



Board Agenda Item #	Agenda Item # IIIC- Discussion Item
Date:	September 12, 2018
To:	MPS Magnolia Board of Directors- Academic Committee
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	Dr. Callaham & Dr. Lopez
RE:	Governing Board Training on Procedures for Student Expulsion and due process rights for students

Proposed Board Motion

Information Only

Introduction

- Information regarding Student Suspension and Expulsion data and due process for students

Background

- Data includes national, state and MPS wide

Analysis (If applicable)

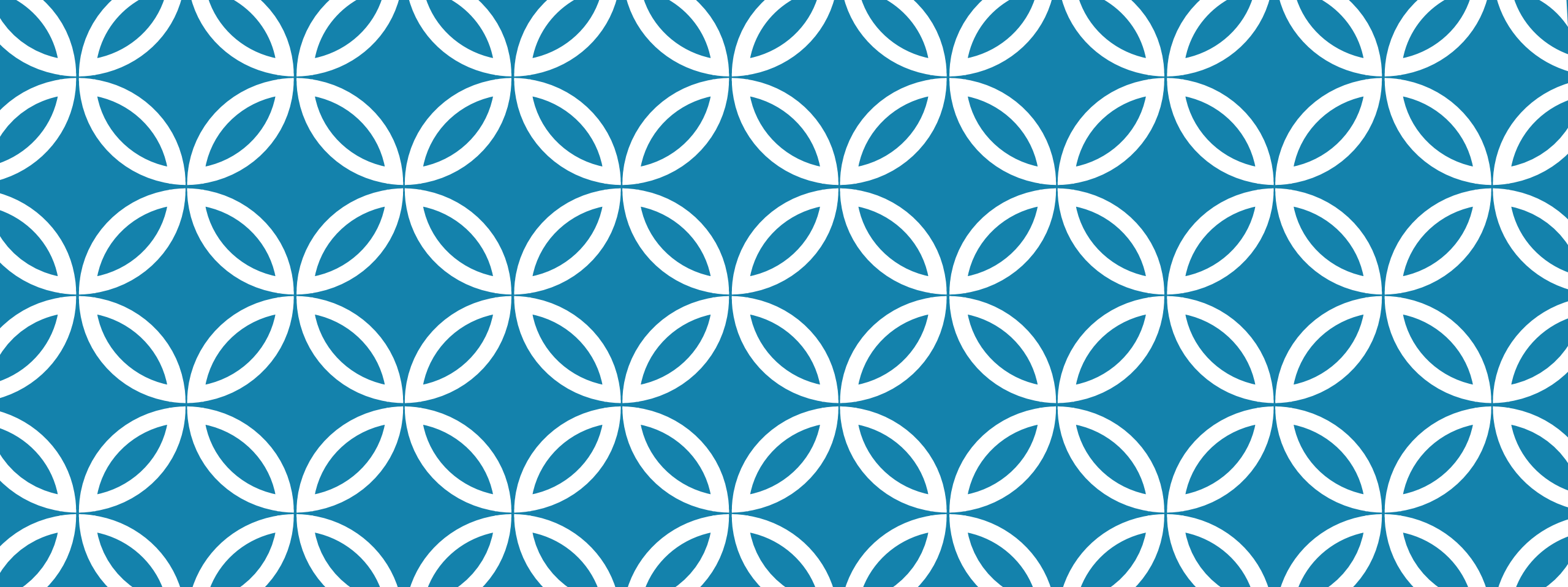
- Analyzed the data for all schools

Budget Implications

- none

Exhibits (attachments):

- PowerPoint- Suspension/ Expulsion Data, Procedures, and Goals
- Student/ Parent Handbook Pp. 25- 28 & 31-42



SUSPENSION/EXPULSION DATA, PROCEDURES AND GOALS

Presented by: Dr. Brenda D.
Lopez & Dr. Artis Callaham

DATA: NATIONAL

- Black students are 3.8 times more likely to be suspended than white students
- Black girls are 6 times more likely to be suspended than White girls
- Latino students represent 21% of suspensions and 25% of expulsions
- One in every 13 Native American students is suspended nationally
- Black boys with disabilities have a 33.8% chance of being suspended compared to only a 16.2% chance for white boys with disabilities
- 9% of LGBTQ students were disciplined for simply identifying as LGBTQ

DATA: CALIFORNIA

- The statewide suspension rate for Black males is 3.6 times greater than that of the statewide rate for all students
- While African Americans account for only 5.8% of the state's public-school enrollment, they represent 17.8% of students who are suspended in the state
- While 3.6% of all students were suspended in 2016-2017, the suspension rate for Black boys and young men was 12.8%
- In sum, the black suspension rate stands out on the high side, the Asian rate stands out on the low side, and Hispanic and white rates are near the state average

