

# Suspension and Expulsion Policy

## Clarksville Charter School

BP 5144.1

Adopted: 06/09/18

Revised: 03/07/24 v4

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Clarksville Charter School is committed to promoting learning and protecting the safety and well-being of all students. In creating this policy, the Charter School has reviewed Education Code Section 48900 *et seq.*, which describes the non-charter schools' list of offenses and procedures, to establish its list of offenses and procedures for suspensions and expulsions. The language that follows closely mirrors the language of Education Code Section 48900 *et seq.* The Charter School is committed to an annual review of policies and procedures surrounding suspensions and expulsions and, as necessary, modification of the lists of offenses for which students are subject to suspension or expulsion.

The purpose of the Clarksville Charter School Governing Board approving this Suspension and Expulsion Policy is to accomplish the following:

1. Establish the Responsibility of the Charter School
2. Identify the Grounds for Suspension and Expulsion of Students
3. Identify Enumerated Offenses
4. Outline Suspension Procedures
5. Outline the Authority to Expel
6. Outline Expulsion Procedures
7. Outline Special Procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses
8. Identify the Record of Hearing
9. Identify the Presentation of Evidence
10. Outline the Written Notice to Expel
11. Outline the Maintenance of Disciplinary Records
12. Outline Expelled Students/Alternative Education
13. Outline Rehabilitation Plans
14. Outline the Readmission Process

**1. Responsibility of the Charter School:** When the policy is violated, it may be necessary to suspend or expel a student from the Charter School. This policy shall serve as the Charter School's policy and procedures for student suspension and expulsion, and it may be amended from time to time without the need to amend the charter, so long as the amendments comport with legal requirements. Charter School staff shall enforce disciplinary rules and procedures fairly and consistently among all students. This policy and its procedures will be printed and distributed as part of the Parent-Student Handbook and will clearly describe discipline expectations. Corporal punishment shall not be used as a disciplinary measure against any student. Corporal punishment includes the willful infliction of or willfully causing the infliction of physical pain on a student. For purposes of the policy, corporal punishment does not include an employee's use of force that is reasonable and necessary to protect the employee, students, staff, or other persons or to prevent damage to school property.

A student has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes but is not limited to, the right to be free from the use of a drug administered to the student in order to control the student's behavior or to restrict the student's freedom of movement if that drug is not a standard treatment for the student's medical or psychiatric

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condition. School staff may use seclusion or a behavior restraint only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive. School staff shall avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

School staff shall not do any of the following:

- Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.
- Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
- Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.
- Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.
- Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.
- Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

The Charter School administration shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures.

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 Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act of 2004 ("IDEIA") or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 ("Section 504") is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to general education students except when federal and state law mandates additional or different procedures. 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, 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 accordance with due process for such students. Additional detail follows below.

**2. 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 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.

**3. Enumerated Offenses:**

- Discretionary Suspension Offenses: Students may be suspended for any of the following

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acts when it is determined the student:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force of violence upon the person of another, except for self-defense.
- 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.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid substance or material that represented same as a controlled substance, alcoholic beverage, or intoxicant.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school property or private property.
- Stole or attempted to steal school property or private property (as used in this policy, “school property” includes, but is not limited to, electronic files and databases).
- Possessed or used tobacco or products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This section does not prohibit the use of his or her own prescription products by a student.
- Committed an obscene act or engaged in habitual profanity or vulgarity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.
- Commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 8, inclusive, shall not be suspended for any of the acts specified above relating to disrupting school activities and willful defiance, and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
- Knowingly received stolen school property or private property
- 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.
- Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code Section 243.4.
- 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.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in hazing. For the purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially

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recognized by an educational institution, that is likely to cause serious bodily injury, personal degradation, or disgrace resulting in physical or mental harm to a former, current, or prospective student. For purposes of this section, “hazing” does not include athletic events or school-sanctioned events.

- Made terrorist threats against school officials and/or school property. For purposes of this section, “terroristic threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime that will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
- Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual’s academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall apply to students in any of grades 4 to 12, inclusive.
- Caused, attempted to cause, threatened to cause, or participated in an act of hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall apply to students in any of grades 4 to 12, inclusive.
- Intentionally harassed, threatened, or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment. This section shall apply to students in any of grades 4 to 12, inclusive.
- Discriminated against, harassed, intimidated, and/or bullied any person or groups of persons based on the following actual or perceived characteristics: disability, gender, nationality, race or ethnicity, religion, sexual orientation, gender identity, gender expression, or association with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within the school.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act.
  - “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 that would be deemed hate violence, harassment, threats, or intimidation, which are directed toward one or more students that have or can be reasonably predicted to have the effect of one or more of the following:

