

AD PRIMA CHARTER SCHOOL

26. STUDENT CONDUCT AND DISCIPLINE

The goal of discipline is to help the child to become a successful student and a good citizen. Learning respect for self and others, understanding how to function effectively in groups, and how to support others are the hallmarks of an effective discipline plan. At Ad Prima Charter School, we present these lessons in a positive manner, but there are times when punishment is needed to provide an equally important lesson. The knowledge that every action has a consequence is important for all students to learn. In addition to the school-wide rules, each teacher has his/her own standards and expectations, rewards, and punishments.

Each classroom has a climate for learning. Rules, consequences and rewards are posted and/or discussed in each classroom so that children know what is expected. Children are required to follow classroom and school rules at all times. If a child repeatedly violates established rules and disrupts the learning environment, parents will be required to meet with the teacher or Site Administrator to find an effective way to assist the child in behavior management. Your cooperation and support of the school's educational program is essential in providing a successful learning experience for your child.

The following guidelines provide the framework within which effective learning can occur.

At Ad Prima Charter School we foster:

Cooperation and Respect for oneself and others,
one's own feelings and those of others,
one's own thoughts and those of others,
one's own property and that of others.

We praise and promote
looking at one's own strengths and those of others,
willingness to work hard, to dare to try,
helping others,
caring deeply about someone and/or something,
imagination,
originality.

We do not tolerate
rudeness
swearing
teasing

We will try to deal with these things through discussion.

If a child's behavior does not improve, we will contact the parent or

guardian.

We do not tolerate
fighting
hitting
stealing
destroying property
throwing snowballs
bringing weapons to school
instigating trouble
non-regulation clothing
disruptive behavior
bullying/intimidation
tobacco products

We will suspend or expel a student immediately for this behavior as described in the State regulations.

We do not tolerate the use of drugs or alcohol.

We will report it to the Police. Suspension or expulsion will result.

We understand
impulsiveness
frustration
anger
guilt
feeling picked on
feeling hurt.

We want our students to realize that these feelings are acceptable and normal, but it's how we handle them that counts!

We request that you discuss the following basic rules with your child.

Hallway

- Always **WALK**
- Do not talk
- Help keep trash off the floor
- Keep your hands and pencil marks off the walls and other student's work
- Respect students' fine artwork
- Be sure to get a hall pass from the teacher

Cafeteria

- Always **WALK**
- Follow the rules and directions of the adults in charge
- Use good manners - as you would at home
- **Speak softly** to make this a more pleasant place to eat
- Upon finishing your lunch, **clean your area**, and wait to be called to throw out your trash
- **Do not take food outside of the cafeteria**
- **Do not bring glass bottles into the cafeteria**
- **Pick up trash/food underneath your table**

Gym

- Be sure to play the specified game in the designated area
- Be sure not to hurt anyone's feelings or body in any way
 - a. Be courteous and respectful
 - b. No rough play, tackling or fighting
- Be a good sport, play fair, share equipment, and permit everyone to play
- Be sure not to use inappropriate or foul language at any time
- Remember to walk away from trouble and report any problem to the teacher.
- Remember to wear a regulation gym uniform.

Disciplinary Actions

When a student fails to follow the school or classroom rules, the teacher or adult in charge will speak to the child. If the student continues to break the rules, the teacher will impose consequences. If the child remains uncooperative, the teacher will speak to the site administrator. The actions chosen by the site administrator may include:

- Teacher/pupil conference
- Parent/teacher conference
- Parent/teacher/site administrator conference
- Withdrawal of privileges
- Out-of-school suspension

Assertive Discipline Plan

The entire staff of Ad Prima Charter School has the goal of establishing an atmosphere throughout the school in which children will feel safe, secure, and happy and, in addition, have a maximum opportunity to learn.

In an effort to accomplish this goal, we have developed a School-wide Assertive Discipline Plan based on our philosophy of conduct and discipline. This plan specifies the rules that cover the behavior that we expect from our students. The plan also states that children who break the rules will receive negative consequences, and students who follow the rules will receive positive consequences.

