SUSPENSION AND EXPULSION POLICY AND PROCEDURES

Policy

Capital College & Career Academy believes that all students have the right to learn in a safe, respectful and welcoming environment. The implementation of a school-wide behavior intervention and discipline plan is essential to the creation of this type of environment and the success of our students and teachers both behaviorally and academically.

Research shows that positive school climates increase student achievement, lower student suspensions and expulsions and increase graduation rates.

The Charter School believes in caring and authentic relationships among students and adults that support academic excellence, college readiness, lifelong learning, reflection and social consciousness. We believe that all students are scholars. We honor the community, culture and family background of our students.

The components below detail some of the overarching systems the Charter School employs to limit the number of students reaching suspension level behaviors and or provide systems for intervening through alternatives to suspension.

Positive Behavior Support Systems

CCCA is committed to supporting all students through the implementation of systems that build a positive school culture. This includes both overarching intervention frameworks as well as specific culture and positive behavior building programs. Some specific systems we use include:

Multi-tiered System of Supports: MTSS is the next evolution of Response to Intervention, which focuses on the whole child and creating a tiered system of supports that takes into account not just academic or behavioral needs, but also the impact of environment on these needs.

Restorative Practices (“RP”): RP promote positive relationships and community building while providing meaningful opportunities for members of the school community to share the responsibility for making our schools a safe and nurturing environment. Restorative Practices are used throughout all tiers of support and intervention to create positive school culture, alternative discipline and change.

Social-Emotional Learning: Our approach to Social and Emotional Learning is to create positive school climate and culture and foster the social and emotional growth of our
students and teammates through adopting an intentional focus on the integration of SEL throughout our entire instructional pyramid and beyond. Our Social and Emotional Learning Program is a key element in advancing our equity efforts, by ensuring each student is receiving the types and appropriate level of supports they need to reach their potential.

CCCA is committed to supporting our students’ social and emotional development to be caring and productive citizens. We engage in culturally responsive and equitable practices in our communities of students, families, and teammates to cultivate the following lifelong skills in each CCCA student and educator:

- Managing emotions and behaviors
- Feeling and expressing empathy and compassion for others
- Making responsible decisions
- Setting and achieving positive goals

For any student subject to discipline under this section, the Executive Director or a designee may use their discretion to provide alternatives to suspension that are age appropriate and designed to address and correct the student's specific misbehavior. The Charter School promotes alternatives so that suspension be imposed only when other means of correction are documented and implemented but fail to bring about proper conduct. In addition to our overarching positive behavior and discipline policies, the Charter School utilizes a variety of interventions and school-specific policies. Some examples of specific alternatives to suspension include:

- Family Conference
- Personal Reflection
- Development of a positive behavior support plan with tiered interventions and regular reports
- Detention
- Restorative conversations, circles and conferences
- School and/or community service
- Adult-Student Relationship Building through specifically planned activities
- Referral for assessment
- Mentoring
- Counseling
- Peer Mediations
- In-School Alternatives
- Skill-building groups to teach prosocial behavior

In addition to more broad school-based interventions and school culture work, the Charter School’s teachers, alongside counselors and/or the administration will work across different tiers of intervention, not only providing school-based services, but also connecting parents and students to outside resources to help ameliorate other concerns that may impede a student’s ability to learn or make it difficult for them to regulate behavior in school.
In addition to the work the Charter School has put into developing the desired school climate, CCCA will provide a variety of supports to school staff around implementing school-wide behavior interventions and discipline policies, improving student attendance and implementing alternatives to suspension.

