



Suspension and Expulsion Policy (Washington)

Student Rights

In accordance with WAC, 392-400-805, when administering discipline, the Charter School must not:

- (1) Unlawfully discriminate against a student on the basis of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal;
- (2) Deprive a student of the student's constitutional right to freedom of speech and press, the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances, the constitutional right to the free exercise of religion and to have the student's school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising the right;
- (3) Deprive a student of the student's constitutional right to be secure in the student's person, papers, and effects against unreasonable searches and seizures;
- (4) Unlawfully interfere in a student's pursuit of an education while in the custody of the school district; or
- (5) Deprive a student of the student's right to an equal educational opportunity, in whole or in part, by a school district without due process of law.

Conditions and Limitations

Students may be disciplined for violating the lawful rules of the Charter School. Students have the right to utilize the grievance (appeal) procedure described in this policy. The conditions under which a student may be disciplined are:

- A student may not be prevented from meeting specific academic grade, subject, or graduation requirements.
- A student's academic grade may only be negatively impacted by his/her/their tardies or absences if:
 - The student's attendance and/or participation is related to the objectives or goals of the particular subject or course, and
 - The teacher has indicated that the student's attendance and/or participation is a basis for at least some part of the student's grade.
- Willfully inflicting or willfully causing the infliction of physical pain on a student is prohibited. This does not include:
 - The use of reasonable physical force by a Charter School administrator, teacher, Charter School employee or volunteer that is necessary to maintain order or to prevent a student from imminent risk of harming himself/herself/themself or other students and Charter School staff or property;
 - Physical pain or discomfort involved in the student's voluntary

- o participation in athletic competition or recreational activity;
- o Physical exertion in a teacher directed class activity, such as physical education exercises, field trips or vocational education projects; or
- o Physical restraining or isolating a student when the student's behavior poses an imminent likelihood of serious harm..

Grounds for Suspension and Expulsion of Students

A student may be suspended or expelled for prohibited misconduct if the act is related to Charter School activity or Charter School attendance, occurring at Charter School or at any other school or a Charter School sponsored event, occurring at anytime including but not limited to: (a) while on Charter School grounds; (b) while going to or coming from Charter School; (c) during the lunch period, whether on or off Charter School campus; (d) during, going to, or coming from a Charter School Sponsored activity.

Enumerated Offenses

1. Mandatory expulsion offenses: students must be suspended and recommended for expulsion for any of the following acts:

- a. Firearms - Possessing, threatening to use, or using a firearm on school property, school-provided transportation, or at school-sponsored events. A firearm is defined as a weapon from which a projectile may be fired by an explosive. It also includes any form of explosive or gas device. It does not include pepper spray if the student is aged 14 or older and has parental permission. (See RCW 9.91.160.)

2. Discretionary suspension/expulsion offenses: students may be suspended (short-term or long-term) or expelled for any of the following acts when it is determined the student:

- a. Arson - Lighting a fire, causing any fire to be started, setting fire to school property, or falsely setting off a fire alarm is prohibited.
- b. Assault - Inflicting physical harm, being physically violent, using unwanted force, or demonstrating immediate intent to inflict physical harm. This includes sexual assault.
- c. Dangerous Weapons, Explosives, and Other Unsafe Items - Possessing, threatening to use, or using dangerous weapons (or replica weapons). A dangerous weapon means a weapon, device, instrument, material, or substance that is capable of causing serious bodily injury. This includes knives, BB guns, paintball guns, air guns, stun guns, or the like that injure a person by electric shock, charge, or impulse, martial arts weapons, explosives, incapacitating agents, laser devices, metal knuckles, or any other item which can inflict or threaten substantial harm. The Executive Director or authorized designee thereof may pre-authorize use of replica weapons or props, incapable of firing any projectile, in school-approved plays or school activities.
- d. Drugs/Alcohol - Possession, Use, Paraphernalia - Possessing, using, or being under the influence of drugs/alcohol before attending school, on school grounds, on school transportation, or during school-sponsored events on or off campus. This includes inhalants, prescription drugs beyond a daily dose, and over-the-counter drugs in quantities or mixtures that are suspect and capable of causing serious harm, or any substance represented as such.