Our school-wide rules are divided into three categories, A, B, and C. The rules under Category A deal with activities that encourage structure and responsibility. Violations of these rules are considered to be the least serious infractions. B Category rules deal with more serious issues. Violations of these rules can result in more serious disruption of the school's organization and are responded to accordingly. Rules in Category C deal with issues that are considered extremely serious. Violations of these rules can infringe directly upon the rights of others and are therefore subject to very serious consequences.

Our school-wide rules are:

Category A:

1. Follow directions from staff the first time they are given.
1. Be prepared for class. Bring books, notebooks, pens, and pencils. Hand in homework at the beginning of the period. Be neat. Wear a clean uniform. Keep your desk and personal belongings orderly. Do not wear hats inside the building.
2. Raise your hand to be recognized before speaking.
3. Walk at all times in the building. Don't run.
4. Return books and materials to their proper area.
5. Play all games according to the rules.

Category B:

1. Do not bring food, drink, or chewing gum into the classroom.
2. Do not bring individual tape or CD players, handheld games, cellular phones, pagers, messaging devices or toys to school. (If seen by a member of the staff, the device will be taken and given to the Site Administrator. Parents/guardians must come to school to reclaim the device.)
3. Appropriate uniforms must be worn at all times. Uniforms must be purchased from Cramer's Kids which carries the uniform that has been approved by the school. Wearing the following items is unacceptable and will result in the student's parent being asked to come to school, either to take the child home to change or to bring appropriate clothing: Oversized or tight clothing including oversized T-shirts and pants that hang below the waist, exposed undergarments, stocking caps, doo rags, bandanas, sneakers (on days other than gym days) and hats.

Category C:

1. Respect yourself, teachers, classmates, and property. Use appropriate language at all times. (Swearing, teasing, using obscene gestures, fighting, and any verbal or non-verbal attack on a staff member are forbidden at any time).
1. Do not bring medication of any kind into the building. (If a child requires a prescription medication, the parent must bring the medication, in its original container, to the Site Administrator).

2. Do not bring weapons of any kind onto school property. Weapons include guns, knives, and any blunt instrument or sharp object that can be used to injure another person.
4. Do not bring tobacco products, illegal drugs, or alcohol to school.
5. Abuse of computer/Internet privileges and cheating/academic dishonesty are considered to be serious offenses.

Consequences for Breaking Rules from Categories A or B

Level 1: Warning

Level 2: Loss of privileges: i.e., the student is barred from participation in games, communication, and group activities.

Level 3: Parent will be notified. Parent may be asked to come to the school for a conference.

Level 4: In-School or At-Home Suspension - 3 days maximum for the first offence. Subsequent offences may result in a stiffer penalty.

Consequences for Breaking Rules from Categories C

Level 1: The parent is notified, and the student is separated from the group.

Level 2: The parent will be required to come to the school and may be requested to remove the child from the school for the rest of the day.

Level 3: In-School Suspension

Level 4: At-Home Suspension - one week maximum

Level 5: Permanent removal from school

Definitions/Procedures:

In-School Suspension: The student will be separated from the group for the entire school day and barred from all classroom and extracurricular activities. The student may not participate in any reward activities during the suspension period and will be given assignments to complete while serving out the suspension.

A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective. Communication to the parents or guardian shall follow the suspension action taken by the school. 22 Pa. Code §12.7(a).

At-Home Suspension: The student will not be permitted to attend school for a period of time determined by the Site Administrator. The student will be expected to make up all assignments and tests missed during the suspension period.

The primary reasons for At-Home Suspension are to: 1) involve the parents and seek their help with the disciplinary issue, 2) offer immediate relief to the staff and students by removing the offending student from the school, and 3) display the dissatisfaction of the school with the student's behavior.

Suspension is exclusion from school for a period of from 1 to 10 consecutive days. Suspensions may be given by the Principal/Site Administrator or person in charge of the school. Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.

A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened. The parent/guardian shall be notified immediately in writing when the student is suspended.

When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in §12.8(c).

Note: In-School and At-Home Suspensions will be recorded on the student’s permanent record. Continuous violations of the rules will place a child’s status at Ad Prima Charter School in jeopardy. The school follows a zero tolerance policy with regard to violent and/or disruptive behavior. Although the staff will consider variables that may influence a child’s conduct, e.g. the presence of a disability, or the effect of medication; unless the mitigating circumstances are extremely grave a child who has been suspended three times during a school year will be referred to the Board of Trustees for expulsion.

