

DISCIPLINE POLICY

4200

To ensure that an environment is created where teaching and learning can flourish, Discovery Charter School has developed a series of rules that address proper student behavior, maintenance of order within the school and while people are engaged in school activities, and a statement of student rights and responsibilities.

School staff will ensure that parents and students are well informed of these policies both before enrollment and at the time that students sign up for enrollment in the charter school. As such, students will be completely knowledgeable about the behavior that is expected from them, and parents will be reassured that a positive and productive classroom environment will be maintained in the charter school. Parents will also be aware of the consequences for their children of disrupting the school environment. All staff will be trained in the implementation of these policies.

The discipline and order policies of the Discovery Charter School include the following components:

- I. Student Disciplinary Code
- II. Maintenance of Public Order on School Property
- III. Student Rights and Responsibilities

I. Student Disciplinary Code

Existing student discipline policies from many public school districts were examined in developing this code, and components of those district policies are evident throughout the disciplinary code of the Discovery Charter School.

This Code sets forth the school's policy regarding how students are expected to behave when participating in school activities, on and off school grounds, and how the school will respond when students fail to behave in accordance with these rules.

In all disciplinary matters, students will be given notice and will have the opportunity to present their version of the facts and circumstances leading to the imposition of disciplinary sanctions to the staff member imposing such sanctions. Depending on the severity of the infraction, disciplinary responses include suspension (short or long term), detention, exclusion from school activities, and expulsion. Where appropriate, school officials also will contact law enforcement agencies.

Definitions. For the purposes of this Code:

- "short term suspension" shall refer to the removal of a student from school for disciplinary reasons for a period of five or fewer days;

- “long term suspension” shall refer to the removal of a student from school for disciplinary reasons for a period of more than five days; and
- “Expulsion” shall refer to the permanent removal of a student from school for disciplinary reasons.

A. Short Term Suspensions

A student who is determined to have committed any of the infractions listed below shall be subject minimally to a short term suspension, unless the Director determines that an exception should be made based on the individual circumstances of the incident and the student’s disciplinary record. Such student also may be subject to any of the disciplinary measures set forth in Part C of this Code, and, depending on the severity of the infraction, a long term suspension also may be imposed and referrals to law enforcement authorities may be made.

Disciplinary Infractions

- Continued, willful disobedience, insubordination or open and persistent defiance of proper authority
- Endangering the physical safety of another by the use of force or threats of force that reasonably place the victim in fear of imminent bodily injury
- Engaging in conduct that disrupts school or classroom activities, or endangers or threatens to endanger the health, safety, welfare, or morals of others
- Willful destruction or defacing of school property
- Engaging in acts of sexual harassment, including—but not limited to—sexually related physical contact or offensive sexual comments
- Repeatedly committing minor behavioral infractions that, in the aggregate, may be considered an infraction subject to formal disciplinary action
- Committing any other act that school officials reasonably conclude warrants a disciplinary response

Procedures and Due Process for Short Term Suspensions

The members of the discipline team may impose a short term suspension. Before imposing a short term suspension, the member of the discipline team shall inform the student of the suspension verbally or in writing, the reason or reasons for it. The student shall be given an opportunity to deny or explain the charges. The leadership team member also shall immediately notify the parent(s) or guardian(s) in writing that the student is suspended from school. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of suspension. Where possible, notification also shall be provided by telephone. Such notice shall provide a description of the incident or incidents that resulted in the suspension and shall offer the opportunity for an immediate informal conference with whoever has imposed the suspension. The notification and informal conference shall be in the dominant language used by the parent(s) or guardian(s). Such notice and opportunity for an informal conference shall take place prior to the suspension of the student unless the student’s presence in the school

poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case, the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

The decision to impose a short term suspension or removal may be appealed first to the Board of Trustees of the charter school and next to the chartering entity, the New York State Board of Regents.

B. Long Term Suspensions and Expulsion

A student who is determined to have committed any of the infractions listed below shall be subject minimally to a long term suspension, unless the Director or Board of Trustees determines that an exception should be made based on the circumstances of the incident and the student's disciplinary record. Such student may also be subject to any of the disciplinary measures set forth in Part C, to referral to law enforcement authorities, and/or expulsion.