Possession of paraphernalia includes, but is not limited to, any item that can reasonably be used to ingest or conceal drugs or alcohol.

- e. Drugs/Alcohol - Sell, Buy, Transfer - Transferring, selling, sharing, or soliciting drugs/alcohol on school grounds, on school transportation, walking/riding to/from school, or during school sponsored events on or off campus. Includes inhalants, prescription drugs beyond a daily dose, prescription medical marijuana (even if the holder has a valid medical marijuana card), over-the-counter drugs in quantities or mixtures that are suspect and capable of causing serious harm, or any substance represented as such.
- f. Harassment, Intimidation, Bullying - Harassment, intimidation, or bullying means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated because of his/her/their perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory handicap or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:
 - Physically harms a student or damages the student's property; or
 - Has the effect of substantially interfering with a student's education; or
 - Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
 - Has the effect of substantially disrupting the orderly operation of the school.
- g. Illegal Acts - An illegal or criminal act that either results or could foreseeably result in injury or damage to self, others or property. This includes the possession or distribution of illegal images, including sexual images on cell phones or other electronic devices.
- h. Sexual Harassment - Harassing conduct includes repeated offensive sexual flirtations, advances or propositions, continued or repeated verbal abuse of a sexual nature, graphic or degrading verbal comments about an individual or about his/her appearance, or any offensive or abusive physical contact including, offensive jokes, innuendoes, compliments, cartoons, pranks and/or other verbal, visual, electronic communications, e.g. sexting, or physical conduct, including stalking. Conduct is gender-based when it would not occur but for the sex of the person to whom it is directed.
- i. Threats - Expressing by words or actions an intent to inflict mental or physical harm. This includes intimidating verbally, by use of hand signs, in writing, or on a computer or other electronic device.

3. Other Discretionary Offenses: students may be suspended (short-term) for any of the following acts when it is determined the student:

- a. Academic Dishonesty - All forms of cheating, plagiarism, and fabrication, including submitting any work product that the student misrepresents as his or her work product for the purpose of fulfilling any assignment or task required as part of the student's course of studies. Academic dishonesty also includes the unauthorized use of electronic devices, the use of unauthorized material or unauthorized communication of any kind during testing, and the aiding and abetting of academic dishonesty of others.
- b. Alteration of Records - Falsifying, altering, or destroying a school record or any communication between home and school.
- c. Disruptive Conduct/Behavior - Behaving in a manner that materially or substantially interferes with or is detrimental to the orderly operation of school, school sponsored events, or any other

aspect of the educational process. Includes behavior or activities occurring off-campus that cause or threaten to cause a substantial disruption to the educational process on campus or impinge on the rights of the students or staff at school.

- d. Dress Code - Dressing in a manner that is not conducive to the educational environment. A dress or appearance may not present a health or safety hazard or create material and substantial disruption of the educational process at the school. Student dress shall not be gang-related, nor may it promote illegal activities or activities that violate school regulations.
- e. Endangerment of Others - Acting in a manner that endangers students, staff, or community members.
- f. Extortion/Blackmail & Coercion - Extorting or attempting to extort any item, information, or money.
- g. Fighting - Engaging in or provoking a physical altercation involving anger or hostility. This includes instigating a fight, arranging, or contributing to the likelihood of a fight developing, including recording and/or distributing images of the fight.
- h. Forgery - Copying, plagiarizing, and/or falsifying materials/signatures and/or other information or objects.
- i. Gambling - Engaging in games of chance which involve the exchange of money or other items, or stake or risk money or anything of value on the outcome of something involving chance. A student shall not encourage or coerce other students to gamble.
- j. Gang Activity - Engaging in gang activity on school grounds. A gang is a group of three or more persons with identifiable leadership which, on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.
- k. Hazing - Participating in or failing to report known activity that demeans or abuses any student or members or potential members of a team or club.
- l. Immediate Danger and Disruption - Engaging in behavior such that the student's presence poses an immediate and continuing danger to the student (including harm to self/suicidal ideation), other students, school personnel, or an immediate and continuing threat of substantial disruption to the educational process.
- m. Interfering with School Investigation - Misrepresenting, falsely accusing, concealing evidence, verbally or physically impeding or interrupting an investigatory process involving self or others, or otherwise hindering an investigation of an infraction or crime on campus or at a school sponsored event.
- n. Lying - Telling or writing untruths.
- o. Negative Community Action - Engaging in behavior outside of school that may adversely affect the educational environment of the school. Washington State Law provides for the implementation of school discipline for actions performed outside of school that may adversely affect the educational environment of the school. Examples include, but are not limited to, acts of vandalism, theft, assault, drug and alcohol use and sales, inappropriate computer/network behavior, harassment occurring off-campus, including the inappropriate use of email, texting, Skype, or other internet or electronic communications such as to harass or harm others.

