SYVCS Progressive Discipline and Suspension & Expulsion Policy

Adopted by the Board of Directors January 21, 2025

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SYVCS Discipline Policy

The Discipline Policy establishes the Rules of Student Conduct and related codes and procedures for SYVCS students. The goal in establishing the Policy is to provide a safe environment in which students can develop responsibility, healthy self-concepts, independence, self-reliance, and the skills and knowledge necessary to succeed. SYVCS believes that parents are ultimately responsible for the discipline of their students.

In general, SYVCS students are expected to:

- Attend school and all classes punctually and regularly.
- Comply with all of the rules and regulations of the district and school.
- Obey the reasonable directions and demands of the staff, teachers, and Director.
- Dress in a manner and in attire that will not disrupt school activities or compromise safety.
- Remain on the school premises during school hours; leave school grounds only with parental permission and/or by following school procedures.
- Report Violations of the Rules of Student Conduct

Behavior Code

The following behavioral expectations are in place:

1. Students will arrive on time to school and to all classes.
2. Students will demonstrate respect for all persons, including their rights and feelings.
3. Students will demonstrate respect for school property, keeping the school clean and safe.
4. Students will play in designated areas only.
5. Students will follow directions of all school personnel promptly and politely.
6. Students will use appropriate language; profanity is not permitted.
7. Students will wear clothing that conforms to the school Dress Code.
8. Students will contact a staff member if they need adult intervention to solve a problem.
9. Students will refrain from chewing gum.
10. Students will not use personal electronic devices during school hours and comply with the Cell Phone and Other Electronic Devices Policy.
11. In compliance with state law, helmets will be worn and fastened appropriately when bicycling to or from SYVCS and all school events. Skating, roller-blading, bicycling or skateboarding on school grounds is not allowed.
12. Students shall follow the Computer Use/Technology Policy stated in the Student handbook.
13. Students shall conform their conduct with all provisions of this Discipline Policy.
14. Students shall remain within the open areas of the campus and field. Students shall not go behind buildings or other structures and shall not climb on roofs, sheds, tables or other school property.

Dress Code

The purpose of the school dress code is to provide only what guidance is necessary to maintain a safe and healthy school environment. The dress code should allow teachers to focus on teaching, while also giving students, along with their families, the opportunity to make choices about attire based on individual and family values. The following guidelines are minimal in order to promote staff and student attention to the education that school is intended to provide.

All students must honor the dress code policy while at school:

1. All clothing, backpacks, book covers, etc., must reflect appropriate subject matter (no references to alcohol, drugs, or tobacco products, no gambling, no weapons, vulgarity, profanity, politics, or hate speech, no violent or sexually explicit language or images etc.).
2. Clothing may not display content that is offensive or degrading to students or staff on the basis of gender, cultural, religious or ethnic values.
3. Hats, hoods, beanies and sunglasses must be removed upon entering the classroom. Headwear for religious, cultural, or disability related attire will be permitted.
4. Clothes must allow for all movement and activity in which the student is expected to participate. (Recommendation that tank tops have a solid back with a 1” minimum strap, shorts have a minimum of 4” inseam, and skirts/dresses fall mid-thigh). Shirts must meet the waistline of bottoms when standing naturally. Undergarments are not permitted to be shown (waistbands and straps excluded.)
5. Close-toed, closed-heeled shoes must be worn at all times with safety being the concern. Proper athletic shoes must be worn during P.E. classes.
6. Accessories, which may include earrings, necklaces, bracelets, watches, etc., are permitted when student safety or learning is not compromised.
7. Pajamas or sleepwear may not be worn unless designated as an 8th grade privilege or all-school spirit/dress up day.

In any matter concerning dress code, the administration has the final authority. The administration is committed to enforcing the dress code equitably, consistently, supportively, and with the least possible interruption to students’ education. Exceptions to the dress code can be granted by the administration as needed to honor religious practices as well as for educational accommodation.