Disciplinary Infractions

- Possess, use, attempt to use, or transfer any firearm, knife, razor blade, explosive, mace, tear gas or other dangerous object of no reasonable use to the student at school
- Commit, or attempt to commit, arson on school property
- Possess, sell, distribute or use any alcoholic beverage, controlled substance, imitation controlled substance, or marijuana on school property or at school-sponsored events
- Assault any other student or staff member
- Intentionally cause physical injury to another person, except when the student's actions are reasonably necessary to protect himself or herself from injury
- Vandalize school property causing major damage
- Intense repeated bullying
- Commit any act that school officials reasonably conclude warrants a long term suspension

In addition, a student who commits any of the acts that would ordinarily result in a short term suspension may, instead or in addition, be subject to a long term suspension at the Director's discretion.

Federal and State Laws require the expulsion from school for a period of not less than one year of a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school, except that the Director may modify such expulsion requirement for a student on a case-by-case basis, if such modification is in writing.

Procedures and Due Process for Long Term Suspensions and Expulsions

The discipline team may impose a long-term suspension. Such a suspension will typically only be imposed only after the student has been found guilty at a formal suspension hearing. In

extreme circumstances, the Director may expel the student from school. Upon determining that a student's action warrants a possible long-term suspension, the Director shall verbally inform the student that he or she is being suspended and is being considered for a long-term suspension (or expulsion) and state the reasons for such actions. The Director also shall immediately notify the student's parent(s) or guardian(s) in writing. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of suspension at the last known address. Where possible, notification also shall be provided by telephone. Such notice shall provide a description of the incident or incidents that resulted in the suspension and shall indicate that a formal hearing will be held on the matter, which may result in a long-term suspension (or expulsion). The notification provided shall be in the dominant language used by the parent(s) or guardian(s). At the formal hearing, the student shall have the right to be represented by counsel, question witnesses, and present evidence.

If the suspension proceeding has been initiated by the Director, the Director shall personally hear and determine the proceeding, or may—at his or her discretion—designate a hearing officer to conduct the hearing. The hearing officer's report shall be advisory only and the Director may accept or reject all or part of it. The Director's decision after the formal hearing to impose a long term suspension or expulsion may be appealed first to the Board of Trustees and next to the chartering entity, the New York State Board of Regents.

C. Additional Disciplinary Measures

The disciplinary measures listed below may be imposed in addition to short term or long term suspensions or, if an exception has been made by the Director to the imposition of a minimum suspension, in place of such suspension. Behavior not listed in A or B (above) of this Code but determined by appropriate school staff to warrant disciplinary action, including but not limited to poor attendance, also may be subject to these additional disciplinary measures.

Suspensions may be imposed only by the discipline team and their designees. All other disciplinary measures may be imposed by the Director or a teacher, who must inform the Director of such action by the end of the school day.

a. Behavioral Contract: School staff may design written agreements with students subject to punishment under this code to identify target behaviors, define expectations, and describe consequences, provided that the affected student and his or her parent(s) or guardian(s) are informed that the decision to enter into such a contract is voluntary.

b. Detention: After notice to the student and parent(s) or guardian(s), and provided that there is no objection from the student and parent(s) or guardian(s) and the student has appropriate transportation home, a student may be detained after school in detention.

c. Loss of School Privileges: After notice to the student and parent(s) or guardian(s), a student may be suspended from participation in any or all extra-curricular activities. The

student and parent(s) or guardian(s) shall be given an opportunity to meet informally with the Director or teacher involved. If possible, the Director or teacher involved shall hold any requested meeting prior to imposing the suspension from participation in extra-curricular activities.

d. In-School Short Term Suspension: Students may be temporarily removed from the classroom and placed in another area of the school where the student will receive substantially equivalent instruction. The student and his or her parent(s) or guardian(s) will be given an opportunity for an informal conference regarding such suspension with whoever was involved in imposing the suspension.

e. Suspension from School Transportation: As the result of misconduct occurring on a bus or other student transportation for school outings, and after notice to the student and his or her parent(s) or guardian(s), a student may be suspended from school transportation that may be offered for school outings.