Get Out! Black Male Suspensions in California Public Schools

Wood, Harris III, & Howard, 2018

Brown Center Report on American Education: Race and school suspensions, 2017






MPS DATA

57 -Overall Out of school Suspensions 2017-18 School Year

31 -Overall In school Suspensions 2017-2018 School Year

2 -Overall Expulsions 2017-18 School Year







CALIFORNIA SCHOOL DASHBOARD

State Indicators	All Students Performance	Status	Change
Chronic Absenteeism	N/A	N/A	N/A
Suspension Rate (K-12)		Very Low 0.5%	Declined -1.1%
English Learner Progress (K-12)		Low 62%	Increased +1.5%
Graduation Rate (9-12)		Medium 86%	Increased +5%
College & Career	N/A	N/A	N/A
English Language Arts (K-8)		Low 60 points below level 3	Declined -10
Mathematics (K-8)		Very Low 15 points above level 3	Declined Sig. -25






CALIFORNIA SCHOOL DASHBOARD

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	Student Performance	Number of Students	Status	Change
All Students		577	Very Low 0%	Maintained -0.2%
English Learners		71	Very Low 0%	Maintained 0%
Foster Youth		0	*	*
Homeless		12	Very Low 0%	*
Socioeconomically Disadvantaged		520	Very Low 0%	Maintained -0.2%
Students with Disabilities		88	Very Low 0%	Maintained 0%
African American		1	*	*
American Indian		0	*	*
Asian		24	Very Low 0%	Maintained 0%
Filipino		16	Very Low 0%	Maintained 0%
Hispanic		489	Very Low 0%	Maintained 0%
Pacific Islander		0	*	*
Two or More Races		4	*	*
White		43	Very Low 0%	Declined Significantly -2.2%

Performance Levels:

 Red (Lowest Performance)
  Orange
  Yellow
  Green
  Blue (Highest Performance)

hooldashboard.org/#/ReportGroup/19647336119945/3/14 n 11 students and is not reported for privacy reasons. The performance level (color) is not included when there are fewer than 30 students in any

SUSPENSION OFFENSES & PROCEDURE

- Enumerated Offenses, Discretionary Suspension Offenses (Student/ Parent Handbook, p.32-34)
- Mandatory Suspension Offenses (p. 34-35)
- Suspension Procedures (p. 35): Conference > Notice to Parent/ Guardian > Suspension Appeals > Uphold Suspension or Determine Suspension is overturned
- Recommendation for placement/ expulsion (p.35-36)

EXPULSION OFFENSES & PROCEDURE

- Expulsion (Discretionary Offenses p. 36-38)
- Expulsion (Mandatory Offenses p. 38)
- Expulsion Procedure (p. 39-42) : Recommendation for expulsion> Expulsion hearing> Record of Expulsion Hearing> Presentation of Evidence> Written Notice to Expel> Disciplinary Records> Expulsion Appeals>Required Notification (If pupil is expelled)
- Interim Placement during process (p. 41)
- Additional provisions (p. 41-42)

BOARD LEVEL INVOLVEMENT

Expulsion Appeal

In order to appeal an expulsion, the student/parent/guardian must submit a written appeal to the CEO of MPS outlining the reason for the appeal, attaching any supporting documentation, within ten (10) calendar days of being informed of the expulsion.