Discipline Policy

Teachers and other staff members at SYVCS will intervene when a student’s behavior is inappropriate to the learning environment. The purpose of interventions is to help the student learn appropriate behavior and maintain the safety of the school environment. In most cases teachers will attempt to redirect a student using an initial verbal warning. Continued infractions will result in the issuance of a written **Discipline Notice**. All **Discipline Notices** will be issued with consideration for the age of the student and the age-appropriateness of the behavior.

• For minor disagreements and disputes, students have the option of resolving the issue mediated by a teacher or staff member.
• For dress code infractions, students have the option of calling home for a change of clothing or may wear other clothing available at school.
• For situations that may require a change in environment, students may be asked to go to the office or to another supervised classroom.

All consequences of misconduct will be reset at the beginning of each new school year and students shall start a new school year with a clean slate. All discipline actions taken by the school are considered private and may not be disclosed to other parties.

Discipline Notices

Teachers and other SYVCS staff will issue Discipline Notices to students engaging in behavior that detracts from a safe and orderly school environment. Receipt of a Discipline Notice may also result in detention, community service or other consequences at the sole discretion of the Director.

The following behaviors include, but are not limited to, those for which a student may be issued a Discipline Notice:

1. classroom disruption
2. inappropriate physical contact
3. unsafe behavior
4. disregard/disrespect towards other students and adults
5. teasing/bullying/harassing
6. inappropriate language
7. disregard for playground rules
8. misuse/abuse of school or personal property
9. using cell phones during regular school hours including lunch, recess and passing periods
10. cheating, plagiarism
11. other violations of the Rules of Student Conduct

When a student is issued a Discipline Notice, a copy will be:

• sent to the office to be logged into the Student Information System;

• sent home with the student for parent signature and returned to the school office the following day;

• retained by the student's homeroom teacher.

Tiered Discipline System

Level 1 (Behavior Contract)

The accumulation of THREE Discipline Notices will result in a Level I Discipline Plan. The Director will convene a meeting with the student, parents and teacher/staff member to establish a Behavior Contract. At the discretion of the teacher and Director, the student MAY not be eligible to participate in field trips or other school-sponsored extracurricular activities.

Level 2 (SST Referral)

If the student is issued TWO Discipline Notices while on a Level 1, it will result in a Level 2 Discipline Plan. The Director will convene a Student Support Team meeting with the parents, teacher/staff member and school psychologist to discuss interventions and develop a Behavior Plan. The student will not be eligible to participate in field trips or other school-sponsored extracurricular activities.

Serious violations MUST be submitted by a teacher or other responsible adult in writing. Any suspension issued due to a serious violation of this Policy will result in the student immediately being placed at a Level 1 on the Tiered Discipline System. If the student is already at a Level 1, a serious violation under this provision will result in the student being moved to a Level 2.

Suspension and Expulsion

The issuance of ONE Discipline Notice while on a Level 2 will result in a suspension with the following exceptions:

Pursuant to California Education Code 48901.1, no student in grades K-8 shall be suspended or expelled on the basis of having 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.

While on a Level 2, if a student receives ONE Discipline Notice the student will may be suspended for a length of time deemed appropriate by the Director (First Suspension).

Following a First Suspension, the issuance of a single new Discipline Notice or Serious Violation may result in a Second Suspension and the Director recommending the student for expulsion to the Board of Directors.

