

02-107—Safe School Policy

Charter Academy is committed to fostering an environment for students, staff, community, neighbors and visitors that is safe, conducive to the learning process, and free from unnecessary disruption. A safe school environment includes the school and grounds during school hours, and during school sponsored activities and events. The following policy and guidelines have been created for this purpose in accordance with Utah State Law (UCA 53G-8-202-211).

DEFINITION

School-sponsored activity or event means an activity, meeting, or location sanctioned or supported by the school, including transportation of students in school-owned/leased vehicles.

Exclusion means the removal of a student from a school program, but not necessarily from all education services, and includes:

Suspension: a mandatory interruption of attendance or participation in a specific school or program for a period of 10 days or less.

Expulsion: termination of attendance or participation in a school or program for a period in excess of 10 school days by the local Board of Trustees (53-11-905(3)).

Change in Placement: Alternative placement of a student for disciplinary or for other legitimate purposes.

Imminent danger: the appearance of threatened and impending injury which would lead a reasonable and prudent person to attempt an instant defense; something which is threatening to happen at once, something close at hand, something which is close, although not yet touching, or on the point of happening. [Black's Law Dictionary]

Habitually disruptive behavior: frequent or repeated flagrant willful disobedience, defiance of proper authority, or repeated disruptive behavior, including the use of foul, profane, vulgar or abusive language.

Gang: a group of people who form an allegiance and engage in a range of antisocial behaviors that may include violent or other unlawful activity. These groups may have a name, turf, colors, symbols, or distinct dress, or any combination of the preceding characteristics.

Remedial discipline plan: a written plan developed by the school in consultation with the student to be disciplined and the parent/legal guardian which may include any combination of the following or any other action discussed by the parties:

1. exclusion of the student from school for a pre-determined time or until certain conditions are met;
2. specific behavior standards for the student which, when met by the student, allow for designated rights or privileges;
3. in school suspension;
4. community service;
5. restitution for damage or harm.

Proactive intervention strategy: a preventive strategy intended to stop or deter problem behaviors before they occur. A proactive or preventive strategy anticipates problem behaviors and uses a predetermined set of consequences (positive or negative) to intervene.

Parent: parent or legal guardian.

PROACTIVE STRATEGIES FOR IMPROVING STUDENT BEHAVIOR AND LIMITING THE EXCLUSION OF STUDENTS FROM SCHOOL:

Charter Academy shall provide parents and students with a written mission statement for the school that should be included in a school procedures handbook and provided to parents.

School administrators, teachers and staff shall use proactive intervention strategies that anticipate problem behaviors before they occur.

PROVISIONS GOVENING THE CONDUCT OF SCHOOL AGE INDIVIDUALS:

Students shall:

- A. be given notice of applicable rules of conduct
- B. comply with applicable rules of conduct as well as all federal, state and local laws and ordinances; and
- C. be civil and respectful to other people and obey persons in authority at the school.

Students may be suspended or expelled from Charter Academy for the following reasons and students may not:

1. possess, use, sell or attempt to possess, use or sell any firearm, weapon, knife, explosive, firework, chemical weapon, flammable material, martial arts weapon or other instrument including those which eject anything, or other material dangerous to persons or property, or any replica or facsimile of any of the above, regardless of intent and whether functional or nonfunctional;

1. as required by federal law, a student who is found to have brought a firearm (as defined under Section 921 of title 18, U.S. Code) or a real, look alike, or pretend firearm, explosive or flammable material under state law (53G-8-205) to school or to a school-sponsored activity or to be in possession of such firearm while at school or when involved in any school supervised activity shall be expelled from school for a period of not less than one year;

2. the Chief Administrative Officer or the Chief Administrative Officer's designee, may modify the one year expulsion requirement if the Chief Administrative Officer or review committee determines on a case-by-case basis that a lesser penalty would be more appropriate;

3. cause, attempt, threaten or conspire to cause damage to personal or real property, or cause, attempt, threaten or conspire to cause harm to a person or persons, individually or in groups, through:

- a. arson (UCA 76-6-102)
- b. burglary
- c. larceny or stealing (UCA 76-6-403)
- d. criminal mischief (UCA 76-6-106)
- e. battery