- p. Physical Aggression
- q. Willful Disobedience, Failure to Cooperate, and Disrespect - Repeatedly failing to comply with or follow reasonable, lawful, directions or requests of teachers or staff. This includes non-compliance, defiance, and disrespect.

Suspension and Expulsion Policy and Procedure

The Charter School believes that due process means that students must be treated fairly and with regard for their rights under the law. This means that any discipline or corrective action of a student who has violated rules must be administered fairly and for good and just cause. Students have the right to tell their side of the incident and receive a fair punishment for their behavior. Charter School officials will take corrective action only after a thorough examination of the facts. The facts must always be reasonably related to the nature and circumstances of the violation. Students have the right to appeal corrective action that they feel is unjust or unjustly administered. The Charter School has adopted and implemented the due process rules found in the law. These rules outline the substantive and procedural due process rights of students who are involved in programs or activities within the Charter School.

A. Short-term Suspension

Conditions and Limitations of Short-term Suspensions

The Charter School must consider the nature and circumstances of the student's act, and the act must reasonably warrant both a short-term suspension and the length of the suspension imposed. However, the Charter School may designate certain offenses so severe that suspension must be imposed as a consequence. The Executive Director may grant exceptions to a short-term suspension punishment for extenuating circumstances. Any student who has been suspended may apply for readmission at any time.

As a general rule, the Charter School may not impose a short-term suspension unless another appropriate form of corrective action has already been imposed. Students may not receive short-term suspensions for more than a total of fifteen (15) school days during any single semester or ten (10) school days during any single trimester. Any student given a short-term suspension must be allowed to make up assignments and tests missed during the suspension if:

- The assignments or tests have a substantial effect on the student's grade; or
- The student would fail to receive credit in the class if he/she/they did not make up the assignment.

Notice to Parents/Guardians and Student of Short-term Suspensions

A student is entitled to a conference before the student is suspended for a short-term. Prior to the conference, the student must be given verbally or in writing:

- Notice of the alleged misconduct and Charter School rule(s) that was allegedly violated;
- An explanation of the evidence that supports the allegations;
- An explanation of the corrective action that will occur; and
- An opportunity to explain him or herself.

If the suspension is to exceed one calendar day, the Charter School must inform the parents/guardians of the reason for the student's suspension and the duration of the suspension verbally and/or by letter as soon as reasonably possible. This notice shall also inform the parents/guardians of their right to an informal conference, and that the suspension may possibly be reduced as a result of such conference.

Procedure to Challenge Short-term Suspensions

If the student or parent disagrees with a proposed short-term suspension, they have the right to an informal conference with the Executive Director to resolve the matter. During the conference, the Executive Director may question any person involved; the student or parent/guardian may also question the employee who imposed the discipline.

If the disagreement is not resolved, a written or verbal appeal may be made to the Administrative Panel within two (2) school business days. If it is not resolved at the Administrative Panel level, a written or verbal appeal may be made to the Disciplinary Appeal Council. The Disciplinary Appeal Council must notify the student and parents/guardians of its response within ten (10) school days after receiving the appeal. Unless the Executive Director decides to delay the suspension, it may be imposed during the appeal process.

B. Long-term Suspension

Conditions and Limitations of Long-term Suspensions

The Charter School must consider the nature and circumstances of the student's act, and the act must reasonably warrant both a long-term suspension and the length of the suspension imposed. However, the Charter School may designate certain offenses so severe that suspension must be imposed as a consequence. The Executive Director may grant exceptions to a long-term suspension punishment for extenuating circumstances. Any student who has been suspended may apply for readmission at any time.

As a general rule, the Charter School may not impose a long-term suspension unless another appropriate form of corrective action has already been imposed.