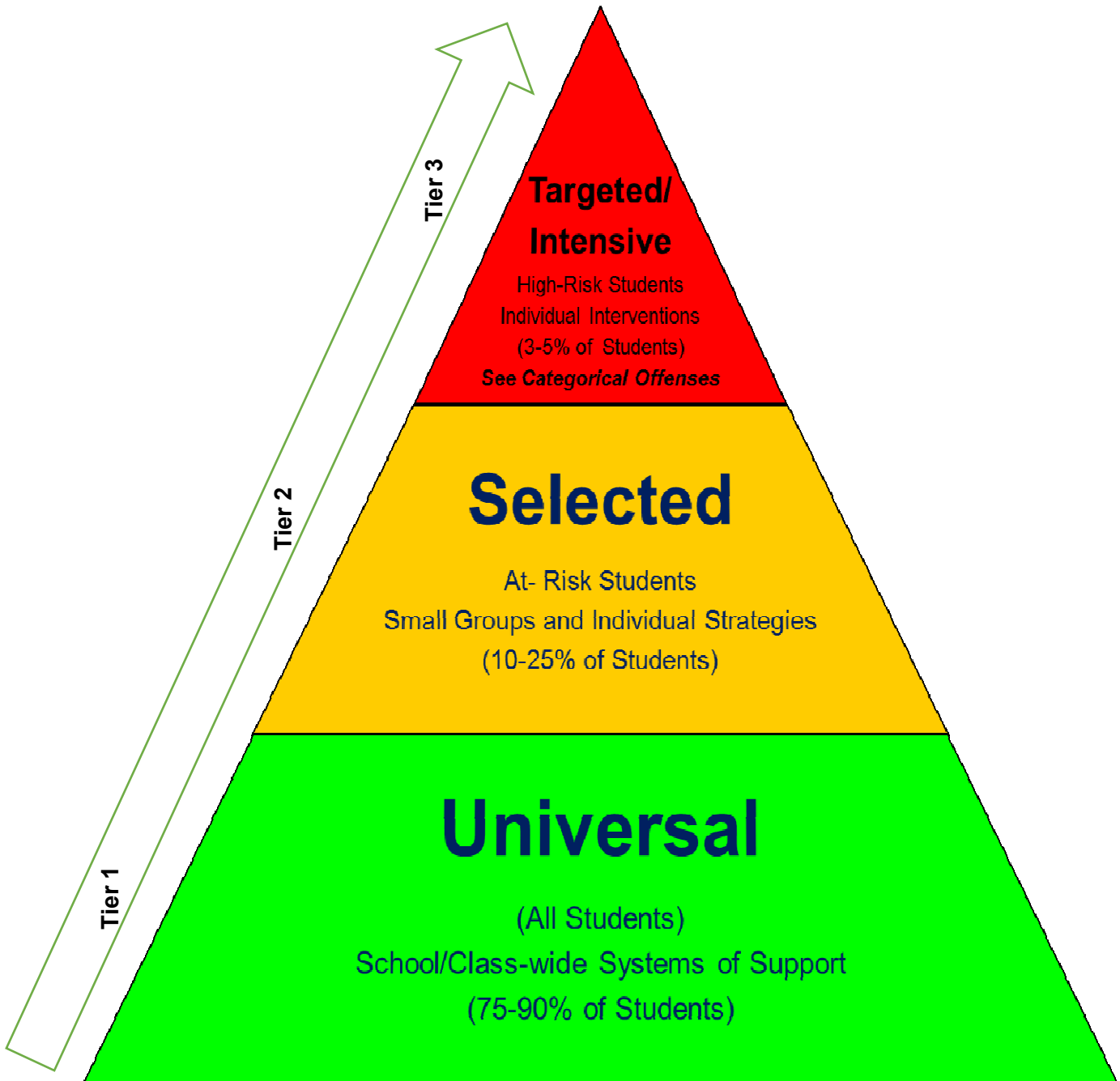
In response to the written request for an appeal, the CEO of MPS shall call a meeting of the Board of Directors. The Board shall convene a hearing on the appeal within ten (10) calendar days of receipt of a timely written request for an appeal.

At the hearing on the appeal, the student shall have the right to present evidence. The Board will consider evidence and/or testimony as appropriate and will render a written decision that shall be in the best interest of the student and the Charter School. That decision shall be final.

MOVING FORWARD

- Proactive not Reactive
- Structured Process to track supports and Data
- Multi-Tiered Systems of Support (MTSS)/ Positive Behavior Intervention Structures (PBIS) program development and roll out process
- Research based approach to addressing student behavior
- Student Support Services
- Focus on the mindset of the adults as well as children

Multi-Tiered System of Response to Behavior



Universal

Examples of Classroom, Support and Teacher-Led Responses

These interventions are designed to teach appropriate behavior so that students may contribute to the learning community within the classroom environment. Teachers are encouraged to try a variety of instructional and classroom management strategies to support all learners.

Level 1 Infractions	Interventions
<ul style="list-style-type: none"> ▪ Invading personal space ▪ Antagonizing others ▪ Violation of school/class rules ▪ Horseplaying ▪ Violating off-limits/restricted area ▪ Habitually tardy and/or not being in assigned location ▪ Disrupting the learning environment/Off task ▪ Littering ▪ Not having proper materials, supplies, and/or equipment for class participation ▪ Inappropriate use of electronic devices ▪ Dress code violation ▪ Inappropriate language/actions (hurtful, vulgar, gossip, etc.) ▪ Passive participation in hurtful acts/words against others ▪ Public display of affection (holding hands, kissing, hugging, etc.) ▪ Refusing to cooperate and comply with school rules/personnel 	<ul style="list-style-type: none"> ✓ School-wide PBIS ✓ Social-emotional learning program ✓ Proactive classroom management ✓ Regular, preemptive communication with families ✓ Classroom incentives ✓ Seating, assignment, behavioral accommodations ✓ Conferencing with student(s) and parents ✓ Verbal correction and redirection ✓ Reminders, role-play, daily progress sheet ✓ Loss of classroom privileges ✓ Written and/or verbal reflection

Selected

Examples of Support, Removal and Administrative Responses

These responses engage the students's support system to ensure successful learning and to alter conditions that are inappropriate or disruptive.

