

 Meadows Arts and Technology Elementary School	<b>Suspension and Expulsion Policy</b>	
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**PURPOSE:**

When student misconduct occurs that runs contrary to the best interests of MATES and fellow students, disciplinary procedures are necessary to control and/or correct the misconduct. This Suspension and Expulsion Policy has been established in order to promote learning and protect the safety and well being of all students at Meadows Arts and Technology Elementary School (“MATES”).

**SCOPE:**

This policy shall serve as the MATES policy and procedures related to the suspension and expulsion of students. It shall apply to the conduct of all MATES students.

**GENERAL POLICY STATEMENT:**

Discipline includes but is not limited to advising and counseling students, conferring with parents/guardians, detention during and after school hours, use of alternative educational environments, and suspension and expulsion. The MATES Executive Director and staff hold authority to fully define, adjust, manage and monitor student discipline policies alternative to those related to suspension, expulsion and other disciplinary actions specifically addressed in this policy. Suspension and expulsion policy falls under the authority of the MATES Board of Directors (“Board”) and is fully defined by this policy.

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

MATES will follow the Rehabilitation Act of 1973 (“Section 504”), the Individuals with Disabilities Education Act (“IDEA”), and all applicable federal and state laws including but not limited to the California Education Code, when imposing any form of discipline on a student identified as an individual with disabilities or for whom the MATES has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students.

No student shall be involuntarily removed by the Charter School for any reason unless the parent or guardian of the student has been provided written notice of intent to remove the student no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the student or the student’s parent or 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 him or her of the right to initiate the procedures specified below for suspensions, before the effective date of the action. If the student’s parent, guardian, or educational rights holder initiates the procedures specified below for suspensions, 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

suspensions or expulsions pursuant to the suspension and expulsion procedures described below.

## **POLICY DETAILS:**

### **1. Grounds for Suspension and Expulsion of Students**

1.1 A student may be suspended or expelled for prohibited misconduct if the act is related to school activity or school attendance occurring at anytime including but not limited to: a) while on school grounds; b) while going to or coming from school; c) during the lunch period, whether on or off the school campus; d) during, going to, or coming from a school-sponsored activity; e) Cyber-bullying as per MATES policy and [California Education Code §§ 32261, 32265, 32270, and 48900](#) .

### **2. Prohibited Misconduct Activities - Students may be suspended or expelled for any of the following acts when it is determined the student:**

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

2.1.

2.2. Caused, attempted to cause, or threatened to cause physical injury to another person.

2.3. Willfully used force or violence upon the person of another, except self-defense.

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

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

2.6. Committed or attempted to commit robbery or extortion.

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

2.8. Stole or attempted to steal school property or private property, which includes but is not limited to, electronic files and databases.

2.9. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This section does not prohibit the use of his or her own prescription products by a pupil.

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

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

2.12.

2.13. Knowingly received stolen school property or private property , which includes but is not limited to, electronic files and databases.

2.14. Possessed an imitation firearm, i.e.: a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

- 2.15. Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.
- 2.16. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.
- 2.17. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- 2.18. Engaged in or attempted to engage in hazing. For the purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body 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 pupil. For purposes of this section, "hazing" does not include athletic events or school-sanctioned events.
- 2.19. A pupil who aids or abets, 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 pupil 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 subdivisions 2.1 and 2.2.
- 2.20. Made terroristic threats against school officials and/or school property, which includes but is not limited to, electronic files and databases. For purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, 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 his or her own safety or for his or her immediate family's safety, or for the protection of school property, which includes but is not limited to, electronic files and databases, or the personal property of the person threatened or his or her immediate family.
- 2.21. Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 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. This section shall apply to pupils in any of grades 4 to 12, inclusive.
- 2.22. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in subdivision (e) of Section 233 of the Education Code. This section shall apply to pupils in any of grades 4 to 12, inclusive.
- 2.23. Intentionally harassed, threatened or intimidated school personnel or volunteers and/or a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading the rights of either school personnel

or volunteers and/or student(s) by creating an intimidating or hostile educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.

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

2.24.1. "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 hate violence or harassment, threats, or intimidation, which are directed toward one or more students that has or can be reasonably predicted to have the effect of one or more of the following:

2.24.1.1. Placing a reasonable student (defined as a student, including, but is not limited to, a student with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with exceptional needs) or students in fear of harm to that student's or those students' person or property.

