

PUPIL SUSPENSION AND EXPULSION POLICY

I. Introduction

This Pupil Suspension and Expulsion Policy (“Policy”) for Voices College-Bound Language Academies (“School”) has been established in order to promote learning and protect the safety and well-being of all students. When the Policy is violated, it may be necessary to suspend or expel a student from regular classroom instruction. This policy shall serve as the Charter School’s policy and procedures for student suspension and expulsion and it may be amended from time to time without the need to amend the charter so long as the amendments comport with legal requirements.

Staff shall enforce disciplinary rules and procedures fairly and consistently amongst all students. The Policy will be printed and distributed as part of the Family Handbook and will clearly describe discipline expectations.

Discipline includes, but is not limited to, advising and counseling students, conferring with parents/guardians, detention during and after school hours, community service on or off campus, the use of alternative educational environments, suspension and expulsion. Corporal punishment shall not be used as a disciplinary measure against any student. Corporal punishment includes the willful infliction of, or willfully causing the infliction of, physical pain on a student. For purposes of the Policy, corporal punishment does not include an employee’s use of reasonable force necessary to protect the employee, students, staff or other persons or to prevent damage to school property.

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

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

A student identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities in Education Improvement Act (“IDEIA”) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to regular education students except when federal and state law mandates additional or different procedures. The School will follow Section 504, the IDEA, the Americans with Disabilities Act of 1990 (“ADA”) and all applicable federal and state laws when imposing any form of discipline on a student identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students. The Charter School shall notify the District of the suspension of any student identified under the IDEIA (or for whom there may be a basis of knowledge of the same) or as a student with a disability under Section 504 and would grant the District approval rights prior to the expulsion of any such student as well.

II. Suspension

A. Definition

Suspension is the temporary removal of a pupil from class instruction for adjustment or disciplinary reasons. Suspension does not mean any of the following:

- Reassignment to another education program or class at the School where the pupil will receive continuing instruction for the length of day prescribed by the Board for pupils of the same grade level;
- Referral to a certificated employee designated by the Principal to advise pupils;
- Removal from the class, but without reassignment to another class for the remainder of the class period without sending the pupil to the Principal or designee.

While suspended, the pupil may not loiter on or about any School grounds at any time, nor attend or participate in any School activity at any time, no matter where such activity is taking place. Violation may result in further disciplinary action.

B. Authority

The Principal or his/her designee may suspend a student from class, classes or the school for a period up to ten consecutive days, not to exceed twenty school days in any academic year. The Principal or his/her designee may extend a student's suspension pending final decision by the Board of Directors of the School, or a formal committee thereof, on a recommendation for expulsion. On a recommendation for expulsion, the Board of Directors may suspend a special education student being considered for expulsion in accordance with the laws relating to expulsion of special education students.

A pupil may not be suspended or expelled for any of the acts enumerated in this Policy unless the act is related to school activity or school attendance of Voices College-Bound Language Academies. A pupil may be suspended or expelled for acts that are enumerated in this Policy and related to school activity or attendance that occur at any time, including, but not limited to any of the following:

- While on school grounds;
- While going to or coming from school;
- During the lunch period, whether on or off the school campus;
- During, going to or coming from a school sponsored activity.

C. Grounds

Students may be suspended or expelled for any of the following acts (whether completed, attempted or threatened) when it is determined the pupil:

- Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense;

- Possessed, sold or otherwise furnished any firearm, knife, explosive or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from an authorized certificated school employee, with the Principal or designee's written concurrence;
- Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code sections 11053-11058 (including, but not limited to, opiates, hallucinogenic substances, stimulants, depressants and narcotic drugs), alcoholic beverage or intoxicant of any kind;
- Unlawfully offered, arranged or negotiated to sell any controlled substance as defined in Health and Safety Code sections 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented the same as a controlled substance, alcoholic beverage or intoxicant;
- Committed or attempted to commit robbery or extortion;
- Caused or attempted to cause damage to school property or private property;
- Stole or attempted to steal school property or private property;
- Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel;
- Committed an obscene act or engaged in habitual profanity or vulgarity;
- Unlawfully possessed or offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code section 11014.5;
- Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials or other school personnel engaged in the performance of their duties;
- Knowingly received stolen school property or private property;
- Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm;
- Committed or attempted to commit a sexual assault as defined in Penal Code sections 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code section 243.4;
- Harassed, threatened or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness;
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma;
- Made terrorist threats against school officials and/or school property;
- Committed sexual harassment;
- Caused or participated in an act of hate violence;

- Engaged in or attempted to engage in the hazing of another;
- Committed acts of dishonesty;
- Committed vandalism/malicious mischief;
- Violated academic ethics, guiding principals or other school policy;
- Committed forgery;
- Falsely activated a fire alarm or improperly used safety equipment when no emergency existed;
- Caused ongoing minor disturbances that disrupted instruction;
- 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;
- Has excessive office referrals (four or more).