In terms of the data necessary to determine the efficacy of the Charter School’s behavior system, we will utilize our online learning program to track suspension and expulsion data, in order to allow school personnel (including administration) to get a better picture of their behavior landscape and build additional interventions as needed. CCCA will regularly produce and analyze data reports that will allow administrators, counseling staff, and teachers to identify behavioral data trends. Some examples include, but are not limited to:

- Frequent behavior incidents by type
- Suspension rates for students
- Total suspensions by month (with comparisons available month to month and by year)

**Suspension and Expulsion**

The Suspension and Expulsion Policy and Procedures have been established in order to promote learning and protect the safety and well-being of all students at the Charter School. In creating this policy, the Charter School has reviewed Education Code Section 48900 et seq. which describe the offenses for which students at noncharter schools may be suspended or expelled and the procedures governing those suspensions and expulsions in order to establish its list of offenses and procedures for suspensions, expulsions, and involuntary removal. The language that follows is largely consistent with the language of Education Code Section 48900 et seq. Consistent with this Policy, it may be necessary to suspend or expel a student from regular classroom instruction. This shall serve as the Charter School’s policy and procedures for student suspension, expulsion, and involuntary removal, and it may be amended from time to time without the need to seek a material revision of the charter so long as the amendments comport with legal requirements. The policies and procedures for suspension and expulsion will be periodically reviewed and the list of offenses for which students are subject to suspension and expulsion will be modified as necessary and based on Education Code.

This Policy and its Procedures will be distributed annually as part of the Student Handbook which will clearly describe discipline expectations, including a description on how it will be updated and maintained. A copy of the Suspension and Expulsion Policy and Procedures will be available in the office of the Executive Director or designee and available upon request.

CCCA staff shall enforce disciplinary policies and procedures fairly and consistently among all students. Except in cases where suspension for a first offense is warranted in accordance with law, each school site shall consider suspension from school only when other means of correction have not been successful or where the student’s presence would constitute a danger to persons or property or seriously disrupt the educational process.

Suspended or expelled students shall be excluded from all school and school-related activities unless otherwise agreed during the period of suspension or expulsion. Students who come to school
during the term of their suspension or expulsion may result in further disciplinary action.

Corporal punishment shall not be used as a disciplinary measure against any student. For purposes of the Policy, corporal punishment does not include an employee’s use of force that is reasonable and necessary to protect the employee, students, staff or other persons or to prevent damage to school property.

The Charter School will notify the County of any expulsions within 30 days. The Charter School will account for suspended or expelled students in its average daily attendance accounting as provided by law. In accordance with Education Code Section 47605.6(e)(3), upon expulsion of any student, The Charter School shall notify the superintendent or superintendent designee of the 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 report cards or a transcript of grades and health information.

This means that the Charter School shall be responsible for maintaining the educational access of students during and pending the completion of the Charter School’s student expulsion process and shall facilitate this access through home and independent study. The Charter School is not required to maintain the enrollment of the expelled student until they find placement in another LEA.

The Charter School will facilitate placement of expelled students by communicating with the authorizer as soon as practical. In this communication, the Charter School will provide a copy of the findings from the expulsion hearing which includes the reason for the expulsion, terms of expulsion and terms of rehabilitation. The Charter School will also provide all academic and behavioral records to any LEA requesting the records for any expelled student within 10 school days per Education Code Section 49608.

Additionally, accommodations, modifications and other services protected under IEP or Section 504 plans for any particular student will be provided during and pending the completion of the Charter School’s student expulsion process as required by law. A student identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to general education students except when federal and state law mandates additional or different procedures. The Charter School will follow all applicable federal and state laws including but not limited to the applicable provisions of the Education Code, when imposing any form of discipline on a student identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in accord due process to such students.

No student shall be involuntarily removed by the Charter School for any reason unless the parent/guardian of the student has been provided written notice of intent to remove the student no less than five (5) school days before the effective date of the action. The written notice shall be in the native language of the student or the student’s parent/guardian or, if the student is a foster child
or youth or a homeless child or youth, the student’s educational rights holder, and shall inform the student, the student’s parent/guardian, or educational rights holder of the basis for which the student is being involuntarily removed and the student’s parent/guardian, or educational rights holder’s right to request a hearing to challenge the involuntary removal. If a student’s parent, guardian, or educational rights holder requests a hearing, the Charter School shall utilize the same hearing procedures specified below for expulsions, before the effective date of the action to involuntarily remove the student. If the student’s parent, guardian, or educational rights holder requests a hearing, the student shall remain enrolled and shall not be removed until the Charter School issues a final decision. As used herein, “involuntarily removed” includes disenrolled, dismissed, transferred, or terminated, but does not include removals for misconduct which may be grounds for suspension or expulsion as enumerated below. CCCA will develop a Board Policy and procedures for involuntary removals.