Due Process Procedures and Policy

School Administration Responsibilities

Ad Prima adopts the policy that each teacher, Vice Principal, Principal and Administrative staff has the authority over students to ensure that a safe, productive and nurturing environment is provided for the student body.

In compliance with Pa. Code, Ad Prima “has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.”

Coinciding with this responsibility, teachers and administrative staff are required to exhibit fairness and honesty in resolving conflict, making decisions regarding modifying behavior and severe penalties for serious infractions. These infractions include:

- Due process in conflict between students, to the level of name calling to the severity of physical and personal injury
- Due process and corresponding discipline for Categories A, B and C under “School-Wide Rules” of Ad Prima’s Handbook.
- Due process in moderate to severe infractions regarding the condition of personal and school property, if compromised.

For Reference: 22 Pa. Code § 12.3 (a)(b)(c)

Student Rights

Students of Ad Prima have the right to have their version of events heard by administrative staff, teachers and principals before any disciplinary actions are carried out.

Complying with the Pa Code, Students/ Parents/ Guardians have the right to a hearing to be conducted by the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board and independent and impartial hearing officer in the event of severe penalty for a student's actions. During said hearings, parents and guardians may oppose the request for their student's removal from the school.

According to 22 Pa. Code § 12.3, "Education is a statutory right, and students shall be afforded due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing." Likewise, "governing boards may not make rules that are arbitrary, capricious, discriminatory or outside their grant of authority from the General Assembly. A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose."

Additionally, victim services are available through the Office of Safe Schools Advocate, *OSSA*.

Contact Information:

Phone: (215)-656-5381

Web-Site: <http://www.phillyossa.com>

For Reference: 22 Pa. Code § 12.3 (a)(c)

Incident Protocol

Students who exhibit a pattern of disruptive, detrimental, harmful or dangerous behavior will be referred for a hearing to determine the appropriate course of action for preventing aforementioned behaviors from affecting the overall safety and climate of the student body.

Expulsion Protocol

Expulsion is exclusion from school by the governing board exceeding ten days and may be permanent expulsion from the school roles.

- Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.
- Parents and guardians of the expelled student are responsible for ensuring the continuation of said expelled student.
- Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described above or that they are unable to do so.

According to 22 Pa. Code § 12.8 (b), “a formal hearing is required in all expulsion actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student.”

The following due process requirements shall be observed with regard to the formal hearing:

- (1) Notification of the charges shall be sent to the student’s parents or guardians by certified mail.
- (2) At least 3 days’ notice of the time and place of the hearing shall be given. A copy of the expulsion policy, notice that legal counsel may represent the student and hearing procedures shall be included with the hearing notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.
- (3) The hearing shall be held in private unless the student or parent requests a public hearing.
- (4) The student may be represented by counsel, at the expense of the parents or guardians, and may have a parent or guardian attend the hearing.
- (5) The student has the right to be presented with the names of witnesses against the student, and copies of the statements and affidavits of those witnesses.
- (6) The student has the right to request that the witnesses appear in person and answer questions or be cross-examined.
- (7) The student has the right to testify and present witnesses on his own behalf.
- (8) A written or audio record shall be kept of the hearing. The student is entitled, at the student’s expense, to a copy. A copy shall be provided at no cost to a student who is indigent.
- (9) The proceeding shall be held within 15 school days of the notification of charges, unless mutually agreed to by both parties. A hearing may be delayed for any of the following reasons, in which case the hearing shall be held as soon as reasonably possible:
 - (i) Laboratory reports are needed from law enforcement agencies.
 - (ii) Evaluations or other court or administrative proceedings are pending due to a student invoking his rights under the Individuals With Disabilities Education Act (20 U.S.C.A. § § 1400—1482).
 - (iii) In cases in juvenile or criminal court involving sexual assault or serious bodily injury, delay is necessary due to the condition or best interests of the victim.
- (10) Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.

(c) *Informal hearings.* The purpose of the informal hearing is to enable the student to meet with the appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.

(1) The informal hearing is held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses might be avoided.

(2) The following due process requirements shall be observed in regard to the informal hearing:

- (i) Notification of the reasons for the suspension shall be given in writing to the parents or guardians and to the student.
- (ii) Sufficient notice of the time and place of the informal hearing shall be given.
- (iii) A student has the right to question any witnesses present at the hearing.

