



# CODE OF CONDUCT and DISCIPLINE POLICY

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## **Compliance**

Rochdale Early Advantage Charter School (the School) has adopted comprehensive systems and protocols to reduce student disruption and misconduct. In fact, these systems and protocols support and reinforce positive behavior and enhance children's character development while helping them succeed. A wide range of strategies have been implemented to reduce poor behavior and maintain a safe learning environment, including conflict resolution, restorative practices, counseling, and a structured system of positive reinforcement. The inclusive practices are geared toward reducing the loss of instructional time, while exclusionary practices such as in-school suspension, out-of-school suspension, expulsions, and referral to law enforcement officials are kept to a minimum.

The school ensures fair and equitable treatment of students and does not engage in practices that allow for different treatment and disparate impact such as selective enforcement. The School's student Code of Conduct and disciplinary policy prohibits discrimination based on race, color, and national origin according to Title IV and Title VI of the Civil Rights Act of 1964. The disciplinary policy and practices are also in compliance with Federal and State education laws, which prohibit discriminatory discipline based on disability, religion, and sex. The School's disciplinary policy is also in compliance with applicable New York State Education Department regulations.

## **Student Code of Conduct**

### **Promoting Positive Student Behavior**

The School promotes a positive school culture and climate that provides students with a supportive environment through which they grow both socially and academically. School employees take a proactive role in nurturing students' pro-social behavior by providing them with a range of positive behavioral supports as well as meaningful opportunities for social emotional learning. In addition, the Board of Trustees regularly receives both quantitative and qualitative information on school culture and monitors the School's efforts to maintain a positive educational environment for all students and families.

To further promote positive behavior, the School has established a school-wide tiered framework of behavioral support and intervention. This framework guides the entire school community toward following the School's rules and expectations and supports the delivery of consistent and appropriate consequences, e.g., PBIS (Positive Behavioral Interventions and Supports).

Effective social emotional learning helps students develop fundamental skills for life effectiveness, including:

- Recognizing and managing emotions;
- Developing caring and concern for others;
- Exercising tolerance;
- Making responsible decisions; and
- Handling challenging situations constructively and ethically.

Such skills help prevent negative behavior and the disciplinary consequences that result when students do not comply with behavioral standards.

School staff members are also responsible for addressing inappropriate student behavior that disrupts learning. Administrators, teachers, counselors, and other school staff engage students in interventions and prevention strategies that address poor student behavior and discuss these strategies with parents.

Intervention and prevention approaches include guidance support and services that address personal and family circumstances and social/emotional learning, such as conflict resolution, peer mediation, negotiation, restorative circles, anger management, stress management, and/or communication skills acquisition. Alternate instructional materials and/or methods are also used, as well as enrichment services, alternate class placement; and/or development or review of functional behavioral assessments and behavioral intervention plans, which are developed and/or reviewed as an early intervention strategy.

If, at any time, School officials suspect that a student's difficulties may be the result of a disability and require education services, the Leadership Team and the students' teacher(s) will immediately meet to review his/her past behavior issues and to determine if the student should be referred to the Committee on Special Education (CSE) of the student's district of residence. The CSE will then follow their established procedure for assessing the child for a possible disability.

Through the use of intervention and prevention strategies that engage students and give them a clear sense of purpose, School staff members facilitate students' academic and social-emotional growth and assist them in following School rules and policies.

### **Parents as Partners**

All members of the School's staff are accountable for keeping parents informed of their child's behavior and enlist parents in addressing areas of concern. Outreach to parents includes, but is not limited to, a phone call and/or a written communication. As role models, School staff members are required to continually exhibit the behaviors they like to see students emulate.

To ensure that they become active and involved partners in promoting a safe and supportive school environment, parents are asked to be familiar with the Code of Conduct and Disciplinary Policy. Parents are encouraged to meet with their child's teacher and other School staff to discuss poor student behavior and strategies to mitigate behavioral concerns and to help nurture the skills students need to succeed in school and in society.

All guidance conferences are attended by the CEO or his/her designee, the guidance counselor, the student's parents and one or more of the student's teachers. Students attend only when appropriate. The focus of these meetings is to maintain maximum consultation and communication between the school and the family, and parental input is strongly encouraged.