The charter school shall not dismiss students for any of the following reasons: poor achievement or minimum grade point average, incomplete or missing assignments, poor attendance, and discipline issues that do not meet the Charter School’s criteria for expulsion.

A. Grounds for Suspension and Expulsion

A student may be suspended or expelled for prohibited misconduct that is enumerated below and are related to attendance at school or a school activity that occur at any time, including but not limited to:

a. while on school, community college, or job site grounds;
b. while going to or coming from school, community college, or job site;
c. during the lunch period, whether on or off the school campus; or
d. during, going to, or coming from a school sponsored activity.

B. Authority to Suspend

A teacher may suspend a student only from the teacher’s classroom for the day of the suspension plus the following school day. The teacher must immediately notify the Executive Director or a designee and send the pupil to the Executive Director or designee for appropriate action.

The Executive Director or designee may suspend a student from class, classes, or the school campus for a period not to exceed five school days.

The Executive Director or designee may extend a student’s suspension pending final decision by the Administrative Panel on a recommendation for expulsion.

C. Enumerated Offenses

1. Discretionary Suspension Offenses: Students may be suspended 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 in self-defense.

c. Unlawfully possessed, used, or otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or any intoxicant of any kind.

d. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or any intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material while representing same as a controlled substance, alcoholic beverage, or intoxicant.

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 supplies, material goods, facilities, electronic files and databases.

g. Stole or attempted to steal school property or private property (which includes but is not limited to supplies, material goods, facilities, electronic files and databases).

h. Possessed or used tobacco, or products containing tobacco or nicotine products, including but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This section does not prohibit possession or use by a student of their own prescription products.

i. Committed an obscene act or engaged in habitual profanity or vulgarity.

j. Unlawfully possessed or offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.

k. 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.

l. Knowingly received stolen school property or private property which includes but is not limited to, supplies, material goods, facilities, electronic files and databases.

m. Possessed an imitation firearm meaning 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.

n. Harassed, threatened, or intimidated a student who is a complaining witness or a witness in a school disciplinary proceeding for purposes of preventing that student from being a witness and/or retaliating against that student for being a witness.

o. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

p. Engaged in or attempted to engage in hazing. For purposes of this policy, "hazing" means a method of initiation or preinitiation into a student organization or body, whether or not same is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. "Hazing" as defined here does not include athletic events or school-sanctioned events.
q. Made terrorist threats against school officials and/or school property (which includes but is not limited to, supplies, material goods, facilities, electronic files and databases). For purposes of this policy, "terroristic threat" shall include any written or oral statement by a person who willfully threatens to commit a crime that would result in death, great bodily injury to another, property damage in excess of one thousand dollars ($1,000), with the specific intent that such statement is to be taken as a threat. This shall include such statements made even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, or for the protection of school property, or the personal property (which includes but is not limited to, supplies, material goods, facilities, electronic files and databases) of the person threatened or their immediate family.

r. Committed sexual harassment as defined in Education Code Section 212.5. For purposes of this policy, the conduct 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.

s. Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in Education Code Section 233(e).

t. Intentionally engaged in harassment, threats, or intimidation, directed against school personnel and volunteers and/or a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or volunteers and/or student(s) by creating an intimidating or hostile educational environment.

u. Engaged in an act of bullying, including but not limited to, bullying committed by means of an electronic act.

1) Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students which would be deemed harassment, intimidation, threats or hate violence, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

i. Placing a reasonable student (i.e., including but not limited to an exceptional needs student 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 person or property.

ii. Causing a reasonable student to experience a substantially detrimental effect on their physical or mental health.

iii. Causing a reasonable student to experience substantial
interference with their academic performance.

iv. 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 school.

