



NEWMAN LEADERSHIP ACADEMY

STUDENT DISCIPLINE – SUSPENSION AND EXPLUSION PROCEDURE

The following suspension and expulsion procedures apply to all students attending Newman Leadership Academy (the “School”).

A. Suspension Procedure

Suspensions shall be initiated according to the following procedures:

1. Conference

Suspension shall be preceded, if possible, by a conference conducted by the Executive Director/Principal or Designee with the student and his or her parent and, whenever practical, the teacher, supervisor or school employee who referred the student to the Executive Director/Principal or Designee. The conference may be omitted if the Executive Director/Principal Designee determines that an emergency situation exists. An “emergency situation” involves a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student’s right to return to school for the purpose of a conference.

At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

This conference shall be held within two school days, unless the pupil 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 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.

We believe that communication with parents is an important intervention strategy. While parents may not be notified every time a child commits a minor infraction of the discipline policy, a staff member will promptly notify the parent when a serious infraction or disruption to the classroom environment occurs.

2. Notice to Parents/Guardians

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

3. Suspension Time Limits/Recommendation for Placement/Expulsion

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

Suspensions may be in school or out of school depending upon the behavior or infraction.

Upon a recommendation of Placement/Expulsion by the Executive Director/Principal or Designee, the pupil and the pupil's guardian or representative will be invited to a conference to determine if the suspension for the pupil should be extended pending an expulsion hearing. This determination will be made by the Executive Director/Principal or Designee upon either of the following determinations: 1) the pupil's presence will be disruptive to the education process; or 2) the pupil poses a threat or danger to others. Upon either determination, the pupil's suspension will be extended pending the results of an expulsion hearing.

B. Authority to Expel

A student may be expelled in a hearing presided over by at least two Board of Directors members selected by the Board President unless a quorum of the Board convenes to preside over the hearing.

C. 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/Principal or Designee determines that the Pupil has committed an expellable offense.

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 forwarded to the student and the student's parent/guardian at least ten (10) calendar days before the date of the hearing. Upon mailing the notice, it shall be deemed served upon the pupil. The notice shall include:

1. The date and place of the expulsion hearing;
2. A statement of specific facts, charges and offenses upon which the proposed expulsion is based;
3. A copy of Charter School's disciplinary rules which relate to the alleged violation;
4. Notification of the student's or parent/guardian's obligation to provide information about the student's status at the school to any other school district or school to which the student seeks enrollment;
5. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel or a non-attorney advisor;
6. The right to inspect and obtain copies of all documents to be used at the hearing;
7. The opportunity to confront and question all witnesses who testify at the hearing;
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf including witnesses.

D. Special procedures for Expulsion Hearings Involving Sexual Assault or Battery Offences

The School may, upon finding a good cause, determine that the disclosure of either the identity of the witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Board of Directors, administrative panel, or the hearing officer. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the 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 (5) 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 not alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examination in another place communicated to the hearing by means of closed-circuit television.
10. Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before such a determination regarding extraordinary circumstances can be made, the witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

E. 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.

F. Presentation of Evidence

Findings of fact shall be based solely on the evidence at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay and sworn declarations may be admitted as testimony from witnesses of whom the Board of Directors, Panel or designee determines that disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

If, due to a written request by the accused 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.

The decision of the panel shall be in the form of written findings of fact and is final.

If the expulsion hearing panel decides not to recommend expulsion, the pupil shall immediately be returned to his/her educational program.

G. Written Notice to Expel

Executive Director/Principal or Designee following a decision of the panel to expel shall send written notice of the decision to expel, including the panel's adopted findings of fact, to the student or parent/guardian. This notice shall also include the following:

1. Notice of the specific offense committed by the student
2. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the School.

Executive Director/Principal or Designee shall send a copy of the written notice of the decision to expel to the student's district of residence. This notice shall include the following:

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

H. Disciplinary Records

The School shall maintain records of all student suspensions and expulsions at the School.

I. No Right to Appeal

The pupil shall have no right of appeal from expulsion from the School.

J. Expelled Pupils/Alternative Education

Pupils 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.

K. Rehabilitation Plans

Students who are expelled from the School shall be given a rehabilitation plan upon expulsion as developed by the panel 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 pupil may reapply to the School for readmission.

L. Readmission

The decision to readmit a pupil or to admit a previously expelled pupil from another school, school district or charter school shall be in the sole discretion of the Board of Directors following a meeting with the Executive Director/Principal and the pupil and guardian or representative 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 Executive Director/Principal or Designee shall make a recommendation to the Board of Directors following the meeting regarding his or her determination. The pupil's readmission is also contingent upon the School's capacity at the time the student seeks readmission.

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

1. Notification of SELPA

The School shall immediately notify its SELPA and coordinate the procedures in this policy with the SELPA regarding the discipline of any student with a disability.

2. Services During Suspension

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP and receive, as appropriate, a functional behavioral assessment or functional analysis, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. These services may be provided in an interim alternative educational setting.

3. Procedural Safeguards/Manifestation Determination

Within ten (10) school days of a recommendation for expulsion or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the School, the parent, and relevant members of the IEP Team shall review all

relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

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

If the School, the parent, and relevant members of the IEP Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

If the School, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall:

- a. Conduct a functional behavioral assessment or a functional analysis assessment, and implement a behavioral intervention plan for such child, provided that the School had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- b. If a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- c. Return the child to the placement from which the child was removed, unless the parent and the Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

If the School, the parent, and relevant members of the IEP team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of the failure to implement the IEP, then the School may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

4. Due Process Appeals

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination, or the School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent or the School, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day time period provided for in an interim

alternative educational setting, whichever occurs first, unless the parent and the School agree otherwise.

5. Special Circumstances

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

The Principal or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

- a. Carries or possesses a weapon, as defined in 18 USC 930, to or at school, on school premises, or to or at a school function;
- b. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
- c. Has inflicted serious bodily injury, as defined by 20 USC 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

6. Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's IEP team.

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

A student who has not been identified as an individual with disabilities pursuant to IDEIA and who has violated the district'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 School shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

- a. The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to School supervisory or administrative personnel, or to one of the child's teachers, that the student is in need of special education or related services.
- b. The parent has requested an evaluation of the child.
- c. The child's teacher, or other School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other School supervisory personnel.

If the School knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to IDEIA-eligible children with disabilities, including the right to stay-put.

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

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