### **Parent Notification**

School administrators are responsible for sharing the information in this document with students, parents and staff.

In the event a student engages in inappropriate behavior, the Chief Executive Officer (CEO) or designee promptly reports the behavior to the student's parent(s).

### **Determining the Disciplinary Response**

School officials consult the Code of Conduct and Disciplinary Policy when determining which disciplinary measures to impose. In determining how to best address inappropriate conduct, it is necessary to evaluate the totality of the circumstances surrounding the conduct. The following facts must be considered prior to determining the appropriate disciplinary measures:

- The student's age and maturity
- The student's disciplinary record (including the nature of any prior misconduct, the number of prior instances of misconduct, and the disciplinary and guidance intervention measures applied for each);
- The nature, severity and scope of the behavior;
- The circumstances/context in which the conduct occurred;
- The frequency and the duration of the behavior;
- The number of persons involved in the behavior;
- The student's attitude; and other relevant factors; and
- The student's Individualized Education Plan (IEP), Behavioral Intervention Plan (BIP) and 504 Accommodation Plan, if applicable.

### **Progressive Discipline**

Understanding discipline as a "teachable moment" is fundamental to a positive approach to discipline. Progressive discipline uses incremental interventions to address inappropriate behavior with the ultimate goal of teaching pro-social behavior. Progressive discipline does not seek punishment. Instead, progressive discipline seeks concurrent accountability and

behavioral change. The goal is to prevent a recurrence of negative behavior by helping students learn from their mistakes.

Every reasonable effort is made to correct student behavior through guidance interventions and other school based resources. Guidance interventions, as described in detail in the next section, are essential because inappropriate behaviors or violations of the Code of Conduct may be symptomatic of more serious problems that students are experiencing. It is, therefore, important that School personnel be sensitive to issues that may influence the behavior of students and respond in a manner that is most supportive of their needs.

Appropriate disciplinary responses emphasize prevention and effective intervention, prevent disruption to student' education, and promote the development of a positive school culture.

For students with disabilities whose behavior impedes the student's participation in school, a functional behavioral assessment (FBA) is conducted to understand the causes of the student's behavior.

### **Progressive Infraction Levels**

The Standards of Intervention and Discipline Measures hold students accountable for their behavior. Infractions are grouped into five levels based on the severity of the infraction. Whenever possible, appropriate interventions begin with the lowest level of disciplinary response.

Administrators, teachers, School staff, students and parents need to know the disciplinary measures that can be taken when a student misbehaves or substantially disrupts a classroom.

Level 1: Uncooperative/Noncompliant Behavior

Level 2: Disorderly Behavior

Level 3: Disruptive Behavior

Level 4: Aggressive or Injurious/Harmful Behavior

Level 5: Seriously Dangerous or Violent Behavior

Each level contains possible guidance interventions as well as a minimum to a maximum range of possible disciplinary responses that are imposed by a teacher, administrator, or by the Board. To ensure that staff, students, and parents are aware of all expected standards of behavior, School rules are in writing and distributed along with the Disciplinary Policy.

The Disciplinary Policy provides graduated accountability measures for students who engage in repeated misbehaviors despite prior interventions and/or prior impositions of appropriate disciplinary measures.

The Board of Trustees delegates the handling of most Level 4 and 5 infractions to the CEO. However, in some instances, the Board of Trustees may assist in or handle the investigation or discipline as appropriate. In matters that do not have Board of Trustees involvement, all Trustees receive a full report on these incidents when they occur. In addition, any appeals received are handled directly by the Chairperson or Vice-Chairperson of the Board.

Whenever possible and appropriate, prior to imposing strict penalties, School officials exhaust less severe discipline responses and use guidance interventions. A pattern of persistent level 1-3 misconduct may result in more severe accountability measures than would be applicable for individual instances of such conduct.

The Board of Trustees are informed through monthly reports of all Level 4 and 5 infractions as well as any situations in which a student has a pattern of repetitive Level 1-3 infractions and the issues are not mitigated through initial responses and interventions. In these instances, the Board serves as a sounding board and provides guidance, legal or otherwise, for school leaders.