Enumerated Offenses

Discretionary Suspension and Expulsion Offenses: Students **may** be suspended and/or recommended for expulsion at the discretion of the administration when it is determined the student:

a. Caused, attempted to cause, or threatened to cause physical injury to another person.
b. Willfully used force or violence upon the person of another, except self-defense.
c. Unlawfully possessed, used, or otherwise furnished, or was under the influence of any controlled substance.
d. Unlawfully offered, arranged, or negotiated to sell any controlled substance or alcoholic beverage or intoxicant of any kind.
e. Committed or attempted to commit robbery or extortion.
f. Caused or attempted to cause damage to school property or private property, which includes but is not limited to, electronic files and databases.
g. Stole or attempted to steal school property or private property, which includes but is not limited to, electronic files and databases.
h. Possessed or used tobacco or products containing tobacco or nicotine products.
i. Committed an obscene act or engaged in habitual profanity or vulgarity.
j. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
k. Knowingly received stolen school property or private property, which includes but is not limited to, electronic files and databases.
l. 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.
m. 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.
n. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
o. Engaged in, or attempted to engage in, hazing. For the purposes of this policy, “hazing” means a method of initiation or preinitiation into a student organization or body which is likely to cause serious bodily injury or personal degradation or disgrace.
p. Made terroristic threats against school officials and/or school property, which includes but is not limited to, electronic files and databases.
q. Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this policy, 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 provision shall apply to students in any of grades 4 to 8, inclusive.

r. Caused, attempted to cause, threatened to cause or participated in an act of hate violence, as defined in Education Code Section 233(e). This provision shall apply to students in any of grades 4 to 8, inclusive.
s. Intentionally harassed, threatened or intimidated school personnel or volunteers and/or a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work or creating substantial disorder.
t. Possessed, sold, or otherwise furnished any knife or other dangerous object of no reasonable use to the student.
u. 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 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:

a. 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 their age, or for a person of their age with exceptional needs) or students in fear of harm to that student's or those students' person or property.
b. Causing a reasonable student to experience a substantially detrimental effect on their physical or mental health.
c. Causing a reasonable student to experience substantial interference with their academic performance.
d. Causing a reasonable student to experience substantial interference with their ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.

"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:

a. A message, text, sound, video, or image.
b. A post on a social network Internet Web site including, but not limited to:
    i. 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.
    ii. 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.

iii. 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.

c. An act of cyber sexual bullying.

“Cyber sexual bullying” means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a student to another student or to school personnel by means of an electronic act that has or can be reasonably predicted to have a detrimental effect on the wellbeing of another student. 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.

Non-Discretionary Suspension and Expulsion Offenses

Students **must** be suspended and recommended for expulsion when it is determined the student:

a. Possessed, sold, or otherwise furnished any firearm, explosive, or other destructive device unless, in the case of possession of any device 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.
b. Brandished a knife at another person.
c. Unlawfully sold a controlled substance listed in Health and Safety Code Section 11053, et seq.
d. Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 287, 288, or 289 or former Section 288a of the Penal Code, or committed a sexual battery as defined in Penal Code Section 243.4

Suspension Procedures

The Director shall have ultimate authority of the terms of any suspension, including the length thereof. A suspension term shall not exceed five (5) school days, unless extended pursuant to a recommendation for expulsion. The following procedures will take place for each suspension issued:

1) Parent Notification – A meeting will take place between the administrator and the parent(s).
2) Parent/Teacher/Student Conference – At the discretion of SYVCS, a conference with the student, parent(s), teacher and/or director will be scheduled to discuss the

student's progress, problem behaviors, or other issues that have not been resolved at school. The following may result from the conference:

a) Behavior Contract – Student, parent(s) and teacher will create a behavior contract in which the student, with parental consent, agrees to specified behavior.
b) Restitution – When possible, and under the guidance of a teacher or administrator, the student will be allowed to compensate anyone who has been affected by the student's misconduct. Restitution may take the form of apology, replacement of private property, etc.
c) Field Trip Restrictions – The student will not be eligible to participate in field trips or other school-sponsored extracurricular activities.

In accordance with Education Code Section 47606.2(a), upon the request of a parent, a legal guardian or other person holding the right to make education decisions for the student, or the affected student, a teacher shall provide to a student in any of grades 1 to 12, inclusive, who has been suspended from school for two (2) or more school days, the homework that the student would otherwise have been assigned.

In accordance with Education Code Section 47606.2(b), if a homework assignment that is requested pursuant to Section 47606.2(a) 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 of the student's overall grade in the class.