- f. assault (UCA 76-5-102)
 - g. harassment (UCA 76-5-106)
 - h. vandalism (UCA 76-6-105)
 - i. hazing (UCA 76-6-106)
 - j. participation in any activity which violates an applicable school rule or federal, state or local law or ordinance, or disrupts normal school proceedings or through threats of participation in any plan or conspiracy relating to the foregoing.
 - k. participation in conduct which threatens harm or does harm to the school, school property, person associated with the school or property associated with such persons
2. commit an offense against an educator when the educator is acting in the course of employment or be subject to an enhanced degree of offense as cited in Utah Code Annotated 76-3-203.2. Crimes against educators are considered to have created an imminent danger under this policy.
3. be admitted to Charter Academy on the basis of having expelled from any school during the preceding 12 months (UCA 53G-8-205).

PROCEDURES FOR INCIDENTS INVOLVING WEAPONS, DRUGS, ALCOHOL, OR IMMINENT DANGER TO PEOPLE OR PROPERTY:

The school director or designee shall determine if the student's behavior created imminent danger to people or property or if the student's behavior, despite intent, was in violation of this policy.

If the student's behavior created imminent danger or violated this policy, following personal notification to the student and student's parent/legal guardian, the student shall be suspended according to the procedure outlined below:

A. immediate student suspension:

- 1. the student is suspended until the parent/legal guardian is able to conference with school administrators.
 - 2. the student shall be prohibited from trespassing on school property.
- B. the school may only release the suspended student to the student's parent/legal guardian or other adult designated by the parent or legal authority.
- C. in unlawful or dangerous situations, the student may be released to law enforcement personnel;
- D. a school administrator shall make earnest *efforts to* contact a parent/legal guardian to schedule a conference with the student, the student's parent/legal guardian within 24 hours of the exclusion;
- 1. during the conference, the administrator shall:
 - a. review the alleged conduct by the student and present the evidence;
 - b. give the student an opportunity to respond and present relevant information or explanations.
 - c. determine whether or not the allegations are true by a preponderance of the evidence, and make a recommendation for action, which may include.

- a. if true, the following options are available:
 - i. discontinue or continue the exclusion (suspension or expulsion) for a specific length of time.
 - ii. develop a remedial discipline plan for the student required under Section 53G-8-203 (3) which outlines the requirements for reinstatement in the class, school, or administration's evaluation of alternatives to excluding the student from school.
 - iii. outline expectations for parents/legal guardians and the school in the student's discipline plan and potential reinstatement: i.e. supervision, a behavior contract, continued participation in extracurricular school activities, on-going educational services for the student, take-home or independent study assignments, mandatory school contact or evaluation.
 - iv. advise the student and the parent about the student's rights and obligations and the procedures for appeal of an adverse decision.

E. at the conclusion of any exclusionary period, a conference will be held with the student and the student's parent/legal guardian at which time a behavior contract will be developed by parents/legal guardians, student, school personnel, and other appropriate individuals.

F. The administrator shall document the disciplinary action taken.

PROCEDURES FOR INCIDENTS NOT INVOLVING WEAPONS, DRUGS, ALCOHOL, OR IMMINENT DANGER TO PEOPLE OR PROPERTY:

An administrator shall provide the student an initial opportunity to explain his behavior prior to suspension. If the immediate suspension is justified the school should proceed.

The school administrator shall investigate and document the charges and schedule a conference with the student and parent/legal guardian as soon as possible. The parent/legal guardian will be notified about the impending conference. During the conference, the administrator shall:

- A. explain the allegations or violation to the student.
- B. discuss the evidence and provide the student with a reasonable opportunity to respond and present any relevant information.
- C. take appropriate action consistent with findings made by the administrator after review of the evidence and the student's response, and with applicable school policies and state and federal law, including laws or regulations specific to students with disabilities;
- D. advise the student and the parent/legal guardian about the student's rights and obligations, and the procedures for appeal of an adverse decision.
- E. discuss alternatives to suspension with the student and parent/legal guardian or behavior that is neither violent, unlawful, or falls under weapons, imminent danger or drug and alcohol violations;
 - 1. in school suspension or alternative programs;
 - 2. parent/legal guardian supervision of student at school;
- F. amended schedule;

G. if the parent or legal guardian does not comply with the alternative to suspension requirements, the student shall be suspended in accordance with the conduct and discipline policies of the school;

H. in the event of suspension or expulsion, the student shall be prohibited from trespassing on school property and attending any school event or activity.