Level 2 Infractions	Interventions
<ul style="list-style-type: none"> ▪ Using/possessing tobacco and/or lighter ▪ Violating traffic or safety regulations ▪ Encouraging other students to violate school rules ▪ Leaving school and/or school bus without permission ▪ Fighting and/or arranging altercations ▪ Using objects inappropriately (i.e., the use of an object to harm others or damage property) ▪ Physical assault without serious bodily injury (i.e., pushing with intent, kicking, hitting, pinching, spitting) ▪ Defacing and/or vandalism of school property ▪ Plagiarism/academic dishonesty ▪ Leaving school or classroom without permission (truancy) ▪ Improper use of computer (e.g., viewing unauthorized websites, cheating, overriding district filter, etc.) ▪ Stealing and/or possessing stolen property ▪ Failure to attend to/complete assigned restorative action ▪ Gambling or Extortion ▪ Habitual violations of school/class rules ▪ Forgery of signatures ▪ Sexually explicit behavior ▪ Planning and/or arranging actions with malicious intent ▪ Writing or drawing obscene /profane language/pictures ▪ Harassment (i.e., physical, verbal, and sexual) ▪ Bullying/cyberbullying ▪ Violation of personal boundaries ▪ Refusing to cooperate and comply with school rules/personnel 	<ul style="list-style-type: none"> ✓ Behavioral contract ✓ Self-monitoring ✓ School-home communication ✓ Adult or peer mentorship ✓ Utilize check-in and check-out system ✓ Intensive academic and/or social support ✓ Reflection (lunch, after school, Saturday, etc.) ✓ Refer student to SSPT ✓ Loss of privileges ✓ Counseling ✓ Temporary removal from class ✓ Extended school day

Targeted/Intensive

Examples of support, removal and School Site Administrators and Home Office Responses.

These responses address serious behavior and potential implications for future harm. They promote safety of the school community and should be used in a progressive fashion.

*See **Categorical Offenses***

Level 3 Infractions	Interventions
<ul style="list-style-type: none"> ▪ Physically assaulting with serious bodily injury ▪ Conduct or habits injurious to others (peers/authority) ▪ Using/possessing controlled and/or dangerous substances and/or paraphernalia ▪ Bullying (harassing, intimidating, cyberbullying) ▪ Fighting and/or arranging altercations ▪ Using/possessing weapons and/or weapon paraphernalia including but not limited to those prohibited under federal law ▪ Harassment (i.e., physical, verbal, and sexual) ▪ Arson, attempting to commit arson and/or possession of explosives/fireworks (i.e., smoke bombs, sink bombs, etc.) ▪ Causing a false fire alarm ▪ Making a bomb/explosive threat ▪ Encouraging other students to violate school rules ▪ Student hazing ▪ Using gang and/or secret society symbols/acts ▪ Inappropriate use of electronic devices ▪ Public displays of sexually explicit behavior ▪ Defacing and/or vandalism of school property ▪ Gambling ▪ Habitual violations of school/class rules ▪ Forgery of signatures ▪ Stealing and/or possessing stolen property ▪ Improper use of computer (e.g., viewing unauthorized websites, cheating, overriding school filter, etc.) ▪ Sexual explicit behavior, Lewd Conduct, Writing or drawing obscene /profane language/pictures 	<ul style="list-style-type: none"> ✓ All Tier 1 and Tier 2 interventions ✓ FBA-based behavior intervention plans ✓ Teaching replacement behavior ✓ Home and community supports ✓ Self-management program ✓ Restricted access ✓ In-school reflection and/or suspension ✓ Short-term out-of-school suspension ✓ Extended out-of-school suspension ✓ Request for alternate educational setting ✓ Recommendation for expulsion