Students may not receive long-term suspensions which cause the student to lose academic grades or credit in excess of one semester or trimester during the same school year.

Notice of Hearing and Waiver of Hearing Rights for Long-term Suspensions

Before a student can be suspended long-term, the student and the student's parents/guardians must receive a written notice of an opportunity for a hearing. This notice must be either delivered in person or by certified mail. The notice must:

- Be in the parents/guardians' primary language, to the extent feasible;
- Explain the alleged misconduct and the Charter School rule(s) alleged to have been violated;
- Identify the corrective action or discipline being proposed;

- Explain the rights of the student and the student’s parents/guardians to a hearing to contest the allegation(s); and
- Explain that parents/guardians have three (3) school business days after receipt of the notice to request a hearing. It must also state if the request is not received within that timeline, then the right to a hearing may be deemed to have been waived, and the proposed long-term suspension may be imposed without any further opportunity for the student and parents/guardians to contest it.
- Include a schedule of “school business days” potentially applicable to the hearing date.

Students and their parents/guardians have three (3) school days to request the hearing after they receive the notice. The parents/guardians’ request for hearing may be made either in writing or verbally, if accepted by the Charter School. If the Charter School does not receive the request for the hearing within three (3) school business days, it may determine that the parents/guardians have waived that right, and the Charter School may impose the long-term suspension.

Prehearing and Hearing Process for Long-term Suspensions

If the Charter School receives the request for hearing within the designated time frame (three (3) school days), it must schedule a hearing. This hearing must commence within three (3) school days from when the Charter School received the request. In the hearing process, the student and parents/guardians have certain rights, including:

- Before the hearing, the right to inspect any evidence the Charter School plans to introduce at the hearing;
- Be represented by legal counsel;
- Question and confront witnesses, unless the witness is excused by the hearing officer. A witness may be excused if the Charter School can demonstrate it made a reasonable effort to produce the witness, or the witness can establish good cause to fear retaliation as a result of being a witness.
- Present the student’s explanation of the alleged misconduct; and
- Introduce any evidence or present witnesses.

The Charter School has the right to inspect any evidence the student plans to introduce before the hearing.

The Administrative Panel hearing the case shall not be a witness in the case for either the Charter School or the student, and may only determine the student’s guilt or innocence based on evidence presented at the hearing. The hearing will either be audio recorded or transcribed verbatim in a written record. The hearing officer must present the student, or his or her attorney or parents/guardians, with written findings of fact, conclusions, and the nature and duration of the suspension or lesser punishment imposed.

C. Expulsion

Conditions and Limitations of Expulsion

Before a student may be expelled, the student shall receive a written notice and an opportunity for a hearing. A student may not be expelled unless the nature of his or her misconduct warrants the harshness of an expulsion. The Charter School may not expel a student unless another appropriate form of corrective action has already been imposed, or the Charter School reasonably believes other forms of corrective action would fail if employed. Any student who has been expelled may apply for readmission at any time.

Once a student is expelled from the Charter School, the Charter School must notify the appropriate local and state authorities, including but not limited to juvenile authorities, so the authorities may address the student's educational needs.

Notice of Hearing and Waiver of Request for Hearing Rights for Expulsions

Before a student can be expelled, the student and the student's parents/guardians must receive a written notice of an opportunity for a hearing. This notice must be either delivered in person or by certified mail. The notice must:

- Be in the parents/guardians' primary language, to the extent feasible;
- Explain the alleged misconduct and the Charter School rule(s) alleged to have been violated;
- Identify the corrective action or discipline being proposed;
- Explain the rights of the student and the student's parents/guardians to a hearing to contest the allegation(s); and
- Explain that parents/guardians have three (3) school days after receipt of the notice to request a hearing. It must also state if the request is not received within that timeline, then the right to a hearing may be deemed to have been waived, and the proposed expulsion may be imposed without any further opportunity for the student and parents/guardians to contest it.

Students and their parents/guardians have three (3) school business days to request the hearing after they receive the notice. The parents/guardians' request for hearing may be made either in writing or verbally, if accepted by the Charter School. If the Charter School does not receive the request for the hearing within three (3) school business days from the date on which notice was received by the parents/guardians, it may determine that the parents/guardians have waived that right, and the Charter School may impose the expulsion.

