

SUNRISE MIDDLE SCHOOL PUPIL SUSPENSION AND EXPULSION POLICY

This Pupil Suspension and Expulsion Policy has been established in order to promote learning and protect the safety and well-being of all students. When the Policy is violated, it may be necessary to suspend or expel a student from regular classroom instruction.

Staff shall enforce disciplinary rules and procedures fairly and consistently amongst all students. This Policy and its Administrative Procedures will be printed and distributed as part of the Student Handbook and will clearly describe discipline expectations.

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

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

The Director shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures. The notice shall state that this Policy and Administrative Procedures are available on request at the Director's office.

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

A student identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities in Education 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 suspension and expulsion and is accorded the same due process procedures applicable to regular education students except when federal and state law mandates additional or different procedures. The School will follow Section 504 of the Rehabilitation Act, Individuals with Disabilities in Education Act (IDEA), the Americans with Disabilities Act (ADA) of 1990 and all federal and state laws when imposing any form of discipline on a student identified as an individual with disabilities or for whom the 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.

Administrative Procedures For Pupil Suspension And Expulsion

A. Definitions (as used in this policy)

1. "Board" means governing body of the Charter School.
 2. "Expulsion" means disenrollment from the Charter School.
 3. "Schoolday" means a day upon which the Charter School is in session or weekdays during the summer recess.
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4. “Suspension” means removal of a pupil from ongoing instruction for adjustment purposes. However, “suspension” does not mean the following:
 - a. Reassignment to another education program or class at the charter school where the pupil will receive continuing instruction for the length of day prescribed by the Charter School Board for pupils of the same grade level.
 - b. Referral to a certificated employee designated by the Director to advise pupils.
 - c. Removal from the class but without reassignment to another class for the remainder of the class period without sending the pupil to the Director or designee.
5. “Pupil” includes a pupil’s parent or guardian or legal counsel or other representative.
6. “School” means the Charter School.

B. Grounds for Suspension and Expulsion of Students

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

C. Enumerated Offenses

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

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense.
 2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the Director/Administrator or designee’s concurrence.
 3. Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.
 4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.
 5. Committed or attempted to commit robbery or extortion.
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6. Caused or attempted to cause damage to school property or private property.
7. Stole or attempted to steal school property or private property.
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel, and electronic nicotine delivery systems such as e-pens and vape pens.
9. Committed an obscene act or engaged in habitual profanity or vulgarity.
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
12. Knowingly received stolen school property or private property.
13. Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4.
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.
16. Made terrorist threats against school officials and/or school property.
17. Committed sexual harassment.
18. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence.
19. Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment.

The above list is not exhaustive and depending upon the offense, a pupil may be suspended or expelled for misconduct not specified above.

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

D. Suspension Procedure

Suspensions shall be initiated according to the following procedures.

- 1) Informal Conference
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Suspension shall be preceded, if possible, by an informal conference conducted by the Director or the Director's designee with the student and his or her parent and, whenever practicable, the teacher, supervisor or school employee who referred the student to the Director.

The conference may be omitted if the Director or designee determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference.

At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

This conference shall be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to incarceration or hospitalization.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

2) Notice to Parents/Guardians

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

3) Suspension Time Limits/Recommendation for Expulsion

Suspensions, when not including a recommendation for expulsion shall not exceed five (5) consecutive school days per suspension.

Upon a recommendation of expulsion by the Director, the pupil and the pupil's guardian or representative will be invited to a conference to determine if the suspension for the pupil should be extended pending an expulsion hearing. This determination will be made by the Director upon either of the following determinations: 1) the pupil's presence will be disruptive to the education process; or 2) the pupil poses a threat or danger to others. Upon either determination, the pupil's suspension will be extended pending the results of an expulsion hearing.

E. Authority to Expel

A student may be expelled either by the Board following a hearing before it or by the Board upon the recommendation of an Administrative Panel to be assigned by the Board as needed. The Panel should consist of at least three members. The Administrative Panel may recommend expulsion of any student found to have committed an expellable offense.

F. Expulsion Procedures

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

The expulsion hearing will be presided over by the Board President or the chair of the Administrative Panel. In the event a Panel hears the case, it will make a recommendation to the Board for a final decision whether to expel. The hearing shall be held in closed session unless the pupil makes a written request for a public hearing three (3) days prior to the hearing.

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

- 1) The date and place of the expulsion hearing;
- 2) A statement of the specific facts, charges and offenses upon which the proposed expulsion is based;
- 3) A copy of the School's disciplinary rules which relate to the alleged violation;
- 4) Notification of the student's or parent/guardian's obligation to provide information about the student's status at the school to any other school district or school to which the student seeks enrollment;
- 5) The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel or an advocate;
- 6) The right to inspect and obtain copies of all documents to be used at the hearing;
- 7) The opportunity to confront and question all witnesses who testify at the hearing;
- 8) The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf including witnesses.

G. Record of Hearing

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

H. Presentation of Evidence

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. A recommendation by the Administrative Panel

to expel must be supported by substantial evidence that the student committed an expellable offense.

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

If, due to a written request by the expelled pupil, the hearing is held at a public meeting, and the charge is committing or attempting to commit a sexual assault or committing a sexual battery as defined in Education Code Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public.

The decision of the Administrative Panel shall be in the form of a written recommendation to the Board who will make a final determination regarding the expulsion. The final decision by the Board shall be made within ten (10) school days following the conclusion of the hearing.

I. Written Notice to Expel

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

- 1) Notice of the specific offense committed by the student.
- 2) Notice of the right to appeal the expulsion to the District Board of Education. If either Board will not hear such appeals, the Charter School will establish a new panel of retired or current school administrators or teachers who are not related to the Charter School to hear expulsion appeals but who will follow the expulsion appeal procedures outlined in Education Code Sections 48921-48924.
- 3) Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the School.

The Director or designee shall send written notice of the decision to expel to the Student's District of residence and the County Office of Education.

This notice shall include the following:

- a) The student's name
- b) The specific expellable offense committed by the student.

J. Disciplinary Records

The School shall maintain records of all student suspensions and expulsions at the School. Such records shall be made available for the Chartering Agency's review upon request.

K. Expelled Pupils/Alternative Education

Pupils who are expelled shall be responsible for seeking alternative education programs including but not limited to programs within the County or their school district of residence.

L. Rehabilitation Plans

Students who are expelled from the School shall be given a rehabilitation plan upon expulsion as developed by the Board 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 School for readmission.

M. 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 Board following a meeting with the Director 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 Director shall make a recommendation to the Board following the meeting regarding his or her determination. The pupil's readmission is also contingent upon the School's capacity at the time the student seeks readmission or admission.

Adopted:

Amended:

Amended to include electronic delivery nicotine systems on March 12, 2014