<p>Disruption and/or intimidation caused by the wearing of any type of clothing, accessories, hair style, or by writing of any signs identified as or associated with gangs. No gang activity or gang association will be permitted at school or school sponsored activities. Gang symbols on notebooks, lockers, book bags, etc. are not permitted and will be documented. Students may not promise to become or be members of a gang, secret society, illegal club, sorority or fraternity.</p>
<p>Arson</p>
<p>Intentionally starting any fire or combustion on school property</p>
<p>Public Display of Affection</p>
<p>Public displays of affection are not allowed.</p>
<p>Provoking/Intimidating Behavior Encouraging or Urging Other Students to Violate School Rules</p>
<p>Any student who, by means of provocation, intimidation, encouragement, request, or other means of promotion, induces or attempts to induce another student to violate a MPS school rule shall be subject to discipline.</p>

Students with an IEP:

If a student has an IEP, that IEP and any applicable behavior plan shall be followed, accordingly to state and federal law. If the behavior(s) worsens or the frequency increases, the student’s IEP team may meet to review the plan and its implementation, and modify it, as necessary, to address the behavior(s). Special Education staff, general education staff, parents, and related service providers specified in the IEP must be informed and involved.

MPS follows state and federal laws regarding discipline, including suspension and expulsion, of students with disabilities. See also Section D: Suspension and Expulsion Procedures, below, for more information.

D. SUSPENSION AND EXPULSION PROCEDURES

The following Student Suspension and Expulsion Policy has been established in order to promote learning and protect the safety and well-being of all students at MPS. Staff shall enforce disciplinary rules and procedures fairly and consistently among 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 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.

When the policy is violated, it may be necessary to suspend or expel a student from regular classroom instruction. This policy shall serve as MPS’ policy and procedures for student suspension and expulsion. Suspended or expelled students shall be excluded from all school and school-related activities unless otherwise agreed during the period of suspension or expulsion.

This Policy and its Procedures will clearly describe discipline expectations, and it will be printed and distributed as part of the Student Handbook which is sent to each student at the beginning of the school year. The MPS administration shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures.

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.

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

PROGRESSIVE POSITIVE DISCIPLINE

Positive Consequences

MPS school staff has committed itself to encouraging and supporting the attainment of academic skills as well as social skills, such as listening, friendship-making, problem solving, and alternatives to aggression. To inspire and encourage students to develop their potential in all of these areas, the following reinforcements will be used for positive behavior:

- Individual awards/recognition
- Classroom awards/recognition
- Certificates
- Displays
- Positive contact with parent/guardian
- Special activities (field trips, movie nights, picnics, etc.)
- Publications
- Assemblies
- Positive SIS points

Positive student behavior and improvements will be acknowledged and encouraged by the MPS staff. Teachers will not only report discipline issues on the school information system, but also positive behaviors and accomplishments. Parents will also be informed of positive behavior and improvements via phone, email, and home visits. Students will receive certificates and/or rewards for outstanding performance and behaviors.

Alternatives to Suspension

To intervene in student behavior, MPS has a progressive discipline plan in place at each of its schools. This plan is published at the beginning of each school year in the Parent/Student handbook. The handbook also includes a school-parent-student compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will develop a partnership to help children achieve high academic and behavior standards. The discipline plan includes information about student expectations and progression of disciplinary procedures from day-to-day discipline to suspension and expulsion.

MPS believes that alternatives to suspension align with our schoolwide positive behavior support plan. Following are list of alternatives to be considered before suspending a student: warning, phone call home, parent conference, teacher/administrative reflection, written assignment/research/presentation, loss of privileges, behavior contract, parent shadowing, mentorship (peer/teacher), referral (counseling, SSPT, Dean of Students/Principal), assigning volunteer work/community service, Saturday school, and in-school suspension.

Reflection:

Reflection will be held on assigned day either during the lunch period or after school for up to 60 minutes. Students will have at least one (1) day notice that they must serve a reflection that is longer than twenty (20) minutes in order to make arrangements to be picked up from school. Parents may request in person a delay of the reflection; no phone calls or notes will be accepted for this request.

In School Suspension (ISS):

Notice of In School Suspension (ISS) and the reasons for the ISS will be given to the student and the parent in writing. The student will remain on campus during school hours in a designated area not in their regular class setting. The student will have no or limited contact with students and teachers while serving an ISS. Student is expected to complete their classroom assignments and school community service during ISS.

GROUNDS FOR SUSPENSION

Jurisdiction

A student may be suspended for prohibited misconduct if the act is (1) related to school activity; (2) school attendance occurring at MPS or at any other school; or (3) a MPS sponsored event. A student may be suspended for acts that are enumerated below and related to school activity or attendance that occur at any time, including, but not limited to, and of the following:

- 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; or
- d) during, going to, or coming from a school-sponsored activity.