Expulsion

In addition to expulsions being recommended pursuant to the Tiered Discipline System, expulsions may or shall be recommended pursuant to the following:

A decision to expel shall be based on a finding of one or both of the following:

1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct, or
2. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

Procedures to Expel a Student

Step One: When a student is determined by the Director to meet the criteria to be recommended for expulsion a meeting is held with the parents/guardians to initiate an extended period of suspension pending a Board meeting. If the student has committed an offense that requires a mandatory expulsion recommendation, this is discussed so that it is understood by all parties.

Step Two: Within ten (10) calendar days of the expulsion hearing, tThe School shall send a letter to the student and parent/guardian regarding the expulsion hearing. The expulsion hearing shall be held no later than 30 school days of the date that expulsion is recommended. The letter shall notify the student and parent/guardian when and where the expulsion hearing will take place and the rights of the student with respect to the hearing, including:

- The date and place of the expulsion hearing;
- A statement of the facts, charges and offenses upon which the proposed expulsion is based;
- A copy of the School's disciplinary rules relating to the alleged violation;
- 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;
- The opportunity for the student or the student's parent/guardian to appear in person and/or to employ and be represented by counsel or an advocate;
- The right to inspect and obtain copies of all documents to be used at the hearing;
- The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witness testimony.

Step Three: Within ten (10) calendar days of the expulsion hearing, The Director shall make available to the parent/guardian for inspection and review, any evidentiary documents that may be used at the hearing. and make them available for review by the student and/or his/her parent/guardian. Such evidence may include, but is not limited to, the following: A record of the student's attendance and grades, a record of previous infractions, a statement of the facts surrounding the case made by a Director or teacher; a statement of the facts surrounding the case made by a witness, a law enforcement agency's report and any other relevant matter.

Step Four: An expulsion hearing shall be held before the neutral and impartial Board of Directors at a regularly scheduled meeting, presided over by a designated neutral hearing chairperson. The hearing shall be held in closed session (complying with all student confidentiality rules under the Family Educational Rights and Privacy Act "FERPA") unless the student makes a written request for a public hearing in open session three (3) days prior to the date of the scheduled 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 a complete written transcription of the proceedings can be made.

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. Sworn declarations may be admitted as testimony from witnesses of whom the Board determines that disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

A recommendation by the Board of Directors to expel must be supported by substantial evidence that the student committed an expellable offense per the Discipline Policy.

Findings of fact shall be based solely on evidence produced at the hearing. No decision to expel shall be based solely on hearsay evidence, although sworn declarations may be admitted as testimony from witnesses who are determined by the Board of Directors that disclosure of their identity or live testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

If, due to a written request by the expelled pupil, the hearing is held in open session, 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.

Step Five: The decision by the Board of Directors shall be made within 10 days following the conclusion of the hearing. If the Board of Directors decides not to recommend expulsion, the pupil shall be reinstated and permitted to return to classroom programs. The decision not to recommend expulsion shall be final.

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

- Notice of the specific offense committed by the student;
- 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 within the charter school.

Within 30 days of the decision to expel, the Director shall send written notice of the decision to expel to the student's district of residence, the County Office of Education and the charter-granting district (if different than the student's district of residence). This notice shall include the student's name and the specific expellable offense committed by the student.

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.
Rehabilitation Plans

Students who are expelled from the Charter School shall be given a rehabilitation plan upon expulsion as developed by the Board of Directors 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 (1) year from the date of expulsion when the student may reapply to the Charter School for readmission.