2) “Physical or verbal act or conduct” may include communications made in writing or by means of an “electronic act” (i.e., creation or transmission originated on or off the school site, by means of an electronic device, including but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager of a communication, including but not limited to, any of the following

i. A message, text, sound, video, or image.

ii. A post on a social network Internet Web site including, but not limited to:

(a) Posting to or creating a “burn page” (i.e., an Internet Web site created for the purpose of having one or more of the effects as listed above).

(b) Creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed 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).

(c) Creating a false profile for the purpose of having one or more of the effects listed 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.

iii. An act of cyber sexual bullying.

(a) For purposes of this policy, “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 one or more of the effects described in subparagraphs (i) to (iv), inclusive, of paragraph (a). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

(b) For purposes of this policy, “cyber sexual bullying” does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.
3) Notwithstanding subparagraphs (i) and (ii) above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

v. Aided or abetted, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a student who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1) (a)-(b).

w. Possessed, sold, or otherwise furnished any knife or other dangerous object of no reasonable use to the student, unless, in the case of possession of any object of this type, the student had written permission to reasonably possess the item from the Executive Director or a designee.

2. **Non-Discretionary Suspension Offenses:** Students shall be suspended and recommended for expulsion when it is determined pursuant to the procedures below, that the student:
   
a. Possessed, sold, or otherwise furnished a 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 (e.g., display in threatening manner) 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 Section 261, 266c, 286, 287, 288, or 289, or former Section 288a of the Penal Code, or committing a sexual battery as defined in Penal Code Section 243.4.

3. **Discretionary Expellable Offenses:** Students may be recommended for expulsion when it is determined the student:
   
a. 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.

b. Unlawfully possessed, used, or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind.

c. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage or an intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid substance or material and represented same as a controlled substance, alcoholic beverage, or intoxicant.

d. Committed or attempted to commit robbery or extortion.

e. Caused or attempted to cause damage to school property or private property, which includes, but is not limited to, electronic files and databases.

f. Stole or attempted to steal school property or private property, which includes, but is not limited to, electronic files and databases.
g. Possessed or used tobacco, or products containing tobacco or nicotine products, including but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This section does not prohibit possession or use by a student of their own prescription products.

h. Committed an obscene act or engaged in habitual profanity or vulgarity.

i. Unlawfully possessed or offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.

j. Knowingly received stolen school property or private property which includes but is not limited to, supplies, material goods, facilities, electronic files and databases.

k. Possessed an imitation firearm meaning 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.

l. Harassed, threatened, or intimidated a student who is a complaining witness or a witness in a school disciplinary proceeding for purposes of preventing that student from being a witness and/or retaliating against that student for being a witness.

m. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

n. Engaged in or attempted to engage in hazing. For purposes of this policy, "hazing" means a method of initiation or preinitiation into a student organization or body, whether or not same is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. "Hazing" as defined here does not include athletic events or school-sanctioned events.

o. Made terroristic threats against school officials and/or school property (which includes but is not limited to, supplies, material goods, facilities, electronic files and databases). For purposes of this policy, "terroristic threat" shall include any written or oral statement by a person who willfully threatens to commit a crime that would result in death, great bodily injury to another, property damage in excess of one thousand dollars ($1,000), with the specific intent that such statement is to be taken as a threat. This shall include such statements made even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, or for the protection of school property, or the personal property (which includes but is not limited to, supplies, material goods, facilities, electronic files and databases) of the person threatened or their immediate family.

p. Committed sexual harassment as defined in Education Code Section 212.5. For purposes of this policy, the conduct 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.

q. Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in Education Code Section 233(e).

r. Intentionally engaged in harassment, threats, or intimidation, directed against school personnel and volunteers and/or a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or volunteers and/or student(s) by creating an intimidating or hostile educational environment.

s. Engaged in an act of bullying, including but not limited to, bullying committed by means of an electronic act.

1) Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a student or group of students which would be deemed harassment, intimidation, threats or hate violence, directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

i. Placing a reasonable student (i.e., including but not limited to an exception needs student 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 person or property.

ii. Causing a reasonable student to experience a substantially detrimental effect on their physical or mental health.

iii. Causing a reasonable student to experience substantial interference with their academic performance.

iv. 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 school.

2) “Physical or verbal act or conduct” may include communications made in writing or by means of an “electronic act” (i.e., creation or transmission originated on or off the school site, by means of an electronic device, including but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager of a communication, including but not limited to, any of the following:

i. A message, text, sound, video, or image.

ii. A post on a social network Internet Web site including, but not limited to:

   a) Posting to or creating a “burn page” (i.e., an Internet Web site created for the purpose of having one or more of the effects as listed above).

   b) Creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed 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).

c) Creating a false profile for the purpose of having one or more of the effects listed 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.

iii. An act of cyber sexual bullying.

a) For purposes of this policy, “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 one or more of the effects described in subparagraphs (i) to (iv), inclusive, of paragraph (a). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

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

3) Notwithstanding subparagraphs (i) and (ii) above, an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

t. Aided or abetted, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a student who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1) (a)-(b).

u. Possessed, sold, or otherwise furnished any knife or other dangerous object of no reasonable use to the student, unless, in the case of possession of any object of this type, the student had written permission to reasonably possess the item from the Executive Director or a designee.

v. Robbery or extortion.

w. Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

4. Non-Discretionary Expellable Offense

a. Possessed, sold, or otherwise furnished a 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 the Executive Director
b. Brandished (e.g., display in threatening manner) 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 Section 243.4 of the Penal Code.

The Charter School will use the following definitions:

The term “knife” means (a) any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing; (b) a weapon with a blade fitted primarily for stabbing; (c) a weapon with a blade longer than 3 ½ inches; (d) a folding knife with a blade that locks into place; or (e) a razor with an unguarded blade.

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

The term “destructive device” means any explosive, incendiary, or poison gas, including but not limited to: (a) bomb; (b) grenade; (c) rocket having a propellant charge of more than four ounces; (d) missile having an explosive or incendiary charge of more than one-quarter ounce; (e) mine; or (f) device similar to any of the devices described in the definitions of “firearm” or “knife.”

The term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

D. Suspension Procedures

Suspensions shall be initiated according to the following procedures:

1. Suspension Conference

Suspension shall be preceded, if possible, by a conference conducted by the Executive Director or designee with the student and the student’s parent/guardian and, whenever practical, the teacher, supervisor or Charter School employee who referred the student to the Executive Director. Every reasonable effort will also be made to contact the student’s parent/guardian to engage in this suspension conference.

The conference may be omitted if the Executive Director or designee determines that an emergency situation exists. An “emergency situation” involves a clear and present danger to the lives, safety or health of students or Charter School personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified.
of the student’s right to return to school for the purpose of a conference. When conditions permit, CCCA will make every effort to provide students and families with a timely hearing.

At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against the student and shall be given the opportunity to present their version and evidence in their defense, in accordance with Education Code Section 47605.6(b)(5)(J)(i).

This conference shall be held within two (2) school days, unless the student waives this right or is physically unable to attend for any reason including, but not limited to, incarceration or hospitalization.

No penalties may be imposed on a student for failure of the student’s parent or guardian to attend a conference with Charter School officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student’s parent/guardian at the conference.

2. Notice to Parents/Guardians

At the time of the suspension, an administrator or designee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension and the date of return following suspension. This notice shall state the specific offense(s) committed by the student as well as the date the student may return to school following the suspension. In addition, the notice may also state the time when the student may return to school. If Charter School officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may request that the parent/guardian respond to such requests without delay.

3. Suspension Time Limits/Recommendation for Expulsion

Suspension, when not including a recommendation for expulsion, shall not exceed five (5) consecutive school days per suspension.