Enumerated Offenses

Discretionary Suspension Offenses

Students may be suspended for any of the following acts when it is determined the student:

1. Caused, attempted to cause, or threatened to cause physical injury to another person resulting in minor harm.
2. Willfully used force of violence upon the person of another, except self-defense resulting in minor injury.
3. Unlawfully possessed, used, sold or otherwise furnished nominal amounts of any controlled substance, alcoholic beverage, or intoxicant of any kind as defined in Health and Safety Code Sections 11053-11058.
4. Unlawfully under the influence of any controlled substance, alcoholic beverage, or intoxicant of any kind as defined in Health and Safety Code Sections 11053-11058.
5. 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 and represented same as controlled substance, alcoholic beverage or intoxicant.
6. Committed or attempted to commit robbery or extortion.
7. Caused or attempted to cause damage to school property or private property resulting in negligible loss.
8. Stole or attempted to steal school property or private property.
9. 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 pupil.
10. Committed an obscene act or engaged in habitual profanity or vulgarity.
 11. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.
 12. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 13. Knowingly received stolen school property or private property.
 14. 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.
 15. Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.
 16. 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.
 17. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
 18. 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, which is likely to cause serious bodily injury or 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.
 19. 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 which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
 20. 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.
 21. Caused, attempted to cause, threaten 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.
 22. 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.
 23. Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act.
 - 1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students which would be deemed hate violence or harassment, threats, or intimidation, which are directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:
 - i. Placing a reasonable student (defined as a student, including, but is not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with exceptional needs) or students in fear of harm to that student's or those students' person or property.

- ii. Causing a reasonable student to experience a detrimental effect on his or her physical or mental health.
 - iii. Causing a reasonable student to experience interference with his or her academic performance.
 - iv. Causing a reasonable student to experience interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.
- 2) "Electronic Act" means the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:
- i. A message, text, sound, video, or image.
 - ii. A post on a social network Internet Web site including, but not limited to:
 - (a) Posting to or creating a burn page. A "burn page" means an Internet Web site created for the purpose of having one or more of the effects as listed in subparagraph (1) above.
 - (b) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in subparagraph (1) above. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
 - (c) Creating a false profile for the purpose of having one or more of the effects listed in subparagraph (1) above. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
 - iii. An act of cyber sexual bullying.
 - (a) For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (i) to (iv), inclusive, of paragraph (1). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
 - (b) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
- 3) 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.
24. A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1)(a)-(b).
25. 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 Executive Director or designee's concurrence.

Mandatory Suspension Offenses

Students shall be suspended when the following occur on school campus or at a school activity off campus, for any of the following reasons:

1. Possessing, selling, or furnishing a firearm, as defined below. E.C. 48915(c)(1)

2. Brandishing a knife at another person. E.C. 48915(c)(2)
3. Unlawfully selling a controlled substance. E.C. 48915(c)(3)
4. Committing or attempting to commit a sexual assault or committing a sexual battery, as defined in the enumerated offenses, above. E.C. 48915(c)(4)
5. Possession of an explosive, as defined below. E.C. 48915(c)(5)

SUSPENSION PROCEDURES

Suspensions shall be initiated according to the following procedures:

Conference

Suspension shall be preceded, if possible, by a conference conducted by the Principal or the Principal's designee with the student and his or her parent and, whenever practical, the teacher, supervisor or school employee who referred the student to the Principal. The conference may be omitted if the Principal 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 student 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 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 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 suspension, the Principal 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 suspension. This notice shall state the specific offense committed by the student. In addition, the notice will 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 will request

that the parent/guardian respond to such requests without delay.

Suspension Time Limits

Suspensions, when not including a recommendation for expulsion, shall not exceed five (5) consecutive school days per suspension. A student may be suspended from school for not more than 20 school days in any school year unless, for purposes of adjustment, the student enrolls in or is transferred another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

Suspension Appeals

Students and parent/guardian may appeal a suspension within five (5) school days of the suspension. This appeal will be made to the Principal and heard by a Reflection Committee. The Reflection Committee is an advisory committee to the Principal, trained quarterly in restorative practices and PBIS, and will be comprised of at least one school administrator, and at least two teachers, and may also include a non-certificated employee. All Reflection Committee hearings on suspensions will be held within two (2) school days of the appeal being made. The decision of the Reflection Committee is final. Based on the information submitted or requested, the Reflection Committee may make one of the following decisions regarding the suspension:

- Uphold the suspension
- Determine that the suspension was not within school guidelines, overturn the suspension, and order that all records and documents regarding the disciplinary proceeding be destroyed. No information regarding the suspension will be placed in the student's permanent record or shared with anyone not directly involved in the proceedings. Charter School shall make arrangements to provide the student with classroom materials and assignments for the duration of student's absence. Student will be provided the opportunity to make academic progress, make up assignments, and earn credit missed.