2.24.1.2. Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health.

2.24.1.3. Causing a reasonable student to experience substantial interference with his or her academic performance.

2.24.1.4. Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by the Charter School.

2.24.2. "Electronic Act" means the creation or transmission originated on or off the schoolsite, 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:

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

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

2.24.2.2.1. Posting to or creating a burn page. A "burn page" means an Internet Web site created for the purpose of having one or more of the effects as listed in subparagraph (1) above.

2.24.2.2.2. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in subparagraph (1) above. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

2.24.2.2.3. Creating a false profile for the purpose of having one or more of the effects listed in subparagraph (1) above. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

2.24.2.3. An act of cyber sexual bullying.

2.24.2.3.1. For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a

photograph or other visual recording by a pupil to another pupil 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 (1). 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.

2.24.2.3.2. For purposes of this clause, "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.

2.24.3. Notwithstanding subparagraphs (1) and (2) 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.

2.25. Possessed, sold, or otherwise furnished any knife unless, in the case of possession of any object 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.

2.26.

Students must be suspended and recommended for expulsion for any of the following acts when it is determined the pupil:

Possessed, sold, or otherwise furnished any firearm, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the Executive Director or designee's concurrence.

### 3. Corporal Punishment

3.1. Corporal punishment shall not be used as a disciplinary measure against any student. Corporal punishment includes the willful infliction of or willfully causing the infliction of physical pain on a student.

3.2. For purposes of this 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.

### 4. Suspension Procedure - Suspensions shall be initiated according to the following procedures:

#### 4.1. Conference

4.1.1. Suspension shall be preceded, if possible, by a conference conducted by the Executive Director or the Executive Director's 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. 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 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.

- 4.1.2. At the conference, the student 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, in accordance with Education Code Section 47605(b)(5)(J)(i).
    - 4.1.3. This conference shall be held within two 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.
    - 4.1.4. No penalties may be imposed on a student for failure of the student's parent or guardian to attend a conference with school officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student's parent or guardian at the conference.
  - 4.2. Notice to Parents/Guardians
    - 4.2.1. At the time of the suspension, the Executive Director 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.
  - 4.3. Suspension Time Limits/Recommendation for Expulsion
    - 4.3.1. Suspensions, when not including a recommendation for expulsion, shall not exceed five (5) consecutive school days per suspension.
    - 4.3.2. Upon a recommendation of Expulsion by the Executive Director or Executive Director's 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 pupil or the pupil's parents, unless the pupil and the pupil's parents fail to attend the conference. This determination will be made by the Executive Director or designee upon either of the following determinations:
      - 4.3.2.1. The student's presence will be disruptive to the education process;
      - or
      - 4.3.2.2. 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.
  - 4.4. Authority to Expel
    - 4.4.1. As required by Education Code Section 47605(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.
    - 4.4.2. A student may be expelled either by the neutral and impartial MATES Board following a hearing before it or by the MATES Board upon the recommendation of a neutral and impartial Administrative Panel to be assigned by the MATES Board as needed. The Administrative Panel shall consist of at least three MATES certificated staff members and must

exclude teachers and parents of the student and MATES Board members. 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.

#### 4.5. Expulsion Procedures

4.5.1. 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.

4.5.2. In the event an Administrative Panel hears the case, it will make a recommendation to the MATES Board for a final decision whether to expel. The hearing shall be held in closed session 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.

4.5.3. 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 student. The notice shall include:

4.5.3.1. The date and place of the expulsion hearing;

4.5.3.2. A statement of the specific facts, charges and offenses upon which the proposed expulsion is based;

4.5.3.3. A copy of the MATES disciplinary rules which relate to the alleged violation;

4.5.3.4. 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;

4.5.3.5. The 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;

4.5.3.6. The right to inspect and obtain copies of all documents to be used at the hearing;

4.5.3.7. The opportunity to confront and question all witnesses who testify at the hearing (unless specifically excluded by Section 4.6 of this policy – Special Procedures for Expulsion Hearings involving Sexual Assault or Battery Offenses);

4.5.3.8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf including witnesses.