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- Placing a reasonable student (defined as a student, including, but not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of that student's age with exceptional needs) or students in fear of harm to that student's or those students' person or property.
- Causing a reasonable student to experience a substantially detrimental effect on that student's physical or mental health
- Causing a reasonable student to experience substantial interference with that student's academic performance
- Causing a reasonable student to experience substantial interference with that student's ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.
- "Electronic Act" means the transmission by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of communication, including, but not limited to, any of the following:
  - A message, text, sound, or image.
  - A post on a social networking website includes, but is not limited to:
    - 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 listed in subparagraph (1) above.
    - Creating a credible impersonation of another actual student 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 student for the purpose of bullying the student and such that another student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated.
    - 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 student or a profile using the likeness or attributes of an actual student other than the student who created the false profile.
  - Notwithstanding subparagraphs (1) and (2) above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.
- An act of cybersexual bullying. (48900(r)(2)(A)(iii)).
  - For purposes of this section, "cybersexual 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

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above. A photograph or other visual recording 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.

- Cybersexual 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.
- A student 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 student who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1).
- Possessed, sold, or otherwise furnished any knife 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 or designee's concurrence.
- Non-Discretionary Suspension Offenses: Students must be suspended and recommended for expulsion for any of the following acts when it is determined the student:
  - Possessed, sold, or otherwise furnished any firearm, explosive, or other dangerous object unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee with the Director or designee's concurrence.
- Discretionary Expellable Offenses: Students may be recommended for expulsion for any of the following acts when it is determined the student:
  - Caused, attempted to cause, or threatened to cause physical injury to another person.
  - Willfully used force of violence upon the person of another, except for self-defense.
  - Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind.
  - Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid substance or material that represented same as a controlled substance, alcoholic beverage, or intoxicant.
  - Committed or attempted to commit robbery or extortion.
  - Caused or attempted to cause damage to school property or private property
  - Stole or attempted to steal school property or private property
  - Possessed or used tobacco or products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This section does not prohibit the use of his or her own prescription products by a student.

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- Committed an obscene act or engaged in habitual profanity or vulgarity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.
- Knowingly received stolen school property or private property.
- 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.
- Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code Section 243.4.
- 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.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in hazing. For the purposes of this subdivision, “hazing” means a method of initiation or pre-initiation into a student 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, personal degradation, or disgrace resulting in physical or mental harm to a former, current, or prospective student. For purposes of this section, “hazing” does not include athletic events or school-sanctioned events.
- Made terrorist threats against school officials and/or school property. For purposes of this section, “terroristic threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime that will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
- Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual’s academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall apply to students in any of grades 4 to 12, inclusive.
- Caused, attempted to cause, threatened to cause, or participated in an act of hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall apply to students in any of grades 4 to 12, inclusive.
- Intentionally harassed, threatened, or intimidated a student or group of students to

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the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment. This section shall apply to students in any of grades 4 to 12, inclusive.

- Discriminated against, harassed, intimidated, and/or bullied any person or groups of persons based on the following actual or perceived characteristics: disability, gender, nationality, race or ethnicity, religion, sexual orientation, gender identity, gender expression, or association with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within the school.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act.
  - “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 acts one or more acts committed by a student or group of students that would be deemed hate violence, harassment, threats, or intimidation, which are directed toward one or more students that have or can be reasonably predicted to have the effect of one or more of the following:
    - Placing a reasonable student (defined as a student, including, but not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that student’s age, or for a person of that student’s age with exceptional needs) or students in fear of harm to that student’s or those students’ person or property.
    - Causing a reasonable student to experience a substantially detrimental effect on that student’s physical or mental health
    - Causing a reasonable student to experience substantial interference with that student’s academic performance
    - Causing a reasonable student to experience substantial interference with that student’s ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.
  - “Electronic Act” means the transmission by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:
    - A message, text, sound, or image.
    - A post on a social networking Internet website includes but is not limited to:
      - 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 listed in subparagraph (1) above.
      - Creating a credible impersonation of another actual student 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



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student for the purpose of bullying the student and such that another student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated.

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  - For purposes of this section, “cybersexual 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 above. A photograph or other visual recording 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.
  - Cybersexual 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.
- A student 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 student who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1).
- Possessed, sold, or otherwise furnished any knife 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 or designee’s concurrence.
- Non-Discretionary Expellable Offenses: Students must be recommended for expulsion for any of the following acts when it is determined pursuant to the procedures below that the student:
  - Possessed, sold, or otherwise furnished any firearm, explosive, or other dangerous object unless, in the case of possession of any object of this type, the students have obtained written permission to possess the item from a certificated school employee, with the Director or designee’s concurrence.