Board of Trustees-Level Hearings:

A school administrator may refer any matter to the Board for hearing if the administrator deems it advisable.

A. If the student or parent/legal guardian does not concur with the school disposition of student misconduct involving weapons, drugs, alcohol, or imminent danger or for student exclusion for a second or subsequent offense not involving weapons, drugs, alcohol, or imminent danger:

1. the parent/legal guardian may appeal the decision by submitting a written request to the Chief Administrative Officer within 10 days after receiving notice of the decision;

2. the Chief Administrative Officer or review committee shall schedule the appeal hearing within 20 days of receiving the parent's/legal guardian's request for hearing and shall provide the parent/legal guardian with notice of the procedures to be followed in the hearing;

3. the Chief Administrative Officer or review committee shall conduct the appeal hearing at the appointed time and place. The school and the student may each be represented by an advocate of its choice;

4. at the appeal hearing, each party may make statements, question witnesses, and present relevant facts and evidence. The review committee procedures may allow for additional witnesses or affidavits to be presented;

5. the appeal hearing's conclusions) that affect a student's school attendance shall be decided within two school days following the hearing;

6. all other issues shall be disposed of in writing within 30 days of the conclusion of the appeal hearing;

7. these time periods may be waived upon agreement by both parties to the hearing;

8. the recommendation of the review committee will be submitted to the Board of Education if the recommendation to expel the student is upheld;

9. expulsion of a student may be conducted by the principal and Chief Administrative officer;

10. School review committee appeal of exclusion is the final administrative remedy. If students or parents/legal guardians are dissatisfied with the administrative determination, they may appeal to a court of law.

RESPONSIBILITY OF PARENT FOR SUSPENDED OR EXPELLED STUDENT:

If a student is suspended or expelled from Charter Academy for more than ten (10) school days, the parent or legal guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

A. The parent or legal guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered

by or through the school, or other alternatives which will reasonably meet the educational needs of the student.

B. Costs for educational services which are not provided by Charter Academy are the responsibility of the parent.

C. Charter Academy will maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript (UCA 53G-8-208).

STUDENTS WITH DISABILITIES:

Students with disabilities are those individuals who qualify for special education and related services under Public Law 105-17, the Individuals with Disabilities Education Act (IDEA), and/or under Section 504 of the Rehabilitation Act Amendments of 1973 and/or under the Americans with Disabilities Act of 1990.

All students with disabilities enrolled at Charter Academy are accountable for the same standards of behavior as non-disabled students unless their Individualized Educational Program (IEP) teams have determined that their disabilities prevent adherence to these standards and have agreed upon altered standards on their IEPs. Because students with disabilities represent a protected class of individuals, the following general provisions and/or protections apply:

A. Suspension of students with disabilities for fewer than ten (10) days - School administration may order the removal of a student with a disability for up to 10 consecutive days for any violation of school rules for which students without disabilities would be removed. During this type of removal, the provision of educational services is not required. B. Suspension of students with disabilities for more than ten (10) days - Students may be suspended for more than 10 cumulative days per school year for separate instances for which nondisabled students would be suspended. However, such suspension must not constitute a pattern of removal and/or a change of placement. Factors such as the length of each removal, total amount of time the student is removed and proximity of removals to each other may lead to a conclusion of placement change. Regardless, beginning with the 11th cumulative day of removal, general and special education services must be provided to the student while on suspension.