Notwithstanding the foregoing, the Charter School will maintain student records in accordance with Education Code Section 49602 and 5 CCR 16024.

Recommendation for Placement/Expulsion

Upon a recommendation of Placement/ Expulsion by the Principal, the student and the student's parent/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

Principal upon either of the following determinations: (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.

Access to Education

For suspensions that are not pending an expulsion hearing, Charter School shall make arrangements to provide the student with classroom material and current assignments to be completed at home during the length of the suspension. For suspensions pending an expulsion hearing, Charter School shall be responsible for the appropriate interim placement of students. Please see "Interim Placement" below for details.

GROUNDS FOR EXPULSION

Jurisdiction

A student may be expelled for prohibited misconduct if the offense is (1) related to school activity; (2) school attendance occurring at MPS or at any other school; or (3) a MPS sponsored event. A student may be expelled for offenses that are described below and related to school activity or attendance that occur at any time, including, but not limited to, and of the following:

- 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; or
- d) during, going to, or coming from a school-sponsored activity.

The length of an expulsion is addressed above, under "Rehabilitation Plans."

Expulsion (Discretionary Offenses)

1. Caused, attempted to cause, or threatened to cause physical injury to another person resulting in serious bodily harm.
2. Willfully used force of violence upon the person of another, except self-defense resulting in serious bodily injury.
3. Unlawfully possessed, used, sold or otherwise furnished significant amounts of any controlled substance, alcoholic beverage, or intoxicant of any kind as defined in Health and Safety Code Sections 11053-11058.
4. Unlawfully under the influence of any controlled substance, as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind.

5. 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 and represented same as controlled substance, alcoholic beverage or intoxicant.
6. Committed or attempted to commit robbery or extortion in excess of \$1,000.
7. Caused or attempted to cause damage to school property or private property in excess of \$1,000.
8. Stole or attempted to steal school property or private property in excess of \$1,000.
9. Habitually disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
10. 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.
11. Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.
12. 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.
13. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
14. 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, which is likely to cause serious bodily injury or 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.
15. 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 which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even

- if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
16. 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.
 17. Caused, attempted to cause, threaten 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.
 18. 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.
 19. Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act.
 - 1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students which would be deemed hate violence or harassment, threats, or intimidation, which are directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:
 - i. Placing a reasonable student (defined as a student, including, but is not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with exceptional needs) or students in fear of harm to that student's or those students' person or property.
 - ii. Causing a reasonable student to experience a detrimental effect on his or her physical or mental health.
 - iii. Causing a reasonable student to experience interference with his or her academic performance.
 - iv. Causing a reasonable student to experience interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.
 - 2) "Electronic Act" means the creation or transmission originated on or off the school site, 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:
 - i. A message, text, sound, video, or image.
 - ii. A post on a social network Internet Web site including, but not limited to:
 - (a) Posting to or creating a burn page. A "burn page" means an Internet Web site created for the purpose of having one or more of the effects as listed in subparagraph (1) above.
 - (b) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in subparagraph (1) above. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
 - (c) Creating a false profile for the purpose of having one or more of the effects listed in subparagraph (1) above. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
 - iii. An act of cyber sexual bullying.
 - (a) For purposes of this clause, "cyber sexual bullying" means

the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in subparagraphs (i) to (iv), inclusive, of paragraph (1). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(b) For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

- 3) 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.
 20. A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (3)(a)-(b).
 21. 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 Executive Director or designee's concurrence.
3. Unlawfully selling a controlled substance. E.C. 48915(c)(3)
 4. Committing or attempting to commit a sexual assault or committing a sexual battery, as defined in the enumerated offenses, above. E.C. 48915(c)(4)
 5. Possession of an explosive, as defined below. E.C. 48915(c)(5)

Expulsion (Mandatory Offenses)

1. Possessing, selling, or furnishing a firearm, as defined below. E.C. 48915(c)(1)
2. Brandishing a knife at another person. E.C. 48915(c)(2)

EXPULSION PROCEDURES

Authority to Expel

A student may be expelled by an Administrative Panel following a hearing before it. The Administrative Panel will include three or more certificated persons, none of whom have been members of the Board or on the staff of the school in which the student is enrolled. It is important for the Administrative Panel members to have experience in education law and student discipline. Typical Administrative Panel members include teachers, school administrators and Home Office Chiefs/Directors. The Home Office will coordinate all administrators and teachers who serve on the Reflection Committee at their school sites to be "on call" for a particular month should their presence be needed at an Administrative Panel hearing. The Administrative Panel may expel any student found to have committed an expellable offense.