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

4.6.1. MATES may, upon a finding of good cause, determine that the disclosure of either the identity of the witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by MATES 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.

- 4.6.2. The complaining witness in any sexual assault or battery case must be provided with a copy of the applicable disciplinary rules and advised of his/her right to (a) receive five days notice of his/her scheduled testimony, (b) have up to two (2) adult support persons of his/her choosing present in the hearing at the time he/she testifies, which may include a parent, guardian, or legal counsel, and (c) elect to have the hearing closed while testifying.
- 4.6.3. MATES must also provide the victim a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.
- 4.6.4. At the discretion of the entity 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.
- 4.6.5. 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.
- 4.6.6. The entity 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.
- 4.6.7. 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 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.
- 4.6.8. If one or both of the support persons is also a witness, MATES must present evidence that the witness' presence is both desired by the witness and will be helpful to MATES. 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 his or her discretion to remove a person from the hearing whom he or she believes is prompting, swaying, or influencing the witness.
- 4.6.9. 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.
- 4.6.10. Especially for charges involving sexual assault or battery, if the hearing is to be conducted in the public at the request of the student being expelled, the complaining witness shall have the right to have his/her testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.
- 4.6.11. Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before such a

determination regarding extraordinary circumstance can be made, the witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

#### 4.7. Record of Hearing

4.7.1. 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.

#### 4.8. Presentation of Evidence

4.8.1. 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.

4.8.2. 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 MATES 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.

4.8.3. 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 his or her testimony heard in a session closed to the public.

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

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

#### 4.9. Written Notice to Expel

4.9.1. The Executive Director or designee following a decision of the MATES Board of Directors to expel shall send written notice of the decision to expel, including the Board of Director's adopted findings of fact, to the student's parent/guardian. This notice shall also include the following:

4.9.1.1. Notice of the specific offense committed by the student.

4.9.1.2. 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 MATES.

4.9.2. The Executive Director or designee shall send a copy of the written notice of the decision to expel to the Ventura County Board of Education ("VCBE"). This notice shall include the following:

4.9.2.1. The student's name.

4.9.2.2. The specific expellable offense committed by the student.

- 4.9.3. Additionally, in accordance with Education Code Section 47605(d)(3), upon expulsion of any student, MATES shall notify the superintendent of the school district of the student's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the student, including a transcript of grades or report card and health information.
- 4.10. Disciplinary Records
- 4.10.1. MATES shall maintain records of all student suspensions and expulsions at MATES. Such records shall be made available to the VCBE upon request.
- 4.11. No Right to Appeal
- 4.11.1. The student shall have no right of appeal from expulsion from MATES as the MATES Board's decision to expel shall be final.
- 4.12. Expelled Students/Alternative Education
- 4.12.1. 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.
- 4.13. Rehabilitation Plans
- 4.13.1. Students who are expelled from MATES shall be given a rehabilitation plan upon expulsion as developed by the MATES 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 year from the date of expulsion when the student may reapply to MATES for readmission.
- 4.14. Readmission
- 4.14.1. The decision to readmit a student or to admit a previously expelled student from another school district or charter school shall be in the sole discretion of the MATES Board of Directors following a meeting with the Executive Director and the student and 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 shall make a recommendation to the MATES Board of Directors following the meeting regarding his or her determination. The student's readmission is also contingent upon the MATES capacity at the time the student seeks readmission.
- 4.15. Special Procedures for the Consideration of Suspension and Expulsion of Students with Disabilities
- 4.15.1. A student identified as an individual with disabilities or for whom MATES has a basis of knowledge of a suspected disability pursuant to the IDEA or who is qualified for services under Section 504 is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to regular education students except when federal and state law mandates additional or different procedures.
- 4.15.2. Notification to VCBE and SELPA
- 4.15.2.1. MATES shall immediately notify the VCBE and SELPA and coordinate the procedures in this policy with the VCBE related to the discipline of any student identified under the IDEA or any student with a disability under Section 504 (or for whom there may be a basis of knowledge of the same).
- 4.15.2.2.