- (iv) A student has the right to speak and produce witnesses on his own behalf.
- (v) The school entity shall offer to hold the informal hearing within the first 5 days of the suspension.

Hearings conducted will discuss:

- The nature of the incident and severity of its affects, or the former with subsequent repetition of the negative behavior.
- The various versions of the events which led to the hearing
 - The student's account of events
 - The teacher/ administrator/ staff-member's account of events
 - On occasion, other students affected by the decisions/ behaviors of the individual with whom the hearing has been referred. Under circumstances where anonymity is not crucial.
 - On occasion, accomplices and other offenders associated with the individual with whom the hearing has been referred. Under circumstances where anonymity is not crucial.
 - On occasion, witnesses not associated with the offending party or the
- Whether the ramifications of the student's actions manifest temporary or permanent affects on the school, the student body, the climate, the school's reputation and the outward community.
- Present evidence relevant to the alleged infraction
- The advice of interventionists, specialists and officials when necessary, particularly in the cases of IEP's.

If the hearing officer concludes that the alleged infraction indeed occurred, that individual will determine an appropriate consequence, as detailed by LEA and School policy.

In the event it has been determined that mitigation can occur without the necessity of a formal hearing, informal proceedings will occur with compliance to 22 Pa. Code § 12.8 (c)

For Reference: 22 Pa. Code § 12.8 (b) (c)

Exclusions: Suspensions and Expulsions for Students with Disabilities

There are special rules in Pennsylvania for excluding children with disabilities for disciplinary reasons as set forth in Chapter 711 of Title 22 of the Pennsylvania Code as well as the Procedural Safeguards Notice available through PaTTAN. The Board of Trustees directs compliance with these requirements and directs the CEO or his/her designee to implement procedures necessary to effectuate the following:

AUTHORITY OF SCHOOL PERSONNEL (34 CFR §300.530)

1. Case-by-case determination

Ad Prima Charter School ("Charter School") personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

2. General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than 10 consecutive school days, remove a child with a disability (other than a child with mental retardation) who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see **Change of Placement Because of Disciplinary Removals** for the definition, below) or exceed 15 cumulative school days in a school year. Once a child with a disability has been removed from his or her current placement for a total of **10** school days in the same school year, Charter School must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading Services.

Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed 10 consecutive school days, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under Services. The child's IEP Team determines the interim alternative educational setting for such services. Under PA special education regulations, a disciplinary exclusion of a student with a disability more than 15 cumulative school days in a school year will be considered a pattern so as to *be* deemed a change in educational placement (explained under Change of Placement Because of Disciplinary Removals). Charter School is required to issue a NOREP / Prior Written Notice to parents prior to a removal that constitutes a change in placement (removal for more than 10 consecutive days or 15 cumulative days).

3. Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided in an interim alternative educational setting. A charter school is only required to provide services to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who has been similarly removed. Students may have the responsibility to make up exams and work missed while being disciplined by suspension and may be permitted to complete these assignments within guidelines established by their charter school.

A child with a disability who is removed from the child's current placement for more than 10 consecutive school days must:

- a. Continue to receive educational services, so as to enable the child 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
- b. 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 happen again.

After a child with a disability has been removed from his or her current placement for 10 school days during one school year, or if current removal is for 10 consecutive school days or less, and if the removal is not a change of placement (see definition below), then school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child 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.

If the removal is a change of placement (see definition below), the child's IEP Team determines the appropriate services to enable the child 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.

4. Manifestation determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that does not constitute a change in educational placement i.e., is for 10 consecutive school days or less and not a change of placement), Charter School, the parent, and relevant members of the IEP Team (as determined by the parent and Charter School) must 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 Charter School's failure to implement the child's IEP.

If Charter School, the parent, and relevant members of the child's IEP Team determine that either of those conditions were met, the conduct must be determined to be a manifestation of the child's disability.

If Charter School, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of Charter School's failure to implement the IEP, Charter School must take immediate action to remedy those deficiencies.