Expulsion Hearing

Students recommended for expulsion are entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within thirty (30) school days after the Principal determines that the Student has committed an expellable offense.

After an Administrative Panel hears the case, it will make a determination whether to expel.

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 specific facts, charges and offenses upon which the proposed expulsion is based;
3. A copy of MPS' 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 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 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.

Special procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses

MPS may, upon finding a 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 which shall be examined only by the Board, administrative panel, 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.

1. 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.
2. MPS must also provide the victim a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.
3. At the discretion of the person or panel conducting the 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.
4. The person conducting the expulsion hearing may also arrange the seating within the hearing room to facilitate a less intimidating environment for the complaining witness.
5. The person conducting the expulsion hearing may also limit time for taking the testimony of the complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours.
6. Prior to a complaining witness testifying, the support persons 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 person conducting the hearing may permit any one of the support persons for the complaining witness to accompany him or her to the witness stand.
7. If one or both of the support persons is also a witness, MPS must present evidence that the witness' presence is both desired by the witness and will be helpful to MPS. 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.

8. 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.
9. Especially for charges involving sexual assault or battery, if the hearing is to be conducted in the public at the request of the student being expelled, the complaining witness shall have the right to have his/her testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are not alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examination in another place communicated to the hearing by means of closed-circuit television.
10. 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 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.

Record of Expulsion 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.

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 accused 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.

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

Written Notice to Expel

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

1. Notice of the specific offense committed by the student
2. 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 MPS
3. The reinstatement eligibility review date; a copy of the rehabilitation plan; the type of educational placement during the period of expulsion, and notice of appeal rights/procedures

The Principal or designee shall send a copy of the written notice of the decision to expel to the student's district of residence. This notice shall include the following:

1. The student's name
2. The specific expellable offense committed by the student

Disciplinary Records

MPS shall maintain records of all student suspensions and expulsions at MPS. Such records shall be made available to the District upon request.

Expulsion Appeals

In order to appeal an expulsion, the student/parent/guardian must submit a written appeal to the CEO of MPS outlining the reason for the

appeal, attaching any supporting documentation, within ten (10) calendar days of being informed of the expulsion.

In response to the written request for an appeal, the CEO of MPS shall call a meeting of the Board of Directors. The Board shall convene a hearing on the appeal within ten (10) calendar days of receipt of a timely written request for an appeal.

At the hearing on the appeal, the student shall have the right to present evidence. The Board will consider evidence and/or testimony as appropriate and will render a written decision that shall be in the best interest of the student and the Charter School. That decision shall be final.

Interim Placement

Charter School shall be responsible for the appropriate interim placement of students during and pending the completion of the Charter School's student expulsion process and shall facilitate the post-expulsion placement of expelled students.

Charter School shall work with the District for an interim placement or other alternative program. Should Charter School determine after the referral that the student will remain at the charter school pending the expulsion hearing based on the best interest of the student, or if Charter School secures another alternative interim placement at another charter school or school within its CMO, if appropriate and aligned with applicable charter petitions, Charter School will notify the District of such determination.

ADDITIONAL PROVISIONS

Bullying

The Charter School shall comply with all applicable requirements of the Safe Place to Learn Act, Education Code section 234 *et seq.* MPS' policy on bullying prohibits discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified in the definition of hate crimes. MPS' process for receiving and investigating complaints includes complaints of discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified, and a requirement that Charter School personnel who witness such acts take immediate steps to intervene when safe to do so, a timeline to investigate and resolve complaints, and an appeal process.

Special Procedures for the Consideration of Suspension and Expulsion of Students with Disabilities

1. Notification of SELPA

The Charter School shall immediately notify the SELPA and coordinate the procedures in this policy with the SELPA of the discipline of any student with a disability or student who the Charter School or SELPA would be deemed to have knowledge that the student had a disability.

2. 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 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.

3. 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:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. 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:

- a. Conduct a functional behavioral 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;
- b. 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
- c. 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.

4. 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.

5. 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 Principal 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:

- a. 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;
- b. 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
- c. 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.

6. Interim Alternative Educational Setting

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

7. Procedures for Students Not Yet Eligible for Special Education Services

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

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

Required Notification

If a pupil is expelled or leaves the Charter School without graduating or completing the school year for any reason, the Charter School shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card and health information.