### **Where and When the Code of Conduct Applies**

The standards set forth in the Code of Conduct apply to behavior:

- In school during school hours,
- Before and after school, while on school property,
- While traveling on vehicles funded by the School or the New York City Department of Education,
- Walking to or from School or a School-sponsored event
- At all school-sponsored events (whether or not on School grounds) and
- On other-than-school property (such as in connection with social media) when such behavior can be demonstrated to negatively affect the educational process or endanger the health, safety, morals, or welfare of the school community.

When misbehavior involves communication, gestures or expressive behavior, the infraction applies to oral, written or electronic communications, including, but not limited to, texting, e-mailing, and social networking.

### **Guidance Interventions**

To promote positive behavior, Rochdale Early Advantage Charter School provides a range of prevention and intervention strategies and support services for students during and after school hours throughout the school year. The Disciplinary Policy provides a comprehensive list of guidance interventions that must be considered based on the type of misbehavior in which a student has engaged.

When used consistently and appropriately, guidance interventions help improve student behavior, lower instances of repeated misbehavior and contribute to a more positive school environment. Guidance interventions are an integral part of a comprehensive response, and the school provides support services at all stages of the disciplinary process, including during suspension. Support services include any of the interventions or a combination of such services that best meet the needs of the individual student.

The types of Guidance Interventions employed, include:

**Parent Outreach** - School staff keeps parents informed of their child's behavior and enlist parents as partners in addressing areas of concern. Outreach to parents includes, but is not limited to, a phone call and/or written communication.

**Guidance Conference** - Administrators and teachers request a guidance conference with the student and where appropriate, with the parent. The purpose of the conference is to review the behavior, find solutions to the problem, and address academic, personal, and social issues that might have caused or contributed to the behavior.

**Intervention by Counseling Staff** - School based counseling personnel offer a wide range of comprehensive and confidential mental health services and interventions including, but not limited to: assessments, individual, group and family therapy, teacher consultations and educational strategies for parents and staff.

**Referrals to a Community Based Organization** - Students are referred to a community-based organization for a wide range of services including after-school programming, individual or group counseling, conflict resolution, and tutoring.

**Individual/Group Counseling** - Counseling provides students with an outlet to share issues in privacy that may be negatively impacting their attendance, behavior and/or academic success. Students discuss and formulate goals, and learn problem-solving strategies that enable them to overcome a variety of personal challenges. Counselors confer with parents on a regular basis to discuss the student's academic and personal progress.

**Mentoring Programs** - A mentoring program matches a mentor who may be a counselor, teacher, student and/or leader with a protégé. The object of this relationship is to help the protégé in his/her personal academic and social development.

**Referral to Counseling Services for Bias-Based Bullying, Intimidation or Harassment** - When a student or group of students engages in biased-based bullying, intimidation or harassment of another student or group of students, both the victim and student who engages in this behavior are referred to separate, appropriate counseling, support and education services provided by school staff or a community based agency. Neither mediation nor conflict resolution are, under any circumstances, appropriate interventions for bias-based bullying, intimidation or harassment.

**Short-Term Behavioral Progress** - Teachers and/or principals send behavioral progress reports to parents on a regular basis until they feel that the student is in control of his/her behavior and working in the classroom successfully.

**Development of Behavior Contract** - The student meets with teachers to create a written contract that includes objectives and the specific performance tasks that the student will accomplish to meet those objectives. The contract is signed by the student and teacher and where appropriate, by the parent.

**Referral to Appropriate Substance Abuse Counseling** - In the case where a student is presenting problems with substance abuse, including the use, possession, or distribution of illegal drugs, drug paraphernalia, and/or alcohol, referrals are made to counseling services that are either inside the school or through an outside community based organization.

**Community Service (Parental Consent)** - Students are provided with community service opportunities so that they gain a greater appreciation of their school neighborhoods and



*develop skills to become positive social agents. Community service can help students occupy their time with positive activities, avoid negative behavior and learn the value of service to others.*

**Mentor/Coach** - *Trained school staff members are assigned to provide transition support to a student returning from an out of school suspension.*

## **Additional Considerations for Students with Disabilities**

A functional behavioral assessment (FBA) is the process of determining why a student engages in behaviors that impede learning and how the behavior relates to the environment. An FBA is based on direct observation, information from teachers, providers, and parents to understand the student's behavior, and when and why it occurs to develop recommendations to address the behavior. An FBA is considered when a student with a disability or a student who is presumed to have a disability (1) exhibits persistent behaviors that impede his or her learning or that of others, despite consistently implemented general school-wide or classroom wide interventions; (2) engages in behavior that puts the student or others at risk or harm; or (3) is being considered by the CSE for a more restrictive program because of the student's behavior. A student is presumed to have a disability if the parent has expressed a concern in writing that the student needs special education and related services or School staff expresses concern about a pattern of behavior or the student has been referred for an initial evaluation. An FBA is conducted or updated after finding in a manifestation determination review (MDR) that behavior is a manifestation of a student's ability.