5. Determination that behavior was a manifestation of the child's disability

If Charter School, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

- a. Conduct a functional behavioral assessment, unless Charter School had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
- b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading Special circumstances, the Charter School must return the child to the placement from which the child was removed, unless the parent and Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

6. Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

- a. Carries a weapon (see the **Definitions** below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of Charter School;
- b. Knowingly has or uses illegal drugs (see the **Definitions** below), or sells or solicits the sale of a controlled substance, (see the **Definitions** below), while at school, on school premises, or at a school function under the jurisdiction of Charter School; or
- c. Has inflicted serious bodily injury (see the **Definitions** below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a charter school.

7. Definitions

- a. *Controlled Substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- b. *Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- c. *Serious bodily injury* has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- d. *Weapon* has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

8. Notification

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, Charter School must notify the parents of that decision, and provide the parents with a procedural safeguards notice.

Change of Placement Because of Disciplinary Removals

A removal of a child with a disability from the child's current educational placement is a change of placement requiring a NOREP / prior written notice if:

1. The removal is for more than 10 consecutive school days; or
2. The removal is for 15 cumulative school days total in anyone school year;
3. The child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removals;
 - c. Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another; and

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by Charter School and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting

The IEP team must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings *Additional authority* and *Special circumstances*, above.

1. General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

- a. Any decision regarding placement made under these discipline provisions; or
- b. The manifestation determination described above.

Charter School may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

2. Authority of hearing officer

A hearing officer that meets the requirements described under the sub-heading Impartial Hearing Officer must conduct the due process hearing and make a decision.

The hearing officer may:

- a. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading Authority of School Personnel, or that the child's behavior was a manifestation of the child's disability; or
- b. Order a change of placement of the 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 the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if Charter School believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or charter school files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints**, except as follows:

1. The LEA must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is filed and must result in a determination within 10 school days after the hearing.
2. Unless the parents and the Charter School agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within 7 calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings.

When, as described above, the parent or Charter School has filed a due process complaint related to

disciplinary matters, the child must (unless the parent and the State Educational Agency or Charter School agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading Authority of School Personnel, whichever occurs first.

Special Rules for Students with Mental Retardation

The disciplinary removal of a child with mental retardation attending a charter school for any amount of time is considered a change in placement and requires a NOREP / prior written notice (if the disciplinary event does not involve drugs, weapons and/or serious bodily injury). A removal from school is not a change in placement for a child who is identified with mental retardation when the disciplinary event involves weapons, drugs, and/or serious bodily injury. According to certain assurances the Commonwealth entered into related to the PARC consent decree, a charter school may suspend on a limited basis a student with mental retardation who presents a danger to himself or others upon application and approval by the Bureau of Special Education and only to the extent that a student with a disability other than mental retardation could be suspended.

Protections for Children Not Yet Eligible For Special Education and Related Services

1. General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but Charter School had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

2. Basis of knowledge for disciplinary matters

A charter school must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- a. The parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel, or a teacher of the child;
- b. The parent requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; or
- c. The child's teacher, or other Charter School personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to Charter School's director of special education or to other supervisory personnel of the Charter School.

3. Exception

A charter school would not be deemed to have such knowledge if:

- a. The child's parent has not allowed an evaluation of the child or refused special education services; or
- b. The child has been evaluated and determined to not be a child with a disability under Part B of the IDEA.

4. Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a charter school does not have knowledge that a child is a child with a disability, as described above under the sub-headings **Basis of knowledge for disciplinary matters and Exception**, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors. However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by Charter School, and information provided by the parents, Charter School must provide special education and related services in accordance with Part B of the IDEA, including the disciplinary requirements described above.

B. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

1. The state and federal regulations do not:

- a. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
- b. Prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Subsequent to a referral to law enforcement, an updated functional behavior assessment and positive behavior support plan are required.

2. Transmittal of records

If a charter school reports a crime committed by a child with a disability, the charter school: must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and may transmit copies of the child's special education and disciplinary records only to the extent permitted by FERPA.

Non-Discrimination

Charter School shall not discriminate in its discipline policies or practices on the basis of intellectual ability, status as a person with a disability, proficiency in the English language or any other basis that would be illegal under applicable state and/or federal laws.

The CEO or his/her designee is directed to develop procedures and practices related to the use of positive behavioral interventions and supports, and procedural safeguards and to ensure that those policies and procedures are implemented.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.