Upon a recommendation of expulsion by the Executive Director or designee, the student and the student’s parent/guardian or representative will be invited to a conference to determine if the suspension for the student should be extended pending an expulsion hearing. In such instances when the Charter School has determined a suspension period shall be extended, such extension shall be made only after a conference is held with the student or the student’s parent/guardian, unless the student and the student’s parent/guardian fail to attend the conference.

This determination will be made by the Executive Director or designee upon either of the following: 1) the student’s presence will be disruptive to the education process; or 2) the student poses a threat or danger to others. Upon either determination, the student’s
suspension will be extended pending the results of an expulsion hearing.

4. **Homework Assignments During Suspension**

   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.

E. **Authority to Expel**

   As required by Education Code Section 47605.6(b)(5)(J)(ii), students recommended for expulsion are entitled to a hearing adjudicated by a neutral officer to determine whether the student should be expelled. The procedures herein provide for such a hearing and the notice of said hearing, as required by law.

   A student may only be expelled by either the neutral and impartial CCCA Board of Directors following a hearing before it or by the CCCA Board of Directors upon the recommendation of a neutral and impartial CCCA Administrative Panel, to be assigned by the Board of Directors as needed. The Administrative Panel shall consist of at least three (3) members who are certificated and neither a teacher nor a member of the CCCA Board of Directors. Each entity shall be presided over by a designated neutral hearing chairperson. The Administrative Panel may recommend expulsion of any student found to have committed an expellable offense, and the Board of Directors shall make the final determination.

F. **Expulsion Procedures**

   Students recommended for expulsion are entitled to a hearing to determine whether the student should be expelled. Unless postponed for good cause, the hearing shall be held within thirty (30) school days after the Executive Director or designee determines that the student has committed an expellable offense and recommends the student for expulsion.

   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 (complying with all student confidentiality rules under 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.

   Written notice of the hearing shall be forwarded to the student as well as his/her parent or guardian.
at least ten (10) calendar days before the date of the hearing. Upon mailing the notice, it shall be deemed served upon the student. The notice shall include: 1) date and place of the expulsion hearing; 2) statement of the specific facts, charges and offenses upon which the proposed expulsion is based; 3) CCCA student handbook and disciplinary rules; 4) notification of obligation to provide information about the student’s status at the Charter School to any other school district or school to which the student seeks enrollment; 5) opportunity for the student and/or the student’s parent/guardian to appear in person or to employ and be represented by counsel or a non-attorney advisor; 6) right to inspect and obtain copies of all documents to be used at the hearing; 7) opportunity to confront and question all witnesses who testify at the hearing; 8) opportunity to question all evidence presented and to present oral and documentary evidence on the student’s behalf including witnesses.

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

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

a. 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) 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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.

i. 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.

j. 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.

H. Record of Hearing

A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

I. Presentation of Evidence

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted
and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. A recommendation by the Administrative Panel to expel must be supported by substantial evidence that the student committed an expellable offense. Findings of fact shall be based solely on the evidence at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay. Sworn declarations may be admitted as testimony from witnesses of whom the Board or Administrative Panel determines that disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

If, due to a written request by the expelled student, the hearing is held at a public meeting, and the charge is committing or attempting to commit a sexual assault or committing a sexual battery as defined in Education Code Section 48900, a complaining witness shall have the right to have their testimony heard in a session closed to the public.

J. Expulsion Decision

The decision of the Administrative Panel shall be in the form of written findings of fact and a written recommendation to the Board of Directors, which will make a final determination regarding the expulsion. The Board of Directors shall make the final determination regarding the expulsion within ten (10) school days following the conclusion of the hearing. The decision of the Board of Directors is final.

If the Administrative Panel decides not to recommend expulsion, or the Board of Directors ultimately decides not to expel, the student shall immediately be returned to their previous educational program.