After completion of an FBA, the IEP team considers whether a behavioral intervention plan (BIP) is needed or needs to be updated. A BIP is a plan that is based on the results of an FBA and, at a minimum, includes a description of the problem behavior, hypotheses as to why the behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.

## **Restorative Approaches**

A restorative approach is used as both a prevention and intervention measure. Restorative processes help the School build relationships and empower community members to take responsibility for the wellbeing of others; prevent or deal with conflict before it escalates; address underlying factors that lead youth to engage in inappropriate behavior and build resiliency; increase the pro-social skills of those who have harmed others; and provide wrong doers with the opportunity to be accountable to those they have harmed and enable them to repair the harm to the extent possible.

When used as an intervention measure, taking a restorative approach to discipline changes the fundamental questions that are asked when a behavioral incident occurs. Instead of asking who is to blame and how those engaged in the misbehavior will be punished, a restorative approach asks four key questions:

- What happened?

- Who was harmed or affected by the behavior?
- What needs to be done to make things right?
- How can people behave differently in the future?

## **Progressive Ladder of Support and Disciplinary Responses**

The range of supports and disciplinary consequences below illustrate a progressive response to inappropriate behavior. Student misbehavior is handled on a case-by-case basis. In all cases, implementation of appropriate interventions and disciplinary responses take into account a number of factors including the nature and severity of the misconduct. In many cases, the use of primary responses and/or the use of guidance interventions is most suitable. In other cases, a student's misconduct requires or is most appropriately addressed by a targeted or significant disciplinary response along with guidance interventions.

When a student engages in misconduct, support services are provided to address the student's needs either separately or coupled with disciplinary action. The goal is to foster social emotional pro-social behavior and prevent future misbehavior.

## **Guidance Intervention Options**

For students serving an out of school suspension, student support services are provided for two (2) hours per day at school site, a public site, or home of the student. Instruction for such students shall be sufficient to enable the student to make adequate academic progress, and shall provide them the opportunity to complete the assignments, learn the curriculum and participate in assessments. Instruction will be provided by one or more of the following individuals who shall be certified or qualified in accordance with § 2854(3)(a-1) of the Education Law and the federal *No Child Left Behind* Act: the student's teacher(s), aides or trained volunteers, a certified pedagogue, individuals within a contracted facility, and/or a tutor hired for this purpose.

- Teacher conference/classroom observation
- Peer mediation and/or other behavioral supports including restorative approaches as applicable
- Assignment of a Mentor/Coach
- Guidance lesson(s) in classrooms
- Individual behavior contract (elementary level)
- Referral to Pupil Personnel Team
- Guidance conference
- Parent contact
- Individual or group counseling
- Mentoring Program
- Referral to school nurse or school based health clinic or external health care provider
- Referral for Academic Intervention Services

- Referral to external mental health counseling provider or community based organization
- Referral to appropriate substance abuse counseling
- Referral to attendance teacher/coordinator
- Functional Behavioral Assessment (FBA) /Behavioral Intervention Plan (BIP)
- School counselor and/or support staff and/or administrator-student conference

### **Disciplinary Response Options**

- *In-School Detention*: Students are not removed from the classroom but serve one hour of detention at the end of the instructional day for a period of not more than two (2) days
- *Short-Term School Suspension*: refers to an in-school removal or out-of-school removal of a student for disciplinary reasons for a period of ten (10) or fewer days.
- *Long-Term School Suspension*: refers to an in-school removal or out-of school removal of a student for disciplinary reasons for a period of more than ten (10) days
- *Expulsion*: refers to the permanent removal of a student from school for disciplinary reasons

### **Primary Disciplinary Responses**

- Individual behavior contract
- Short-term behavior progress reports
- Referral to Guidance Counselor and Social Worker
- Supervisor's conference with student
- In-school disciplinary actions
- Parent conference
- Student/teacher conference

The School contacts the parent and, depending on the nature and severity of the behavior and the age and maturity level of the student, has a conference with the student, or refers student to school counselor.