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

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

D. Procedures Required to Suspend

Step One

The Principal or designee shall investigate the incident and determine whether or not it merits suspension.

Searches: In order to investigate an incident, a student's attire,¹ personal property, school property, including books, desks and school lockers, may be searched by a Principal or designee who has reasonable suspicion that a student has violated or is violating the law or the rules of the school. *Illegally possessed items shall be confiscated and turned over to the police.*

Step Two

The Principal determines whether the offense warrants a police report. The Principal will report certain offenses to law enforcement authorities in accordance with Education Code section 48902.

When the Principal releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the Principal shall take immediate steps to notify the parent, guardian or responsible relative of the minor regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken, unless the minor has been taken into custody as a victim of suspected child abuse.

Step Three

¹ This does not include removing clothing to permit visual inspection of the under clothing, breasts, buttocks or genitalia of the pupil.

Suspension will be preceded by a conference between the Principal and the student and his or her parent and, whenever practical, the teacher, supervisor or school employee who referred the student to the Principal. During the conference, the student shall be orally informed of the reason for the suspension, the evidence against him, and be given the opportunity to present informal proof of his/her side of the story. The conference may be omitted if the Director/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.

The conference will be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, hospitalization or detention in a correctional facility.

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

At the time of the suspension, a School employee shall make a reasonable effort to contact the parent/guardian by telephone or in person to inform him/her of the suspension and the reasons therefore.

If a student is suspended without the conference, both the student and the parent/guardian will be notified of a student's right to return to school for the purpose of a conference.

Step Four

The Principal determines the appropriate length of the suspension up to five (5) consecutive days, when suspensions do not include a recommendation for expulsion. In addition a student who is suspended may be provided with alternative assignments. Arrangements may be made with a student's family for picking-up schoolwork and assignments and making-up of missed assignments. All IDEIA mandates will be followed for students with disabilities.

Step Five

The Principal fills out a Notice of Suspension Form, a copy of which will be sent to the student's parent/guardian and to the student. A copy of this form is also placed in the student's discipline file at the School. The Notice of Suspension Form shall state the fact of suspension, its duration and the specific offense committed by the student. In addition, the notice may state the date and time when the student may return to school. The notice shall also state that if desired by the parent/guardian, a prompt meeting will be held at which the suspension may be discussed and at which the student may be present and afforded an opportunity to present informal proof of his/her side of the case. Additionally, if the School officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may request the parent/guardian to respond to such requests without delay.

Step Six

The Principal may require the student and his/her parent/guardian to sign a contract that states the conditions that the student is expected to meet while at the School. Copies of the signed contract are kept by the school and given to the parent/guardian.

Special Education Student Suspensions

When suspensions involve special education students, a manifestation determination meeting shall be held no later than the 10th suspension day (whether consecutive or cumulative for the school year). The Principal shall notify the student's special education teacher when the student's cumulative days of suspension for that school year reaches eight. That special education teacher shall promptly notify Franklin McKinley School District special education contact, or designee of the need for the manifestation determination meeting. The manifestation determination meeting shall include the School, the District, the parent, and relevant members of the student's IEP Team.

The student shall be treated as a general education student for disciplinary purposes, except to the extent that educational services must continue, if at the manifestation determination meeting the following are both determined in the negative, after reviewing all relevant information in the student's file, including the student's IEP, any teacher observations and any relevant information provided by the parents: 1) the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or 2) the conduct in question was the direct result of the District's failure to implement the IEP. If it is determined at the manifestation determination meeting that 1) or 2) is answered in the affirmative, the conduct is deemed a manifestation of the disability.

If the conduct is deemed a manifestation of the disability, the IEP Team shall either 1) conduct a functional behavioral assessment, create a plan and implement it; or 2) if a behavioral plan is preexisting, the IEP team shall review it and modify it as necessary to address the behavior.

In the case of a manifestation of a disability, the student will be returned to the placement from which he/she was removed, unless the District and parent agree to a change of placement as part of the modification of the behavioral intervention plan. For special education students, a new manifestation determination meeting is required for all proposed suspensions exceeding ten cumulative days in one school year.

The special education student may be removed from school to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student: 1) carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under the jurisdiction of the School; 2) 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 under the jurisdiction of the School; or 3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the School.

III. Expulsion

A. Definition

Expulsion means involuntary disenrollment from the charter school.