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If it is determined by the Board of Directors that a student has brought a firearm or destructive device, as defined in Section 921 of Title 18 of the United States Code, onto campus or has possessed a firearm or dangerous device on campus, the student shall be expelled for one year, pursuant to the Federal Gun Free Schools Act of 1994.

The term “firearm” means (A) any weapon (including a starter gun) that will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such a term does not include an antique firearm.

The term “destructive device” means (A) any explosive, incendiary, or poison gas, including but not limited to (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses.

#### **4. Suspension Procedure:** Suspensions shall be initiated according to the following procedures:

- Conference: Suspension shall be preceded, if possible, by a conference conducted by the Director or the Director’s designee with the student and his or her parent and, whenever practical, the teacher, supervisor, or Charter School employee who referred the student to the Director or designee.
- 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 Charter School personnel. If a student is suspended without this conference, both the parent/guardian and the student shall be notified of the student’s right to return to school for the purpose of a conference.
- At the conference, the student shall be informed of the reason for the disciplinary action, the evidence against that student, and the other means of correction that were attempted before the disciplinary action, and shall be given the opportunity to present that student’s version and evidence in his or her defense. This conference shall be held within two school days, unless the student 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 student for failure of the student’s parent or guardian to attend a conference with Charter School officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student’s parent or guardian at the conference.
- Notice to Parents/Guardians: At the time of the suspension, an administrator or designee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension and the date of return following 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 Charter 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.

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- The notice for Foster Students will include the social worker and the child's attorney if there is a suspension or expulsion.
  - 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 or Director's designee, the student and the student's guardian or representative will be invited to a conference to determine if the suspension for the student should be extended pending an expulsion hearing. This determination will be made by the Director or designee upon either of the following:
    - 1) the student's presence will be disruptive to the education process, or
    - 2) the student poses a threat or danger to others. Upon either determination, the student's suspension will be extended pending the results of an expulsion hearing
    - If such extended suspension exceeds 10 days, the following procedures shall be followed: 1) The Executive Director shall provide timely, written notice of the charges against the student and an explanation of the student's basic rights; 2) The School will provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the student has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel. At this hearing, it will be determined whether the presence of the student at the School would cause a danger to persons or property or a threat of disrupting the instructional process pending the results of an expulsion hearing.
  - Upon the request of a parent/guardian/educational rights holder/student, a teacher shall provide to a student in any of grades 1 to 12 who has been suspended from the School for two or more school days the homework that the pupil would otherwise have been assigned. If a homework assignment that is requested and turned into the teacher by the student either upon the student's return to school from suspension or within the timeframe originally prescribed by the teacher, whichever is later, is not graded before the end of the academic term, that assignment shall not be included in the calculation for the student's overall grade in the class.
- 5. Authority to Expel:** A student may be expelled either by the Charter School Board following a hearing before it or by the Charter School Board upon the recommendation of an Administrative Panel to be assigned by the Board as needed. The Administrative Panel should consist of at least three members who are certificated and neither a teacher of the student nor a Board member of the Charter School's governing board. The Administrative Panel may recommend the expulsion of any student found to have committed an expellable offense.
- 6. 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 Student has committed an expellable offense.

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In the event an Administrative Panel hears the case, it will make a recommendation to the Board for a final decision on whether to expel. The hearing shall be held in closed session (complying with all student confidentiality rules under FERPA) unless the Student 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 student. 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 Charter 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 Charter 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 be employed and be represented by counsel or a non-attorney advisor;
6. The right to inspect and obtain copies of all documents to be used at the hearing;
7. The opportunity to present testimony, evidence, and witnesses, and 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

### **7. Special Procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses:**

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

- The complaining witness in any sexual assault or battery case must be provided with a copy of the applicable disciplinary rules and advised of his/her right to (a) receive five days' notice of his/her scheduled testimony, (b) have up to two (2) adult support persons of his/her choosing present in the hearing at the time he/she testifies, which may include a parent, guardian, or legal counsel, and (c) elect to have the hearing closed while testifying.
- The Charter School must also provide the victim with a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.
- At the discretion of the entity conducting the expulsion hearing, the complaining witness shall be allowed periods of relief from examination and cross-examination during which he or she may leave the hearing room.
- The entity conducting the expulsion hearing may also arrange the seating within the

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hearing room to facilitate a less intimidating environment for the complaining witness.