### **Student Experiences Difficulty or Engages in Inappropriate Behavior**

#### *Universal Prevention for All Students*

The School provides a comprehensive student support program that includes guidance services, opportunities for social emotional learning, student engagement opportunities and prevention and intervention behavioral supports to encourage and motivate pro-social student behavior and positive connection to the school community. The School has a system in place for early identification of students in need of intervention and/or support services.

## **Bill of Student Rights and Responsibilities**

### **Preamble**

Rochdale Early Advantage Charter School seeks to cultivate a sense of mutual respect among students, parents and staff. The School also aims to involve students in activities and programs, within and outside the school community, that stress a commitment to civic responsibility and community service. With the cooperation of all members of our school communities, students can reach educational excellence while enjoying a rich learning experience. This document serves as a guide for students as they strive to become productive citizens in a diverse society.

### **The Right to A Free Education**

Students Have a Right to:

1. Attend school and receive a free public school education
2. Be in a safe and supportive learning environment, free from discrimination, harassment, bullying, and bigotry, and to file a complaint if they feel that they are subject to such behavior;
3. Receive courtesy and respect from others regardless of actual or perceived age, race, creed, color, gender, gender identity, gender expression, religion, national origin, citizenship/immigration status, weight, sexual orientation, physical and/or emotional condition, disability or political beliefs;
4. Receive a written copy of the School's policies and procedures, including the Discipline Code and Bill of Student Rights and Responsibilities, early in the school year or upon admission to the school during the school year;
5. Receive professional instruction;
6. Receive guidance, counseling and advice for personal, social, educational development;
7. Be secure in their persons and belongings and to carry in the school building such personal possessions as are appropriate for use on the premises;
8. Be free from unreasonable or indiscriminate searches;
9. Be free from corporal punishment and verbal abuse; and
10. Decline to participate in the Pledge of Allegiance or stand for the pledge.

### **The Right to Due Process**

Every student has the right to be treated fairly in accordance with the rights set forth in this document.

Students have the right to:

1. Be provided with the Discipline Code and rules and regulations of the School;
2. Know what is appropriate behavior and what behaviors may result in disciplinary actions;
3. Be counseled by members of the professional staff in matters related to their behavior as it affects their education and welfare in the School;
4. Know possible dispositions and outcomes for specific offenses;
5. Receive written notice of the reasons for disciplinary action taken against them in a timely fashion;
6. Due process of law in instances of disciplinary action for alleged violations of School rules for which they may be suspended or removed from class; students with disabilities, 504 plans, or who are “presumed to have a disability” have the right to certain protections under IDEA.
7. Know the procedures for appealing the actions and decisions of School officials with respect to their rights and responsibilities as set forth in this document;
8. Be accompanied by a parent and/or representative at conferences and hearings;

### **Student Responsibilities**

Responsible behavior by each student is the only way in which the rights set forth in this document can be preserved. Violation of some of these responsibilities may lead, in accordance with the Discipline Code, to disciplinary measures. Full acceptance of responsibility with the exercise of rights will provide students with greater opportunity to serve themselves and society.

Students have a responsibility to:

1. Attend school regularly and punctually and make every effort to achieve in all areas of their education;
2. Be prepared for class with appropriate materials and properly maintain textbooks and other school equipment;
3. Follow School rules regarding entering and leaving the classroom and School building;
4. Help maintain a School environment free of weapons, illegal drugs, controlled substances and alcohol;
5. Behave in a manner that contributes to a safe learning environment and which does not violate other students’ right to learn;

