions; for example, losing the privilege of participating in special Academy activities.
- 5) Consider the use of time out, which may allow students to learn to take control of their actions and ultimately, in conjunction with instruction in social skills, to cease their undesirable behavior.
- 6) Employ problem-solving classroom meetings and/or Academy assemblies with honest discussion of problems to encourage student ownership of and responsibility for solutions.
- 7) Establish a variety of strategies for communicating with parents.
- 8) Utilize the in-Academy suspension program, in which the student performs curricula-related activities.
- 9) When necessary, refer students to student services for counseling and/or additional referrals and coordination with other units of government.
- 10) Evaluate and arrange appropriate curriculum and adequate support for students who need academic acceleration, special education, alternative education or services for achieving English proficiency.
- 11) Consider and take action, as appropriate, in accordance with the student code of conduct.

V. Due Process Procedures:

The Academy affords students the protection of minimum due process when imposing disciplinary action. In all cases of discipline, students will be given notice of the charge, an explanation of the evidence in support of the charge and an opportunity to present their side of the story.

A decision to suspend a student for ten (10) days or less may be appealed to the Director, or his/her designee. Any request for appeal must be filed with the Director's office within three (3) days of the decision to impose the suspension. Upon receipt of the appeal, the Director shall schedule a hearing with the student in accordance with the below hearing procedures. Failure to appeal the decision within the three (3) day period will result in a final decision.

A decision to suspend for more than ten (10) days or to expel/terminate enrollment of a student is made by the Board, upon the recommendation of the Director. A student may request a hearing on the recommendation within five (5) days from the date of written notification thereof. The notice will indicate the nature of the charge, the recommendation and the date by which a request for a hearing must be received by the Director's office. A requested hearing will be held by the Board in accordance with the below hearing procedures. Failure to request a hearing within the prescribed period of time will result in adoption of the recommendation.

A. Hearing Procedures:

The student or his/her parent/guardian will be provided written notice of the time and date of the hearing. Any conflict or proposed change in the scheduled hearing must be immediately brought to the attention of the Director's office in order to be considered.

The hearing shall be presided over by the Board President or his/her designee. The following rules are applicable to all disciplinary hearings:

- 1) The student, the Board or his/her designee and the administrator making the recommendation may be represented by qualified counsel at the hearing.

- 2) The court rules and strict rules of evidence shall not apply at the hearing. Evidence may be received and considered in the discretion of the Board or his/her designee, exercising this discretion as a prudent person would in the careful conduct of everyday business and affairs.
- 3) The staff making the recommendation has the burden of establishing the charge with substantial evidence.
- 4) The staff and the student will both have the right to provide testimony, physical evidence and other evidence, as appropriate, at the hearing. Each party may cross-examine the evidence presented by the other side.

A decision will be rendered by the Board in writing and mailed to the student within ten (10) days after the conclusion of the hearing. The decision of the Board is final.

VI. Expulsion:

1) State and federal law requires that students who in engage in specific conduct be expelled from public Academy s in the state of Michigan. The Academy shall comply with these legal requirements in accordance with the following:

**A) Possession of a Weapon; Arson; Criminal Sexual Conduct
(Section 1311 of the Michigan Revised Academy Code; Federal Gun-Free Act of 1994)**

Any student who commits arson or criminal sexual conduct in an Academy building or on Academy grounds will be permanently expelled. Any student who possesses a dangerous weapon in a weapon free school zone will be permanently expelled unless the student can show the following by clear and convincing evidence:

- 1) That the object or instrument possessed by the student was not possessed for use as a weapon, or for direct or indirect delivery to another person for use as a weapon;
- 2) The weapon was not knowingly possessed by the student;
- 3) The student did not know or have reason to know that the object or the instrument possessed constituted a weapon or dangerous weapon; or
- 4) That the weapon was possessed by the student at the suggestion, request, or direction of, or with the express permission of, Academy or police authorities.

**B) Physical Assault (Grade 6 or Above)
(Section 1310 and 1311a of the Michigan Revised School Code)**

Any student in grade 6 or above who commits a physical assault at Academy against a person employed by or engaged as a volunteer or contractor of the Academy will be permanently expelled. Any student in grade 6 or above who commits a physical assault against another student at Academy will be expelled for up to 180 Academy days.

C) Verbal Assault/ Threat (Grade 6 or Above)
(Section 1311a of the Michigan Revised School Code)

1) Any student in grade 6 or above who commits a verbal assault at Academy against a person employed by or engaged as a volunteer or contractor of the Academy will be expelled for up to 180 Academy days. Any student who makes a bomb threat or similar threat directed at an Academy building, other Academy property or an Academy related event will be expelled for up to 180 Academy days.

