

Suspension and Expulsion Policy

Board Action: APPROVED

Effective Date: 8-13-2018

This Pupil Suspension and Expulsion Policy has been established to promote learning and protect the safety and well-being of all students at the Charter School. When a student commits one of the enumerated offenses described herein, it may be necessary to suspend or expel a student from regular classroom instruction.

The Charter School will follow all applicable federal and state laws including but not limited to the California Education Code, when imposing any form of discipline on a student identified as an individual with disabilities or for whom the 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.

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

Grounds for Suspension and Expulsion of Students

A student may be suspended or expelled for prohibited misconduct if the act is:

- A. related to school activity;
- B. related to school attendance occurring at the Charter School or any other school; or
- C. related to attendance at a Charter School sponsored event. A student may be suspended or expelled for acts that are enumerated below and occur at any time including but not limited to the following:
 - 1) while on school grounds;
 - 2) while going to or coming from school;
 - 3) during the lunch period, whether on or off the school campus;
 - 4) during, going to, or coming from a school-sponsored activity.

A. Enumerated Offenses

1. Discretionary Suspension and Recommendation for Expulsion Offenses

Students may be suspended from school or recommended for expulsion for any of the following acts when it is determined the pupil:

- a) Either:
 - 1) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - 2) Willfully used force or violence upon the person of another, except in self-defense.
- b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.
- c) Caused or attempted to cause damage to school property or private property.

- d) Stole or attempted to steal school property or private property.
- e) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, the pupil is not prohibited from the use or possession by that pupil of his or her own prescription products.
- f) Committed an obscene act or engaged in habitual profanity or vulgarity.
- g) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- h) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, except that a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel, nor shall these act constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
- i) Knowingly received stolen school property or private property.
- j) Possessed an imitation firearm. "Imitation firearm" means 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.
- k) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- l) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- m) Engaged in, or attempted to engage in, hazing. For 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, that 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 subdivision, "hazing" does not include athletic events or school-sanctioned events.
- n) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act.
 - i) "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:
 - (1) 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.
- (2) Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health.
 - (3) Causing a reasonable student to experience substantial interference with his or her academic performance.
 - (4) 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.
- ii) "Electronic Act" means the creation or 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:
- (1) A message, text, sound, video, or image.
 - (2) A post on a social network Internet Web site including, but not limited to:
 - (a) 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.
 - (b) 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.
 - (c) 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.
- iii) An act of cyber sexual bullying.
- (1) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (i) to (iv), inclusive, of paragraph (1). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
 - (2) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
- iv) Notwithstanding the 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) “Reasonable pupil” for purposes of this subsection means a pupil, including, but not limited to, an exceptional needs pupil, 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 his or her exceptional needs.
- o) 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 (a).
- p) In addition to the reasons specified above, a pupil may be suspended from school or recommended for expulsion from school if the Executive Director/Principal or Designee determines that the pupil has committed sexual harassment as defined in Ed. Code section 212.5. 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 enumerated offense shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.
- q) In addition to the reasons set forth above, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion from school if the Executive Director/Principal or Designee determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Education Code section 233.
- r) In addition to the grounds specified above, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion from school if the Executive Director/Principal or Designee determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.
- s) In addition to the grounds specified above, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.
 - 1) “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 district property, or the personal property of the person threatened or his or her immediate family.
- t) "[S]chool property" includes, but is not limited to, electronic files and databases.
 - u) For a pupil subject to discipline, the Executive Director/Principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior.

2. Shall Recommend for Expulsion Offenses

The Executive Director/Principal or designee shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the Executive Director/Principal or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- 1) Causing serious physical injury to another person, except in self-defense.
- 2) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- 3) Unlawful possession of any controlled substance listed in Health and Safety Code section 11053 et seq. (except one ounce of marijuana or over the counter medications or medication prescribed to student).
- 4) Robbery or extortion.
- 5) Assault or battery (as defined in Penal Code section 240 and 242) upon any school employee.