6. Share information with School officials regarding matters which may endanger the health and welfare of members of the school community;
7. Respect the dignity and equality of others and refrain from conduct which denies or impinges on the rights of others;
8. Show respect for School property and respect the property of others, both private and public;
9. Be polite, courteous and respectful toward others regardless of actual or perceived age, race, creed, color, gender, gender identity, gender expression, religion, national origin, citizenship/immigration status, weight, sexual orientation, physical and/or emotional condition, disability, marital status, and political beliefs, and refrain from making slurs based on these criteria;
10. Behave in a polite, truthful and cooperative manner toward students and School staff;
11. Promote good human relations and build bridges of understanding among the members of the school community;
12. Use non-confrontational methods to resolve conflicts;
13. Refrain from obscene and defamatory communication in speech, writing and other modes of expression, including electronic expression, in their interactions with the school community;
14. Express themselves in speech, writing and other modes of expression, including electronic expression in a manner, which promotes cooperation and does not interfere with the educational process;
15. Assemble in a peaceful manner and respect the decision of students who do not wish to participate;
16. Bring to School only those personal possessions which are safe, permitted and do not interfere with the learning environment;
17. Be familiar with the School's Discipline Code and abide by School rules and regulations;
18. Provide leadership to encourage fellow students to follow established School policies and practices;
19. Keep parents informed of School-related matters, including progress in School, social and educational events, and ensure that parents receive communications that are provided by School staff to students for transmittal to their parents.

### **Disciplinary Procedures and Responses**

All suspensions, expulsions and removals from the classroom must be done substantively and procedurally in accordance with relevant school policies and applicable laws and regulations.

- Short term suspensions will be imposed by the CEO or his/her designee.

- Recommendations for long term suspensions and expulsions will be made by the CEO or his/her designee to a hearing officer appointed by the School. The student will be afforded due process at any such hearing (e.g., has the right to counsel, the opportunity to present evidence and witnesses on his/her behalf, challenge witness testimony and evidence presented against him or her).
- A student may appeal a long term suspension or expulsion to the CEO and the Board of Trustees.
- Students who have been expelled from the School are not eligible for re-enrollment there.

### **In-School Disciplinary Actions**

In-school Disciplinary Actions include detention, and exclusion from extracurricular activities or communal lunchtime. These consequences will not take place during class time, and cannot result in a student missing instruction.

### **Removal From A Classroom**

A student who engages in behavior, that is substantially disruptive of the education process or substantially interferes with a teacher's authority over the classroom, may be removed from the classroom for the instructional period. Removed students will be sent to a location within the school where they will be provided with continued educational services including classwork and homework.

### **Manifestation Determination Review**

Students with disabilities who are subject to a disciplinary change in placement (either more than 10 consecutive school days of removal or more than 10 cumulative days of removal in a school year that constitute a pattern of behavior must receive a manifestation determination review (MDR) to determine if the behavior is due to the student's disability or a failure to implement the IEP. Where an MDR results in a finding that the problem behavior is linked to an identified disability a student cannot be subjected to further discipline for such behavior.

### **Suspension Procedures**

The CEO or his or her designee may impose a short-term suspension, and shall follow due process procedures consistent with federal case law pursuant to *Goss v. Lopez* (419 U.S. 565). That ruling established the baseline level of due process for short term suspensions. Pursuant to *Goss v. Lopez*, before imposing a short term suspension or other less serious discipline, the CEO or designee shall provide notice to inform the student of the charges against him or her, and if the student denies the charges, an explanation of the evidence against the student. A chance to present the student's version of events shall also be provided. Before imposing a short-term suspension, the CEO or designee shall immediately notify the parents or guardians in writing that the student may be suspended from school.

Written notice shall be provided by personal delivery or express mail delivery within twenty four (24) hours of the decision to impose suspension at the last known address(es) of the parents or guardians. Where possible, notification also shall be provided by telephone. Such notice shall provide a description of the incident(s) for which suspension is proposed and shall inform the parents or guardian of their right to request an immediate informal conference with the CEO or designee. Such notice and informal conference shall be in the dominant language or mode of communication used by the parents or guardian. The CEO or designee decision to impose a short-term suspension may be challenged by the parent(s) or guardian in accordance with the formal complaint process of the School.

In seeking a long term suspension or expulsion, the School will follow the same written notice practices as for a short term suspension, above, and will arrange for a disciplinary hearing as described below.