The Board of Directors may also determine to suspend the enforcement of the expulsion order for a period of not more than one (1) calendar year from the date of the expulsion hearing and return the student to the student’s previous educational program under a probationary status and rehabilitation plan to be determined by the Board. During the period of the suspension of the expulsion order, the student is deemed to be on probationary status. The Board of Directors may revoke the suspension of an expulsion order under this section if the student commits any of the enumerated offenses listed above or violates any of the Charter School’s rules and regulations governing student conduct. If the Board revokes the suspension of an expulsion order, the student may be expelled under the terms of the original expulsion order. The Board of Directors shall apply the criteria for suspending the enforcement of the expulsion order equally to all students, including individuals with exceptional needs as defined in Education Code Section 56026. The Board of Directors shall further comply with the provisions set forth under Education Code Section 48917, except as otherwise expressly set forth herein.

K. Written Notice to Expel

The Executive Director or designee, following a decision of the Board of Directors to expel, shall send written notice of the decision to expel, including the Board of Directors’ adopted findings of fact, to the student and student’s parent/guardian. This notice shall also include the following: (a) Notice of the specific offense committed by the student; and (b) Notice of the student’s or
parent/guardian’s obligation to inform any new district in which the student seeks to enroll of the student’s status with the Charter School.

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

L. Disciplinary Records

The Charter School shall maintain records of all student suspensions and expulsions at the Charter School. Such records shall be made available to the chartering authority upon request.

M. No Right to Appeal

The student shall have no right of appeal from expulsion from the Charter School as the Charter School Board of Directors’ decision to expel shall be final.

N. Expelled Students/Alternative Education

Parents/guardians of 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.

O. 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.

P. 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 or representative 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.

Q. 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.

R. Special Procedures for the Consideration of Suspension and Expulsion or Involuntary Removal of Students with Disabilities

1. Notification of SELPA

   CCCA 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 CCCA or the SELPA would be deemed to have knowledge that the students had a disability.

2. Disciplinary Removals of Less than 10 days:

   The Charter School may remove a student with a disability who violates policies set forth in the to be established student handbook from his/her current placement to an appropriate interim alternative educational setting, another setting or suspension, as long as the removal does not constitute a change of placement (34 CFR 300.536).

3. Disciplinary Removals of 10 Days or More:

   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.

4. Procedural Safeguards/Manifest 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 Executive Director or designee, the parent, and relevant members of the IEP/504 Plan Team shall review all relevant information in the student's file, including the child's IEP/504 Plan, any teacher observations, and any relevant information provided by the parents to determine:

   ● If the conduct in question was caused by, or had a direct and substantial
relationship to, the child's disability; or
  ● If the conduct in question was the direct result of the local educational agency's failure to implement the IEP/504 Plan.

If the Charter School, the parent, and relevant members of the IEP/504 team makes the determination 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 CCCA, 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 previously 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 CCCA agree to a change of placement as part of the modification of the behavioral intervention plan.

If CCCA, 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.

5. Due Process Appeals

In situations where the parent/guardian of a student with a disability disagrees with any decision regarding placement, or the results of a manifestation determination hearing, or CCCA believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, either party may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings or utilize the dispute provisions of the 504 Policy and Procedures to resolve the disagreement.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent/guardian or CCCA, 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 CCCA 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 CCCA 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 CCCA 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.

6. Special Circumstances

CCCA 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:

- 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;
- 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
- 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.

7. Interim Alternative Educational Setting

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

8. 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/ADA and who has violated the County's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the 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:

- 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 the school’s administrative personnel, or to one of the child’s teachers, that the student is in need of special education or related services.
- The parent/guardian has requested an evaluation of the child.
- The child’s teacher, or other school personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the Executive Director.

If CCCA 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/ADA-eligible children with disabilities, including the right to stay-put.

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

If CCCA had no basis for knowledge of the student’s disability, the Charter School shall proceed with the proposed discipline. CCCA shall conduct an expedited special education evaluation if requested by the parent/guardian; however, the student shall remain in the education placement determined by CCCA 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.