Prehearing and Hearing Process for Expulsions

If the Charter School receives the request for hearing within the designated time frame (three (3) school business days), it must schedule a hearing. This hearing must commence within three (3) school business days from when the Charter School received the request. In the hearing process, the student and parents/guardians have certain rights, including:

- Before the hearing, the right to inspect any evidence the Charter School plans to introduce at the hearing;
- Be represented by legal counsel;
- Question and confront witnesses, unless the witness is excused by the hearing officer. A witness may be excused if the Charter School can demonstrate it made a reasonable

effort to produce the witness, or the witness can establish good cause to fear retaliation as a result of being a witness.

- Present the student's explanation of the alleged misconduct; and
- Introduce any evidence or present witnesses. The Charter School has the right to inspect any evidence the student plans to introduce before the hearing.

The Administrative Panel hearing the case shall not be a witness in the case for either the Charter School or the student, and may only determine the student's guilt or innocence based on evidence presented at the hearing. The hearing will either be tape recorded or transcribed verbatim in a written record. The hearing officer must present the student, or his or her attorney or parents/guardians, with written findings of fact, conclusions, and the expulsion or nature of any lesser punishment imposed.

D. Emergency Actions

Emergency Removal from a Class, Subject, or Activity

A student may be immediately removed from a class or activity by a certificated teacher or Charter School administrator, and sent to the Executive Director's office, when there is good and sufficient reason to believe that the student's presence poses an immediate and continuing danger or a continuing threat of substantial disruption. This is a short-term action that may continue only until the danger or threat ceases, or the Executive Director imposes discipline, such as a short-term suspension, long-term suspension, or expulsion.

The Executive Director must meet with the student as soon as possible after the student's removal to take the appropriate corrective action or punishment. The removal cannot normally exceed one day. Before the student can be returned to the class or activity the student was removed from, the Executive Director must inform the teacher or administrator who initiated the removal.

Limitations on Emergency Removals

A student may be removed from school immediately by the Executive Director in emergency situations, if the Executive Director has good and sufficient cause to believe the student's presence poses an immediate and continuing danger or a continuing threat of substantial disruption. An emergency removal continues for a maximum of ten (10) days, or until the Charter School rescinds or reverses it through the hearing or appeals process.

Notice of Hearing and Waiver of Hearing Rights for Emergency Expulsions

The Charter School must notify the student's parents/guardians of the emergency expulsion, and their right for a hearing, within twenty four (24) hours of the expulsion (If the expulsion is based on failure to comply with state immunization law, the notice must be made *before* the expulsion is imposed). The notice must be delivered either in person, with the Charter School documenting delivery of the notice by obtaining the parents/guardians' signature, or by certified mail. Reasonable attempts to contact the parents/guardians must be made by phone if the notice is mailed. The notice must:

- Be in the parents/guardians' primary language, to the extent feasible;
- Specify the alleged reasons for the emergency expulsion;
- Identify the corrective action or punishment taken and proposed;
- Explain the rights of the student and his or her parents/guardians to a hearing to contest the allegation(s) as soon as reasonably possible; and
- Explain that parents/guardians have ten (10) school business days after receipt of the notice to request a hearing. It must also state if the request is not received within that timeline, then the right to a hearing may be deemed to have been waived, and the emergency expulsion may be continued as deemed necessary by the Charter School without any further opportunity for the student and parents/guardians to contest it.

Students and their parents/guardians have ten (10) school business days to request the hearing after they receive the notice. The parents/guardians' request for hearing may be made either in writing or verbally, if accepted by the Charter School. If the Charter School does not receive the request for the hearing within ten (10) school business days, it may determine that the parents/guardians have waived that right, and the Charter School may continue the emergency expulsion as deemed necessary by the Charter School.

Prehearing and Hearing Process for Emergency Removals

If the Charter School receives the request for hearing within the designated time frame (ten (10) school business days), it must immediately schedule a hearing, and give notice of the hearing, as soon as reasonably possible. This hearing must occur no later than three (3) school business days from when the Charter School received the request. In the hearing process, the student and parents/guardians have certain rights, including:

- Before the hearing, the right to inspect any evidence the Charter School plans to introduce at the hearing;
- Be represented by legal counsel;
- Question and confront witnesses, unless the witness is excused by the hearing officer. A witness may be excused if the Charter School can demonstrate it made a reasonable effort to produce the witness, or the witness can establish good cause to fear retaliation as a result of being a witness.
- Present the student's explanation of the alleged misconduct; and
- Introduce any evidence or present witnesses. The Charter School has the right to inspect any evidence the student plans to introduce before the hearing.