### **Hearings**

Disciplinary hearings will be scheduled as soon as practicable after the infraction(s). Written notice of the reasons for and date of the hearing will be provided to the student. Such notice will identify the specific misbehavior(s) and the School rules allegedly broken. The School will work with the family of the student to ensure that the hearing date is workable. A reasonable amount of time in advance of the hearing, the parties will share witness lists and any documentary evidence they intend to use in the hearing. At the hearing, the School will put on its case for suspension or expulsion and the student will have the right to cross examine any witnesses. Then the student will have the opportunity to present his or her case and the School will have the opportunity to cross examine any witnesses. A recording will be made of the hearing and made accessible upon request to the parties. The hearing officer will consider all evidence presented as to guilt/innocence and as to appropriate consequences and will issue a written ruling within three (3) school days. The hearing will not last more than two (2) hours unless the hearing officer grants an extension.

### **Appeals**

Parents may appeal long term suspensions and expulsions to the CEO and the Board of Trustees in accordance with the school's complaint policy. Should the student seek to appeal the ruling, he or she may do so by submitting to the Board of Trustees a request for appeal. The Board will allow the student to briefly present testimony; the School will then have a brief opportunity to present its position. Both parties will also have the opportunity to present any additional documentary evidence. The Board will consider the arguments and evidence, in addition to the transcript of the initial hearing and evidence presented there and it will issue a written ruling within three (3) school days of the appeal.

### **Weapons**

All weapons are forbidden on School property. The School complies with the Gun Free Schools Act as defined further below. Weapons are described as follows:



## **Category I**

- Firearm, including pistol and handgun, silencers, electronic dart, and stun gun
- Shotgun, rifle, machine gun, or any other weapon which simulates or is adaptable for use as a machine gun
- Air gun, spring gun, or other instrument or weapon in which the propelling force is a spring or air, and any weapon in which any loaded or blank cartridge may be used (such as a BB gun or paintball gun)
- Switchblade knife, gravity knife, pilum ballistic knife, and cane sword (a cane that conceals a knife or sword)
- Dagger, stiletto, dirk, razor, box cutter, case cutter, utility knife and all other knives
- Billy club, blackjack, bludgeon, chuca stick, and metal knuckles
- Sandbag and sand club
- Sling shot (small, heavy weights attached to or propelled by a thong) and slung shot
- Martial arts objects including kung fu stars, nun chucks and shirkens
- Explosives, including bombs, fire crackers and bombshells

## **Category II**

- Acid or dangerous chemicals (such as pepper spray, mace)
- \*Imitation gun or other imitation weapon
- Loaded or blank cartridges and other ammunition
- Stun weapons
- Any deadly, dangerous, or sharp pointed instrument which can be used or is intended for use as a weapon (such as scissors, nail file, broken glass, chains, wire).

*\* Before issuing a suspension for Category I and Category II for which a purpose other than infliction of physical harm exists, the School must consider whether there are mitigating factors present, including whether an imitation gun is realistic looking by considering factors such as its color, size, shape, appearance and weight.*

## **Gun Free Schools Act**

Federal and New York law require the expulsion from school for a period of not less than one year of a student who is determined to have brought a weapon, such as a firearm to the school, or to have possessed a firearm at school, except that the CEO may modify such expulsion requirement for a student on a case-by-case basis, if such modification is in writing, in accordance with the Federal Gun-Free Schools Act of 1994 (as amended). “Weapon,” as used in this law means a “firearm,” as defined by 18 USC § 921, and includes firearms and explosives. (New York Education Law §3214 effectuates this federal law.)

The following are included within this definition:

- Any device, instrument, material, or substance that is used for or is readily capable of causing death or serious bodily injury. Knives with a blade of two and half inches or more in length fall within this definition.
- Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.
- The frame or receiver of any weapon described above.
- Any firearm muffler or firearm silencer.
- Any destructible device, which is defined as any explosive, incendiary, or poison gas, such as a bomb, grenade, rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or other similar device.
- Any weapon which will, or may readily be converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter.
- Any combination of parts either designed or intended for use in converting any device into any destructive device in the two immediately preceding examples, and from which a destructive device may be readily assembled.

The CEO shall refer a student under the age of sixteen who has been determined to have brought a weapon or firearm to school to a presentment agency for a juvenile delinquency proceeding consistent with Article 3 of the Family Court Act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under Criminal Procedure Law § 1.20(42). The CEO shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under Criminal Procedure Law § 1.20(42), who has been determined to have brought a weapon or firearm to school to the appropriate law enforcement officials.