2) In addition to state mandated expulsions, a student will be expelled from the Academy for serious misconduct that is similar in nature to the infractions identified in Paragraph one, above (ex. the possession of a weapon that does not qualify as a dangerous weapon) The Director may also expel for other gross misdemeanors and persistent disobedience.

3) If a student is permanently expelled for possessing a dangerous weapon, committing arson or criminal sexual conduct, or a physical assault against a person employed by or engaged as a volunteer or contractor of the Academy, the Director shall ensure that each of the following steps are taken:

- a) Enter on the student's record that he/she has been permanently expelled under the appropriate section of state law.
- b) Within 3 days from the date of the expulsion, make a written referral to the applicable department of social services and county community mental health agency and notify the student or parent/guardian, as appropriate, of the referral.
- c) Inform the student or parent/guardian, as appropriate, in writing, of process for applying for reinstatement in the Academy.

VI. Possession, Use or Distribution of Illicit Substances:

Illicit substances include illegal drugs, inhalants, alcohol, drug paraphernalia, caffeine pills, steroids, or other performance enhancing substances, medication (except the possession or use of prescription medication when authorized under the District's Medication Policy), and fake or look-alike drugs or alcohol. Medication prescribed to another person is considered an illicit substance.

VII. Criminal Conduct:

In addition to taking appropriate disciplinary action, the Director, or his/her designee, may refer criminal conduct to the appropriate law enforcement authority for prosecution.

VIII. Discretion:

To the extent not inconsistent with the law, the Academy reserves to itself the authority to deviate from the requirements of these guidelines when, on a case-by-case analysis, it is determined in the discretion of the Director to be in the best interest of the Academy and the student.

IX. Effect on Authority:

Nothing in these guidelines is intended or should be interpreted to limit or diminish the legal authority of the Academy to impose disciplinary action or regulate student behavior. These guidelines supercede any previous regulations or guidelines covering the topic of these guidelines.

X. Reinstatement Procedure:

A. Petition:

A student expelled under these guidelines (or their parent/guardian, as appropriate) may submit a petition to the Director for reinstatement in the Academy along with supporting documentation. Petitions for Reinstatement are available through the Director's Office.

A student who was in grade 6 or above at the time of the expulsion and is permanently expelled for a state mandated expulsion may initiate a Petition for Reinstatement after the expiration of 150 Academy days from the date of the expulsion. Other students who are expelled under these guidelines may initiate a Petition for Reinstatement 30 days prior to the date the student would be eligible for reinstatement in accordance with the expulsion order and state law and upon completion of the reinstatement conditions.

B. Review Committee:

Upon receipt of a Petition for Reinstatement, the Director shall convene a review committee or submit the Petition to the Board of Education for appointment of a review committee, as appropriate.

In the case of a state mandated permanent expulsion, the Petition for Reinstatement will be submitted to the Board of Education. Within 10 Academy days after receiving the Petition for appointment, the Board will appoint a review committee. This committee will consist of 2 Board members, 1 Academy administrator, 1 teacher, and 1 parent of a student in the Academy. The Director may prepare and submit to the committee for consideration information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement. Not later than 10 Academy days after all review committee members are appointed, the committee will review the Petition and pertinent information and submit a recommendation to the Board of Education on the issue of reinstatement.

In other than state mandated permanent expulsions, the review committee will be appointed at the discretion of the Director.

The recommendation of the review committee may be for unconditional reinstatement, conditional reinstatement or against reinstatement and must include an explanation of the reasons for the reinstatement and any recommended conditions for reinstatement.

C. Review Criteria:

In reviewing a Petition for Reinstatement, the review committee will consider at least the following criteria:

- 1) Whether the reinstatement would create a risk of harm to other students or Academy personnel;
- 2) Whether reinstatement would create a risk of Academy or individual liability for the Board of Education or Academy personnel;
- 3) The age and maturity of the individual;

- 4) The individual's Academy record before the incident that caused the expulsion;
- 5) The individual's attitude concerning the incident that caused the expulsion;
- 6) The individual's behavior since expulsion and the prospects for remediation of the individual;
- 7) The degree of cooperation and support from the individual's parent or guardian (if the petition was filed by a parent or guardian) as well as any support which may be expected from a parent or guardian, if the expelled student is reinstated.

D. Conditions of Reinstatement:

The Academy may require an expelled student (and if the petition was filed by a parent or legal guardian, the parent or legal guardian) to agree in writing to specific conditions before reinstating the student. These conditions may include, but are not limited to:

- 1) Signing a behavior contract;
- 2) Participation in or completion of an Anger Management Program or other appropriate counseling (at the expelled student's expense);
- 3) Periodic progress reviews; and
- 4) Specific immediate consequences for failure to abide by any conditions of reinstatement.