- The entity conducting the expulsion hearing may also limit time for taking the testimony of the complaining witness to the hours they are normally in school if there is no good reason to take the testimony during other hours.
- Prior to a complaining witness testifying, the support person must be admonished that the hearing is confidential. Nothing in the law precludes the person presiding over the hearing from removing a support person whom the presiding person finds is disrupting the hearing. The entity conducting the hearing may permit any one of the support persons for the complaining witness to accompany him or her to the witness stand.
- If one or both of the support persons is also a witness, the Charter School must present evidence that the witness's presence is both desired by the witness and will be helpful to the Charter School. The person presiding over the hearing shall permit the witness to stay unless it is established that there is a substantial risk that the testimony of the complaining witness would be influenced by the support person, in which case the presiding official shall admonish the support person or persons not to prompt, sway, or influence the witness in any way. Nothing shall preclude the presiding officer from exercising his or her discretion to remove a person from the hearing whom he or she believes is prompting, swaying, or influencing the witness.
- The testimony of the support person shall be presented before the testimony of the complaining witness, and the complaining witness shall be excluded from the courtroom during that testimony.
- Especially for charges involving sexual assault or battery, if the hearing is to be conducted in public at the request of the student being expelled, the complaining witness shall have the right to have their testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examinations in another place communicated to the hearing room by means of closed-circuit television.
- Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence to be heard. Before such a determination regarding extraordinary circumstances can be made, the witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

**8. 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.

**9. 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

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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. Sworn declarations may be admitted as testimony from witnesses of whom the Board or Administrative Panel 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 student, 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 written findings of fact and 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.

If the Administrative Panel decides not to recommend expulsion, the student shall immediately be returned to their educational program.

- 10. 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 adopted findings of fact, to the student or parent/guardian. This notice shall also include the following: (a) Notice of the specific offense committed by the student; and (b) 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 Charter School.

The Director or designee shall send a copy of the written notice of the decision to expel to the authorizer. This notice shall include the following: (a) The student's name; and (b) The specific expellable offense committed by the student.

- 11. Disciplinary Records:** The Charter School shall maintain records of all student suspensions and expulsions at the Charter School. Such records shall be made available to the authorizer upon request.
- 12. Expelled Students/Alternative Education:** Students 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. The Charter 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.
- 13. Rehabilitation Plans:** Students who are expelled from the Charter 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 student may reapply to the Charter School for readmission.

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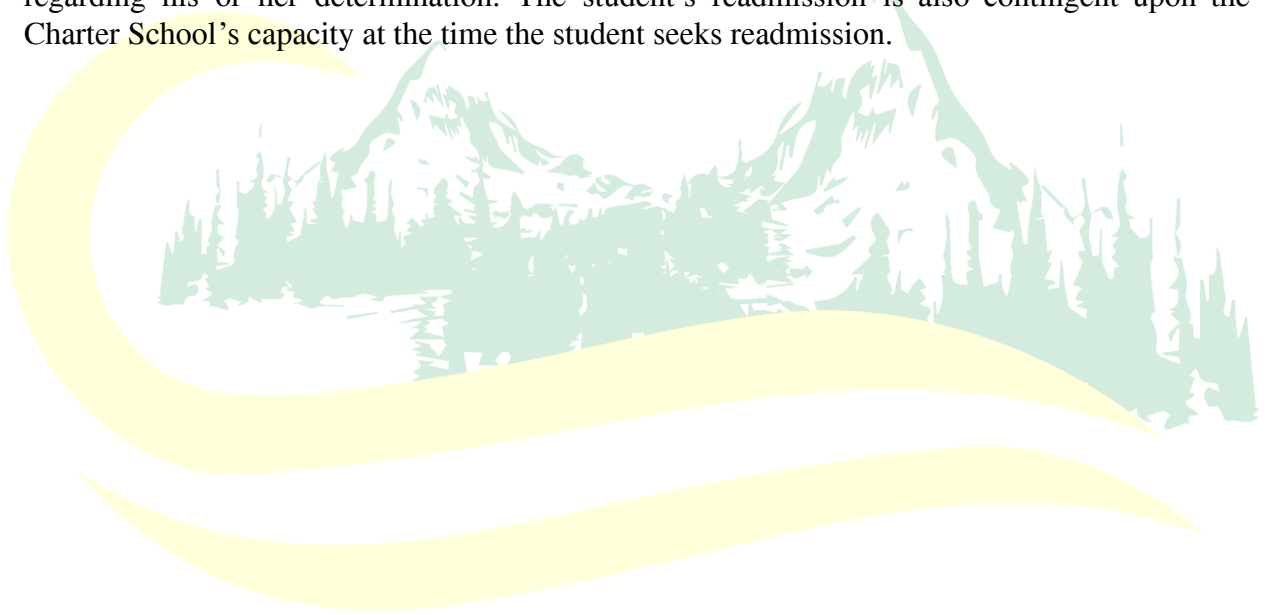
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- 14. Readmission:** The decision to readmit a student or to admit a previously expelled student from another school district or charter school shall be at the sole discretion of the Board following a meeting with the Director or designee and the student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



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