D. Provision of Services during Removal or Expulsion

The Charter School will ensure that alternative educational services are provided to a child who has been suspended or removed to help that child progress in the school's general curriculum. Actual instruction—not merely the provision of classroom assignments—will be provided by a certified teacher. For a student who has been expelled, alternative instruction will be provided by a certified teacher until the student enrolls in another school, two weeks or until the end of the school year, whichever comes first.

E. Disciplinary Procedures for Students with Disabilities

In addition to the discipline procedures applicable to all students, the following procedures are applicable to students with disabilities. The school will comply with sections 300.519-300.529 of the Code of Federal Regulations and the following procedures, except that in the event that the following procedures are inconsistent with federal law and regulations, such federal law and regulations shall govern.

1. Students for whom the Individualized Education Program (IEP) includes specific disciplinary guidelines will be disciplined in accordance with those guidelines. If the disciplinary guidelines appear not to be effective or if there is concern for the health and safety of the student or others if those guidelines are followed with respect to a specific infraction, the matter will be immediately referred to the Committee on Special Education (CSE) of the student's district of residence for consideration of a change in the guidelines.
2. Students for whom the IEP does not include specific disciplinary guidelines may be disciplined in accordance with standard school policy relating to each infraction. The CSE of the student's district of residence shall be notified immediately of any suspension

or removal from classes, and the school shall work with the CSE to arrange appropriate alternate instruction. If there is any reason to believe that the infraction is a result of the student's disability, the student will immediately be referred to the referring CSE. If a connection is found, no penalty may be imposed, and the school will work with the CSE to consider a possible program modification following consultation with the referring educational agency. If a student identified as having a disability is suspended during the course of the school year for a total of eight days, such student will immediately be referred to the CSE of the student's district of residence for reconsideration of the student's educational placement. Such a student shall not be suspended for a total of more than 10 days during the school year without the specific involvement of the district's CSE prior to the 11th day of suspension or removal, because such suspensions or removals may be considered to be a change in placement. In considering the placement of students referred because of disciplinary problems, the CSE of the student's district of residence is expected to follow its ordinary policies with respect to parental notification and involvement.

3. In order to keep the resident district's CSE appropriately informed of any disciplinary actions taken, the school will notify the resident district's CSE whenever a procedural safeguards notice is issued pursuant to 34 CFR §300.523.

4. The school shall work with the district to ensure that the CSE of the student's district of residence meets within 7 days of notification of any of the following:

- The commission of an infraction by a student with a disability who has previously been suspended for the maximum allowable number of days.
- The commission of any infraction that is a result of the student's disability.
- The commission of any infraction by a disabled student, regardless of whether the student had previously been suspended during the school year if, had such infractions been committed by a non-disabled student, the Director would seek to impose a suspension or removal in excess of five days.

5. The school shall immediately notify the resident district's CSE whenever it suspends or removes a student for more than 10 school days in a year or commences a removal that constitutes a change in placement so that the CSE of the student's district of residence may meet to establish a behavioral intervention plan or modify such a plan or its implementation. The school shall work with the resident district's CSE to ensure that each student's behavior modification plan is fully implemented.

Protection for Children Not Yet Eligible for Special Education and Related Services

A student not specifically identified as having a disability but whose school district of residence or charter school has a basis of knowledge (in accordance with 34 CFR ss.300.527 (b)) that a

disability exists prior to the behavior which is the subject of the disciplinary action may request to be disciplined in accordance with these provisions.

Provision of Services during Removal for Children with Disabilities

Those students removed for a period of less than ten days will receive all classroom assignments and a schedule to complete such assignments during the time of his or her suspension. Provisions will be made to permit a suspended student to make up assignments or tests missed as a result of such suspension. The school will also provide additional alternative instruction with the reasonable promptness and by appropriate means to assist the student, so that the student is given full opportunity to complete assignments and master curriculum, including additional instructions, phone assistance, computer instruction and/or home visits and one-on-one tutoring.