B. Authority

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

The Board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a class or program that is deemed appropriate for the rehabilitation of the pupil [or other conditions such as good behavior, attendance, etc.]. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

C. Procedures to Expel a Student

Step One

The Principal investigates the incident and determines whether the offense results in a suspension. If so, the Principal follows the procedures to suspend the student as outlined above.

Step Two

At the discretion of the Principal, a student's suspension may be extended pending expulsion. In this case, a meeting is held within five (5) school days of the student's suspension to extend the suspension. The student and his/her parent/guardian are invited to attend this meeting with the Principal or his/her designee. The teacher may also be present.

At this meeting, the offense and the repercussions are discussed. An extension of the suspension may be granted if the Principal or his/her designee has determined, after the meeting, that the presence of the student at the School would cause a danger to persons or property or the student presence will be disruptive to the instructional process. The purpose of the meeting is to decide upon the extension of the suspension order and may be held in conjunction with the initial meeting with the parents after the suspension.

Step Three

Students recommended for expulsion are entitled to a hearing to determine whether the student should be expelled. The School shall send a letter to the student and parent/guardian regarding the expulsion hearing. Unless postponed for good cause, the expulsion hearing shall be held within thirty 30 school days after the Principal or designee determines that the Pupil has committed an expellable offense.

In the event an administrative panel hears the case, it will make a recommendation to the Board for a final decision whether to expel. The hearing shall be held in closed session unless the pupil makes a written request for a public hearing three (3) days prior to the hearing.

Written notice of the hearing shall be sent via certified mail to the student and his/her parent/guardian to the address reflected in the pupil's student file at least ten (10) calendar days before the date of the hearing. Upon mailing the notice, it shall be deemed served upon the pupil. The notice shall include:

- The date and place of the expulsion hearing;
- A statement of the specific 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 confront and question witnesses who testify 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 Four

The Principal shall maintain documents that may be used at the hearing and make them available for review by the student and/or his/her parent/guardian. These papers may include, but are 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 School staff; a statement of the facts surrounding the case made by a witness, a law enforcement agency's report and any other relevant matter.

Step Five

An expulsion hearing shall be held before the Board or Administrative Panel. 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 the 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 evidence produced at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay evidence. Sworn declarations may be admitted as testimony from witnesses who are determined by the Board or formal committee 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 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.

Step Six

The decision of the Administrative Panel shall be in the form of a written recommendation, with findings of fact, to the Board of Directors who will make a final determination regarding the expulsion. The final decision shall be made within ten (10) days following the conclusion of the hearing. The Decision of the Board is final. If the Administrative Panel decides not to recommend expulsion, the pupil shall be reinstated and permitted to immediately return to classroom programs.

Step Seven

The Principal, or designee, following a decision of the Board of Directors to expel a student, shall send written notice of the decision to expel, including the Board or formal committee's 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.

The Principal shall send written notice of the decision to expel to the District and the County Office of Education. This notice shall include the student's name and the specific expellable offense committed by the student.

Additionally, in accordance with Education Code Section 47605(d)(3), upon expulsion of any student, 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.

Step Eight

Expelled students are responsible for seeking alternative education programs, including but not limited to, programs within the County or their school district of residence.

Step Nine

The school shall maintain records of all student suspensions and expulsions at the school site. Such records shall be made available for the Franklin McKinley School District's review upon request.

Students who are expelled from the charter school shall be given a rehabilitation plan upon expulsion as developed by the Board of Directors, or its designee, at the time of the expulsion order, which may include, but is not limited to, a periodic review as well as assessment at the time of review for readmission. The rehabilitation plan should include a date not later than one year from the date of expulsion when the pupil may reapply to the school for readmission.

The decision to readmit a pupil or to admit a previously expelled pupil from another school district or charter school shall be in the sole discretion of the Board of Directors or its designee following a meeting with the Principal and the pupil and parent/guardian to determine whether the pupil has successfully completed the rehabilitation plan and to determine whether the pupil poses a threat to others or will be disruptive to the school environment. The Principal shall make a recommendation to the Board of Directors following the meeting regarding his/her determination. The pupil's readmission is also contingent upon the school's capacity and any other admission requirements in effect at the time the student seeks admission or readmission.

D. Special Procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses

The 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 which shall be examined only by the 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 pupil.

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. The 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.
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, the School must present evidence that the witness' presence is both desired by the witness and will be helpful to the School. The person presiding over the hearing shall permit the witness to stay unless it is established that there is a substantial risk that the testimony of the complaining witness would be influenced by the support person, in which case the presiding official shall admonish the support person or persons not to prompt, sway, or influence the witness in any way. Nothing shall preclude the presiding officer from exercising his or her discretion to remove a person from the hearing whom he or she believes is prompting, swaying, or influencing the witness.
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 pupil 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 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.
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 circumstance 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.