- 4.15.3. 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 (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 Individualized Education Program ("IEP")/Section 504 Plan; 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.
- 4.15.4. Procedural Safeguards/Manifestation Determination
- 4.15.4.1. 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, MATES, the parent, and relevant members of the IEP/504 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:
- 4.15.4.1.1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- 4.15.4.1.2. If the conduct in question was the direct result of the local educational agency's failure to implement the IEP.
- 4.15.4.1.3. If MATES, 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.
- 4.15.4.2. If MATES, 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:
- 4.15.4.2.1. Conduct a functional behavioral assessment and implement a behavioral intervention plan for such child, provided that MATES had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
- 4.15.4.2.2. Review any previously developed behavioral intervention plan and modify it, as necessary, to address the behavior; and
- 4.15.4.2.3. Return the child to the placement from which the child was removed, unless the parent and MATES agree to a change of placement as part of the modification of the behavioral intervention plan.
- 4.15.4.3. If MATES, 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 direct result of the failure to implement the IEP, then MATES 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.
- 4.15.5. Due Process Appeals
- 4.15.5.1. The parent of a child with an IEP who disagrees with any decision regarding placement, or the manifestation determination may request an expedited administrative hearing through the Special Education

Unit of the Office of Administrative Hearings or by utilizing the dispute provisions of the 504 Policy and Procedures. MATES may request a similar 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,

- 4.15.5.2. When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent or MATES, 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 and MATES agree otherwise.
- 4.15.5.3. 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 the Charter School 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 Charter School may request a hearing.
- 4.15.5.4. 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.
- 4.15.6. Special Circumstances
  - 4.15.6.1. MATES 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.
  - 4.15.6.2. 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:
    - 4.15.6.2.1. 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;
    - 4.15.6.2.2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
    - 4.15.6.2.3. 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.
- 4.15.7. Interim Alternative Educational Setting
  - 4.15.7.1. The student's interim alternative educational setting shall be determined by the student's IEP team.
- 4.15.8. Procedures for Students Not Yet Eligible for Special Education Services
  - 4.15.8.1. A student who has not been identified as an individual with disabilities pursuant to IDEA and who has violated the district's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if MATES had knowledge that the student was disabled before the behavior occurred.

- 4.15.8.2. MATES shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:
  - 4.15.8.2.1. 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 MATES supervisory or administrative personnel, or to one of the child's teachers, that the student is in need of special education or related services.
  - 4.15.8.2.2. The parent has requested an evaluation of the child.
  - 4.15.8.2.3. The child's teacher, or other MATES personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the special education personnel or to other MATES supervisory personnel.
- 4.15.8.3. If MATES 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-eligible children with disabilities, including the right to stay-put.
- 4.15.8.4. If MATES had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. MATES shall conduct an expedited evaluation if requested by the parents; however the student shall remain in the education placement determined by MATES pending the results of the evaluation.
- 4.15.8.5. MATES 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 to not be eligible.

**NON-COMPLIANCE TO POLICY:**

Non-compliance to this policy by a student will result in the disciplinary actions defined in this policy. Lack of adherence to this policy by MATES personnel may result in the employee being subject to disciplinary action in accordance with Board disciplinary policy and administrative regulations.

**GOVERNANCE:**

MATES staff shall enforce disciplinary rules and procedures fairly and consistently among all students. This Policy and its Procedures will be printed and distributed as part of the Student Handbook and will clearly describe discipline expectations.

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

**REVIEW CYCLE:**

The MATES Board of Directors will be responsible for reviewing the policy every two years or more frequently as required.

**REVISION HISTORY:**

<u>Policy Version:</u>	<u>Effective Date:</u>	<u>Revision:</u>
SN-DIS-07132009	7/13/2009	Original Version
SN-DIS-03152010	3/15/2010	Modify Review Cycle section to modify cycle from bi-annual to every two years.
SN-SUS-08232010	8/23/2010	Changed name from Student Discipline Policy to Suspension and Expulsion Policy to avoid confusion with new Student Code of Conduct and Disciplinary Policy and Procedures
SN-DIS-09102012	9/10/2012	Reviewed and modified in accordance with review every two years.
SN-DIS-10/172016	10/17/2016	Reviewed and modified in accordance with review every two years. Updated to include cyberbullying, updated illegal substances, and Student Attendance.
SN-DIS-10152018	10/15/2018	Reviewed and modified in accordance with review every two years. Updated to include the most recent state laws regarding suspension and expulsion.