During any subsequent removal that, combined with previous removals, equals ten or more school days, but does not constitute a change in placement, during the school year, services will be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. In these cases, school personnel in consultation with the child's special education teacher shall make the determination.

During removal for drug and weapon offenses (pursuant to CFR 300.520(a)(2)), services will be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his or her IEP. These service determinations are made by the CSE of the student's district of residence. The school will place students in interim alternative educational settings as appropriate and mandated by CFR 300.520(a)(2).

During any subsequent removal that does constitute a change in placement, but where the behavior is not a manifestation of a disability, the CSE of the student's district of residence will make the service determination.

CSE Meetings

Meetings of the CSE of the student's district of residence to either develop a behavioral assessment plan or, if the child has one, review such plan are required when (1) the child is first removed from his or her current placement for more than 10 school days in a school year; and (2) when commencing a removal which constitutes a change in placement.

Subsequently, if other removals occur which do not constitute a change in placement, the school will work with the CSE of the student's district of residence to review the child's assessment plan and its implementation to determine if modifications are necessary. If one or more members of the CSE of the student's district of residence believe that modifications are needed, then the CSE is expected to meet to modify the plan and/or its implementation.

Due Process

If discipline which would constitute a change in placement is contemplated for any student, then (1) not later than the date on which the decision to take such action is made, the parents of the student with a disability shall be notified of that decision and provided the procedural safeguards notice described in 34 CFR §300.504; and (2) immediately, if possible, but in no case later than 10 school days after the date on which such decision is made, the CSE of the student's district of residence and other qualified personnel shall meet and review the relationship between the child's disability and the behavior subject to the disciplinary action.

If, upon review, it is determined that the child's behavior was not a manifestation of his or her disability, then the child may be disciplined in the same manner as a child without a disability, except as provided in 34 CFR §300.121(d) (which relates to the provision of services to students with disabilities during periods of removal).

Parents may request a hearing to challenge the manifestation determination. Except as provided below, the child will remain in his or her current educational placement during the pendency of the hearing.

If a parent requests a hearing or an appeal regarding a disciplinary action relating to weapons or drugs to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in the disciplinary action, whichever occurs first, unless the parent and charter school agree otherwise.

Records of Student Discipline

The charter school will maintain written records of all formal suspensions and expulsions including the name of the student, a description of the behavior engaged in, the disciplinary action taken, records of all correspondence with parents, documentation of alternative instruction by a certified teacher, and a record of the number of days a student has been suspended or removed for disciplinary reasons.

II. Maintenance of Public Order on School Property

The following rules shall govern the conduct of students, teachers, staff, licensees, invitees, and other persons, whether or not their presence is authorized, on all property or facilities operated under the auspices of the charter school.

These rules and penalties are not to be considered exclusive or to preclude in any way the prosecution and conviction of any person for the violation of any federal, state or local law, rule, regulation or ordinance, or the imposition of a fine or penalty provided for therein. Additionally, these rules and regulations should not be construed to limit, but rather exist in conjunction with

any other codes of conduct established for the school, such as a disciplinary code and/or bill of student rights and responsibilities.

A. Prohibited Conduct: No person, either singly or in concert, shall:

1. Willfully cause physical injury to any other person, or threaten to use force that would result in such injury
2. Willfully damage or destroy school property, nor remove or use such property without authorization.
3. Without permission, express or implied, enter into any private office or classroom of an administrative officer, teacher, or staff member.
4. Enter or remain in any building or facility for any purpose other than its authorized use or in such a manner as to obstruct its authorized use by others.
5. Without authorization, remain in any building or facility after it is normally closed, nor without permission enter any building or facility prior to its normal opening.
6. Refuse to leave any building or facility after being required to do so by the Director or an authorized administrative officer or his or her designee.
7. Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures, and meetings or deliberately interfere with the freedom of any person to express his or her views, unless such disruption is necessary to maintain order of the educational process.
8. Possess on school property any rifle, shotgun, pistol, revolver, knife, chain, club or other weapon, whether or not the person has a license to possess such weapon. Further, it is the duty of the Director to inform the police of the presence or use of any such weapon or implements used as weapons on school property.
9. Commit acts that threaten the safety and welfare of persons on school property.
10. Violate any federal or state statute or regulation, local ordinance or school policy.
11. Possess, use or distribute alcohol, drugs or drug paraphernalia.
12. Harass or coerce any person.
13. Refuse or fail to comply with a lawful order or direction of a school official in the performance of his or her duty.