The Administrative Panel hearing the case shall not be a witness in the case for either the Charter School or the student, and may only determine the student's guilt or innocence based on evidence presented at the hearing. The hearing will either be tape recorded or transcribed verbatim in a written record.

The Administrative Panel must make a decision whether or not to continue the emergency expulsion within one Charter School business day after the hearing concludes. The hearing officer must inform the student, or the student's attorney or parents/guardians, of the findings of fact, conclusions (including whether or not the emergency situation giving rise to the emergency expulsion continues), and whether the emergency expulsion should be continued or a lesser punishment imposed. The Administrative Panel's decision must be sent to the student, or his or her attorney or

parents/guardians, via certified mail.

An emergency expulsion may be continued following the hearing if the emergency basis continues and/or as corrective action or punishment for the actions giving rise to the emergency expulsion in the first place.

The student must appeal the Administrative Panel's decision directly to the courts. The Charter School has the discretion to postpone its decision pending the student's appeal to the court, except if ordered otherwise by the court.

Students With Disabilities

A pupil identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA") or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 ("Section 504") is subject to the same grounds for disciplinary action, including suspension and expulsion, and is accorded the same due process procedures applicable to regular education pupils except when federal and state law mandates additional or different procedures. The Charter School will follow the IDEA, Section 504, and all applicable federal and state laws when imposing any form of discipline on a pupil 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 pupils. The following procedures shall be followed when a student with a disability is considered for suspension or expulsion. These procedures will be updated if there is a change in the law.

- **Services During Suspension**

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP/504 Plan; and receive, as appropriate, a functional behavioral assessment or functional analysis, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting.

- **Procedural Safeguards/Manifestation Determination**

Within ten (10) school days of a recommendation for expulsion or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the Charter School, the parent, and relevant members of the IEP/504 Team shall review all relevant information in the student's file, including the child's IEP/504 Plan, any teacher observations, and any relevant information provided by the parents to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the local educational agency's failure to implement the IEP/504 Plan.

If the Charter School, the parent, and relevant members of the IEP/504 Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

If the Charter School, the parent, and relevant members of the IEP/504 Team make the determination that the conduct was a manifestation of the child's disability, the IEP/504 Team shall:

1. Conduct a functional behavioral assessment or a functional analysis assessment, and implement a behavioral intervention plan for such child, provided that the Charter School had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
2. If a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and
3. Return the child to the placement from which the child was removed, unless the parent and the Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

If the Charter School, the parent, and relevant members of the IEP/504 Team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of the failure to implement the IEP/504 Plan, then the Charter School may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

- Due Process Appeals

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or the Charter School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings or by utilizing the dispute provisions of the 504 Policy and Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent or the Charter school, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, whichever occurs first, unless the parent and the Charter School agree otherwise.

- 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 a disability who violates a code of student conduct.

The Executive Director 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:

- 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;
 - 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
 - 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.
- Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's IEP/504 Team.

- Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to IDEA 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:

- 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.
- The parent has requested an evaluation of the child.
- The child's teacher, or other Charter School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to 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 IDEA-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.

F. Educational Services During Suspension or Expulsion

The Charter School shall provide alternative educational services while a student is excluded due to suspension or expulsion. The educational services must be sufficient for a student to keep up with their classes, and keep earning credits, if they are in high school. Examples: tutoring, access to an alternative education program, or online courses.

G. Re-Engagement Plan

The Charter School should make efforts to have suspended or expelled students return to an educational setting as soon as possible. The Charter School must convene a meeting with the student and the student's parents or guardians within twenty days of the student's long-term suspension or expulsion, but no later than five days before the student's enrollment, to discuss a plan to re-engage the student in a school program at the Charter School or any other school district or school to which the student seeks enrollment . Families must have access to, provide meaningful input on, and have the opportunity to participate in a culturally sensitive and culturally responsive re-engagement plan.