E. Decision:

In the case of a state mandated expulsion, the decision on the issue of reinstatement is within the discretion of the Board of Education. Not later than at its next regular meeting after receiving the recommendation from the review committee, the Board of Education will make a decision on the issue of reinstatement. The decision of the Board is final.

In other than state mandated permanent expulsions, the decision of the issue of expulsion is within the discretion of the Director.

A student who was in grade 6 or above at the time of the expulsion and is permanently expelled may not be reinstated before the expiration of 180 Academy days after the expulsion. Other students who are expelled under these guidelines may be reinstated in accordance with the expulsion order and state law and upon completion of the reinstatement conditions.

XI. Students with Disabilities:

These guidelines shall be applied in a manner consistent with the rights provided under federal and state law to students who are determined to have a qualifying disability. The normal expulsion rules will apply to a student identified as having a disability to the extent such application is not in violation of the student's Individual Education Plan ("IEP") ,

Accommodation Plan and/or the legal due process rights afforded the student.

If the student that is subject to disciplinary action has been determined or is eligible for services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1974 (Section 504), the academy Director must notify the designated Special Education or Section 504 Coordinator, as appropriate, of the pending action and coordinate the following steps:

- 1) Determine whether the proposed action constitutes a "change in placement", as defined by law.
- 2) Notify the student or parents/guardian, as appropriate, of the decision and provide a copy of the procedural safeguards on the day the disciplinary decision is made.
- 3) Ensure that the necessary IEP Committee, Accommodation and/or Manifestation Review meetings are held as required by law.
- 4) Determine the appropriate level of discipline that is consistent with the student's due process rights and IEP or Accommodation Plan.

XII. Alternative Education:

It is the responsibility of the student and his/her parent/guardian to locate and enroll the student in a suitable educational program during the period of an expulsion. Upon request, the Academy will provide the student/parent/guardian with any available information regarding any known alternative educational programs in the geographic area that may be suitable for the enrollment of the student.

XIII. Miscellaneous

The Director or his/her designee, shall serve as the Board's representative in the implementation of the statewide Academy safety information policy pursuant to Section 1308 of the Michigan Revised Academy Code and shall provide all information, file all reports and execute any agreements determined appropriate for compliance therewith.

These guidelines supercede and replace all previous Academy policies regulating student discipline. Nothing in this policy shall be construed to limit the legal authority of the Academy to impose disciplinary action.

XIV. Definitions:

"Arson" means a felony violation of chapter X of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, being sections 750.71 to 750.80 of the Michigan Compiled Laws.

"Criminal sexual conduct" means a violation of section 520b, 520c, 520d, 520e or 520g of Act No. 328 of the Michigan Acts of 1931, being sections 750.520b, 750.520c, 750.520d, 750.520e or 750.520g of the Michigan Compiled Laws.

"Dangerous weapon" means a firearm; gun; revolver; pistol; dagger; dirk; stiletto; knife with a blade over 3-inches; pocket knife opened by a mechanical device; iron bar; or brass knuckles.

"Firearm" means (a) a weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by an explosive, or by gas or air; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device, including explosives, incendiaries, poison gas, or any weapon which will (or may readily be converted to) expel a projectile by the action of an explosive or other propellant.

"Gross Misdemeanor" includes, but is not limited to, conduct that (a) substantially interrupts or interferes with the orderly education process; (b) threatens the physical and/or mental health or safety of staff, students or others; (c) represents a willful disregard or disrespect for staff and/or Academy authority; (d) results in the willful destruction of the property of the Academy or others; or (e) constitutes illegal activity. The Student Code of Conduct shall list specific examples of conduct that constitutes a Gross Misdemeanor. That list shall not be interpreted as all inclusive.

"Persistent Disobedience" means conduct, which in the aggregate represents an unreasonable accumulation of infractions of the Student Code of Conduct or Academy rules, none of which alone would justify long-term suspension or expulsion/termination of enrollment from the Academy.

"Physical Assault" means intentionally causing or attempting to cause physical harm to another through force or violence.

"Academy property" means a building, playing field, or property used for Academy purposes to impart instruction to children or used for functions and events sponsored by an Academy.

"Weapon" means any instrumentality which does not fall within the definition of a dangerous weapon and which is designed to, may be readily converted to or has the potential of inflicting serious bodily injury to oneself or another person or a "look-alike" or replica of a "dangerous weapon".

"Weapon Free School Zone" means Academy property and/or a vehicle used by the Academy to transport students to or from Academy property.

"Verbal Assault" means any verbal statement that was intended or is reasonably likely to intimidate or threaten another person's physical safety or welfare.

Date: _____

Board Approved