B. Penalties and Enforcement: Penalties for violations of these rules include, but are not limited to:

- withdrawal of authorization to remain upon school property;
- ejection;
- arrest;
- for students, suspension or other disciplinary action; and
- For school employees, dismissal or other disciplinary action.

Staff members are required to report known violations of these rules to the Director and to make reasonable efforts, when prudent, to stop the prohibited conduct. The Director is responsible for the enforcement of these rules.

III. Student Rights and Responsibilities

A. Participation in School Activities: All students have the following rights:

1. To have the opportunity to take part in all school activities on an equal basis regardless of race, sex, national origin, creed, disability, religion, or gender.
 2. To address the school on the same terms as any citizen.
- Similarly, all students are bound by the same rules for exclusion from school activities and public address.

B. Records

The Family Education Rights and Privacy Act of 1974 (FERPA) requires a school to protect a student's privacy. The school will not disclose any information from the student's permanent records except as authorized pursuant to FERPA, or in response to a subpoena, as required by law. The parent(s) or guardian(s) of a student under 18 years of age, or a student 18 years of age or older, is entitled to access to the student's school records by submitting a written request to the Director. Further information concerning the disclosure of student information and limitations on such disclosure may be found in FERPA.

C. Freedom of Expression

1. Students are entitled to express their personal opinions verbally, in writing, or by symbolic speech. The expression of such opinions, however, shall not interfere with the freedom of others to express themselves, and written expression of opinion must be

signed by the author. Any form of expression that involves libel, slander, the use of obscenity, or personal attacks, or that otherwise disrupts the educational process, is prohibited. All forms of expression also must be in compliance with the Student Disciplinary Code, violations of which are punishable as stated in the Disciplinary Code.

2. Student participation in the publication of school sponsored student newsletters, yearbooks, literary magazines and similar publications is encouraged as a learning and educational experience. These publications, if any, shall be supervised by qualified faculty advisors and shall strive to meet high standards of journalism. In order to maintain consistency with the school's basic educational mission, school authorities control the content of such publications.

D. Search and Seizure

1. A student and/or the student's belongings may be searched by a school official if the official has a reasonable suspicion to believe that a search of that student will result in evidence that the student violated the law or a school rule. Items which are prohibited on school property, or which may be used to disrupt or interfere with the educational process, may be removed from the student by school authorities.

2. Student lockers and desks remain the property of the school, though the school is not responsible for books, clothing, or valuables left in lockers or desks. A student shall not place or keep in a locker or desk any article or material which is of a non-school nature and may cause or tend to cause the disruption of the mission of the school.

3. The following rules shall apply to the search of school property assigned to a specific student and seizure of illegal items found therein:

a. School authorities will make an individual search of a student's locker or desk only when there is reasonable suspicion to believe that a student is in the possession of an item which is prohibited on school property or which may be used to disrupt or interfere with the educational process.

b. Searches shall be conducted under the authorization of the school Director or his/her designee.

c. Items which are prohibited on school property, or which may be used to disrupt or interfere with the educational process, may be removed from student lockers or desks by school authorities.

E. Off-Campus Events

Students at school sponsored off-campus events shall be governed by all the guidelines of the school and are subject to the authority of school officials. Failure to obey the lawful instructions

of school officials shall result in a loss of eligibility to attend school sponsored off-campus events and may result in additional disciplinary measures in accordance with the Student Disciplinary Code.

F. Discipline

1. Prohibited conduct and acceptable school responses to such conduct are set forth in the Student Disciplinary Code. In disciplinary matters, students shall have the opportunity to present their version of the facts and circumstances leading to the imposition of disciplinary sanctions to the professional staff member imposing such sanction.
2. A student may be suspended from instruction only after his or her rights to due process have been observed.

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