3. Immediate Suspension and Mandatory Recommendation for Expulsion Offenses

- 1) Possessing, selling, or furnishing a firearm, as defined below. E.C. 48915(c)(1)
- 2) Brandishing a knife¹ at another person. E.C. 48915(c)(2)
- 3) Unlawfully selling a controlled substance listed in Health and Safety Code section 11053 et seq. E.C. 48915(c)(3)
- 4) Committing or attempting to commit a sexual assault or committing a sexual battery, as defined in the enumerated offenses above. E.C. 48915(c)(4)
- 5) Possession of an explosive². E.C. 48915(c)(5)

B. Alternatives to Suspension or Expulsion

Suspension shall be imposed only when other means of correction fail to bring about proper conduct. The Charter School may document the other means of correction used and place that

¹ "Knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

² The term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

documentation in the pupil's record. However, a pupil, including an individual with exceptional needs, as defined in Ed. Code section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, upon a first offense if the principal or principal's designee determines that the pupil's presence causes a danger to persons or that the pupil committed any of the following acts:

- 1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- 2) Willfully used force or violence upon the person of another, except in self-defense.
- 3) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- 4) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- 5) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- 6) Committed or attempted to commit robbery or extortion.

Other means of correction include, but are not limited to, the following:

- 1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- 2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- 3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
- 4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- 5) Enrollment in a program for teaching prosocial behavior or anger management.
- 6) Participation in a restorative justice program.
- 7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
- 8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- 9) Performing community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. "Community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. Community service may not be assigned if a pupil has been suspended, pending expulsion, for any of the acts

enumerated in the “Shall Recommend for Expulsion Offenses” or the “Immediate Suspension and Mandatory Recommendation for Expulsion Offenses.” However, if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action then community service may be assigned.

C. In-Class Suspensions

A pupil suspended from a school for any of the reasons enumerated in the “Discretionary Suspension and Recommendation for Expulsion Offenses” may be assigned, by the Executive Director/Principal or designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

The Charter School may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

- (1) The supervised suspension classroom is staffed as otherwise provided by law.
- (2) Each pupil has access to appropriate counseling services.
- (3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.
- (4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil’s parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil’s parent or guardian.

D. Alternative Education

Pupils who are expelled shall be responsible for seeking alternative education programs including, but not limited to, programs within the County for their school district of residence. The school shall work cooperatively with parents/guardians as requested by parents/guardians or by the school district of residence to assist with locating alternative placements during expulsion.

E. Rehabilitation Plans

Students who are expelled from the Charter School shall be given a rehabilitation plan upon expulsion as developed by the administrative panel at the time of the expulsion order, which may include, but is not limited to, periodic review as well as assessment at the time of review for readmission. The rehabilitation plan should include a date not later than one year from the date of expulsion when the pupil may reapply to the Charter School for readmission.

F. Readmission

The decision to readmit a pupil or to admit a previously expelled pupil from another school district or charter school shall be in the sole discretion of the Charter School Board following a meeting with the CEO or designee and the pupil and guardian or representative to determine whether the pupil has successfully completed the rehabilitation plan and to determine whether the pupil poses a threat to others or will be disruptive to the school environment. The Executive Director/Principal or Designee shall make a recommendation to the Charter School Board following the meeting regarding his or her determination. The pupil's readmission is also contingent upon the Charter School enrollment capacity at the time the student seeks readmission.

G. Probation

The administrative panel, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the administrative panel's determination as to whether the pupil has satisfactorily completed the rehabilitation program. The administrative panel shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Cal. Ed. Code section 56026.

During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

The administrative panel may revoke the suspension of an expulsion order if the pupil commits any of the acts enumerated in Ed. Code section 48900 or violates any of the school's rules and regulations governing pupil conduct. When the administrative panel revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order. Upon satisfactory completion of the rehabilitation assignment of a pupil, the administrative panel shall reinstate the pupil in the school and may also order the expungement of any or all records of the expulsion proceedings.

A decision of the administrative panel to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the Governing Board of

the Charter School.

H. Expulsion Appeals

If a pupil is expelled, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the administrative panel to expel, file an appeal to the Governing Board of the Charter School, which shall hold a hearing thereon and render its decision.