I. Weapons and Controlled Substance Violations

1. If a student with a disability carries a weapon to school or a school function, or knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or at a school function, school administration may order the removal of the student from school. When such a removal is contemplated, it constitutes an imminent change of placement and parents/legal guardians must be notified and provided with a copy of their procedural safeguards under IDEA.

a. The student's IEP team must meet as quickly as possible following the violation to conduct a manifestation determination. This procedure uses evidence from the student's psycho educational evaluation(s), school conduct and classroom performance to help identify whether or not the student's misbehavior was a function of his/her disability.

i. Violation Related to Student's Disability: The student's IEP team must meet to determine an interim alternative educational setting (IAES) to which the student may be removed for up to 45 school days. The team must also conduct a functional behavioral assessment (FUBA) and develop a behavior intervention plan (BIP) if these have not already been accomplished. If a FUBA and BIP have already been completed, the IEP team will review these and make revisions as appropriate. The purpose of the BIP is to reduce or eliminate the likelihood that the behavior causing the removal from school will recur in the interim alternative educational setting and in the student's school upon his/her return. In an IAES, the student must receive services which allow him/her to progress in the general curriculum and to advance appropriately toward meeting the goals specified on his/her IEP.

ii. Violation Not Related to Student's Disability: If the manifestation determination procedure indicates that the weapons or drug violation was not related to the student's disability, the student may be removed from school on the same basis as would a student without a disability. However, during this removal the school must provide services necessary to enable the student to progress in the general curriculum and appropriately advance toward meeting the goals set forth in his/her IEP.

iii. Dangerousness: A due process hearing officer may order the removal of a student to an interim alternative educational setting (IAES) for up to 45 days if in an expedited due process hearing, s/he determines that the school has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others, considers the appropriateness of the student's current placement, considers that the school has made reasonable efforts to minimize the risk of harm in the student's current placement, determines that the IAES proposed by the school in concert with the student's special education teacher meets requirements of addressing the student's behavior and offering services so that the student can progress in his/her general and special education programs. Charter Academy may continue to seek school removal of a student deemed dangerous by petitioning a court of local jurisdiction. The federal Office for Special Education Programs (OSEP) affirmed in DOE Q & A Document, Question 3, 64 Fed. Reg. 12415 (March 12, 1999) that at any time, school officials may seek to obtain a court order to remove a student with a disability from school or to change a student's current educational placement if they believe that maintaining the student in the current educational placement is substantially likely to result in injury to the student or others.

School officials can report crimes committed by students with disabilities to appropriate law enforcement authorities to the same extent they do for crimes committed by nondisabled students.

C. In School Suspension - An in school suspension would not be considered a part of the days of suspension previously addressed as long as the student is afforded the opportunity to continue to appropriately progress in the general curriculum, continue to receive the services specified on his or her IEP and continue to participate with nondisabled students to the extent they would have in their current placement.

D. Behavioral Interventions - any behavioral intervention to be used with a _____ student with disabilities must meet the requirements set forth by the Utah State Board of Education Special Education Rules.

THREATS OF SUICIDE:

The school shall:

- a) notify a parent if the parent's student threatens to commit suicide,
- b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student, and
- c) produce and maintain (consistent with Records Retention Policy) a record that verifies that the parent was notified of the incident or threat

APPROPRIATE USE OF PHYSICAL RESTRAIN IN THE ENFORCEMENT OF THIS POLICY:

The use of physical restraint of students within the context of this policy is only appropriate consistent with state and federal law, UCA Sections 53G-8-301 and 76-2-401(3), and school policy on corporal punishment.

GANG RELATED ACTIVITY:

- A. School administrators and other school personnel designated by the administration shall have authority to identify student behavior as gang-related and may be allowed under school policy to treat such designated behavior as imminently dangerous to students and staff and follow the procedures outlined under Section V of this policy for disciplining students involved in gang-related activities.
- B. Indices of gang-related behavior or association may include, but are not limited to:
 1. advocating or promoting a gang or any gang-related activities;
 2. marking school property, books, or school work with gang names, slogans, or signs;
 3. conducting gang initiations;
 4. threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;
 5. aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;
 6. displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
 7. communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.; or
 8. any combination of the preceding indices or activities.
- C. School faculty and personnel shall be trained to recognize early warning signs for youth in trouble and to report suspected gang activity to school administration and law enforcement.
- D. In disciplining students under gang-related provisions, school administrators shall act consistently with and be sensitive to Constitutional protections of freedom of expression and freedom of association.
- E. Students and parents/legal guardians should be given notice that courts have determined that the parameters of freedom of expression and freedom of association in a public school setting are different than in society generally.

F. Administration shall notify parents of the student when a student has involvement in any gang-related behavior or association.

G. Gang members are barred from participation or presence at any school-sponsored extracurricular activity.