Readmission or Admission of Previously Expelled Student

The decision to readmit a student after the end of the student's expulsion term or to admit a previously expelled student from another school district or charter school who has not been readmitted/admitted to another school or school district after the end of the student's expulsion term, shall be in the sole discretion of the Board of Directors following a meeting with the Executive Director or designee and the student and student's parent/guardian to determine whether the student has successfully completed the rehabilitation plan and to determine whether the student poses a threat to others or will be disruptive to the school environment. The Executive Director or designee shall make a recommendation to the Board of Directors following the meeting regarding the Executive Director's or designee's determination. The Board shall then make a final decision regarding readmission or admission of the student during the closed session of a public meeting, reporting out any action taken during closed session consistent with the requirements of the Brown Act. The student's readmission is also contingent upon the Charter School's capacity at the time the student seeks readmission or admission to the Charter School.

Notice to Teachers

The Charter School shall notify teachers of each student who has engaged in or is reasonably suspected to have engaged in any of the acts listed in Education Code Section 49079 and the corresponding enumerated offenses set forth above.

Involuntary Removal for Truancy

As charter schools are schools of choice and as a charter school student who fails to attend school is potentially depriving another student of their opportunity to enroll, a student may be involuntarily removed as described within the Charter School's Board adopted Attendance Policy for truancy and only after the Charter School follows the requirements of the Attendance Policy and only in accordance with the policy described above which requires notice and an opportunity for a parent, guardian, educational rights holder to request a hearing prior to any involuntary removal. Students who are involuntarily removed for truancy will be given a rehabilitation plan and will be subject to the readmission procedures set forth herein.

Special Procedures for the Consideration of Suspension and Expulsion or Involuntary Removal 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 that

the Charter School or the 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 (which could constitute a change of placement and the student's IEP would reflect this change), 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 parent/guardian 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/guardian, 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/guardian 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/guardian, 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 direct 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/guardian 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/guardian or the Charter School, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer in accordance with state and federal law, including 20 U.S.C. Section 1415(k), until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, unless the parent/guardian and the Charter School agree otherwise.

   In accordance with 20 U.S.C. Section 1415(k)(3), if a parent/guardian disagrees with any decision regarding placement, or the manifestation determination, or if 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, the parent/guardian or Charter School may request a hearing.

   In such an appeal, a hearing officer may: (1) return a child with a disability to the placement from which the child was removed; or (2) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

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 Executive Director or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) school 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 U.S.C. Section 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 U.S.C. Section 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 IDEA and who has violated the Charter School's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the Charter School had knowledge that the student was disabled before the behavior occurred.

   The Charter School shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

   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/guardian 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 IDEA-eligible children with disabilities, including the right to stay-put.

   If the Charter School had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. The Charter School shall conduct an expedited evaluation if requested by the parents; however, the student shall remain in the education placement determined by the Charter School pending the results of the evaluation.

   The Charter School shall not be deemed to have knowledge that the student had a disability if the parent/guardian has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible.

Special Procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses

1. 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.
2. The complaining witness in any sexual assault or battery case must be provided with a copy of the applicable disciplinary rules and advised of their right to (a) receive five (5) [A12] days' notice of their scheduled testimony; (b) have up to two (2) adult support persons of their choosing present in the hearing at the time the complaining witness testifies, which may include a parent/guardian or legal counsel; and (c) elect to have the hearing closed while testifying.
3. The Charter School must also provide the victim a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.
4. 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 the complaining witness may leave the hearing room.
5. The entity conducting the expulsion hearing may also arrange the seating within the hearing room to facilitate a less intimidating environment for the complaining witness.
6. The entity conducting the expulsion hearing may also limit time for taking the testimony of the complaining witness to the hours the complaining witness is normally in school, if there is no good cause to take the testimony during other hours.
7. Prior to a complaining witness testifying, the support persons must be admonished that the hearing is confidential. Nothing in the law precludes the entity 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 the complaining witness to the witness stand.
8. If one or both of the support persons is also a witness, the Charter School must present evidence that the witness' presence is both desired by the witness and will be helpful to the Charter School. The entity 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 their discretion to remove a person from the hearing whom they believe is prompting, swaying, or influencing the witness.

9. 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.
10. 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 examination in another place communicated to the hearing room by means of closed-circuit television.
11. Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the entity 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.