

# NEW HEIGHTS SCHOOLS, INC.

## POLICY 506

### STUDENT DISCIPLINE

#### **POLICY MANAGEMENT**

*Adopted: 09/1997*

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#### **I. PURPOSE**

The purpose of this policy is to ensure that students are aware of and comply with the school's expectations for student conduct. Such compliance will enhance the school's ability to maintain discipline and ensure that there is no interference with the educational process. The school will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

#### **II. GENERAL STATEMENT OF POLICY**

The board of directors recognizes that individual responsibility and mutual respect are essential components of the educational process. The board of directors further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others and property. Proper positive discipline can only result from an environment that provides options and stresses student self-direction, decision-making and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. It is the position of the school that a fair and equitable school-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40 through 121A.56.

In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the board of directors, with the participation of the principal, teachers, employees, students, parents, community

members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the school.

### **III. AREAS OF RESPONSIBILITY**

- A. The Board of Directors. The New Heights School Board of Directors shall hold all school personnel responsible for the maintenance of order within the school and support all personnel acting within the framework of this discipline policy.
  
- B. Principal. The principal is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final board approval. The principal shall give direction and support to all school personnel performing their duties within the framework of this policy. The principal shall consult with parents of students conducting themselves in a manner contrary to the policy. The principal shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. A principal in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
  
- D. Teachers. All teachers shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct. In exercising the teacher's lawful authority, a teacher may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
  
- E. Other School Personnel. All school personnel shall be responsible for contributing to the atmosphere of mutual respect within the school. Their responsibilities relating to student behavior shall be as authorized and directed by the principal. A school employee, school bus driver, or other agent of a school, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.
  
- F. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with school authorities and to participate regarding the behavior of their children.
  
- G. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.

### **IV. STUDENT RIGHTS**

All students have the right to an education and the right to learn.

### **V. STUDENT RESPONSIBILITIES**

All students have the responsibility:

- A. for their behavior and for knowing and obeying all school rules, regulations, policies and procedures;
- B. to attend school daily, except when excused, and to be on time to all classes and other school functions;
- C. to pursue and attempt to complete the courses of study prescribed by the state and local school authorities;
- D. to make necessary arrangements for making up work when absent from school;
- E. to assist the school staff in maintaining a safe school for all students;
- F. to be aware of all school rules, regulations, policies and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. to assume that until a rule or policy is waived, altered or repealed, it is in full force and effect;
- H. to be aware of and comply with federal, state and local laws;
- I. to volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with school staff as appropriate;
- J. to respect and maintain the school's property and the property of others;
- K. to dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable school policy;
- L. to avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. to conduct themselves in an appropriate physical or verbal manner; and
- N. to recognize and respect the rights of others.

## **VI. CODE OF STUDENT CONDUCT**

- A. The following are examples of unacceptable behavior subject to disciplinary action by the school. These examples are not intended to be an exhaustive list. Any student who engages in any of these activities shall be disciplined in accordance with this policy. This policy applies to the school building, school grounds, and school property; school-sponsored and school-related activities or trips; school bus stops; school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school purposes; the area of entrance or departure from school premises or events; or cyberspace. School property also may mean a student's walking route to or from school

for purposes of attending school or school-related functions, activities, or events. While prohibiting unacceptable behavior subject to disciplinary action at these locations and events, the school does not represent that it will provide supervision or assume liability at these locations and events. This policy also applies to any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of the school or the safety or welfare of the student, other students, employees;

1. Violations against property including, but not limited to, damage to or destruction of school property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
2. The use of profanity or obscene language, or the possession of obscene materials;
3. Gambling, including, but not limited to, playing a game of chance for stakes;
4. Violation of the school's Hazing Prohibition Policy;
5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving school grounds without permission;
6. Violation of the school's Student Attendance Policy;
7. Opposition to authority using physical force or violence;
8. Using, possessing, or distributing tobacco, tobacco-related devices, electronic cigarettes, or tobacco paraphernalia in violation of the school district's Tobacco-Free Environment; Possession and Use of Tobacco, Tobacco-Related Devices, and Electronic Delivery Devices Policy;
9. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of alcohol or other intoxicating substances or look-alike substances;
10. Using, possessing, distributing, or being under the influence of narcotics, drugs, or other controlled substances, or look-alike substances, except as prescribed by a physician, including one student sharing prescription medication with another student;
11. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
12. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;

13. Violation of the School Weapons Policy;
14. Violation of the school's Violence Prevention Policy.
15. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
16. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
17. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
18. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the school;
19. Violation of any local, state or federal law as appropriate;
20. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority, cheating, insolence, insubordination, public displays of affection, failure to identify oneself, improper activation of fire alarms, or bomb threats;
21. Violation of the school's Internet Acceptable Use and Safety Policy;
22. Possession of nuisance devices or objects which cause distractions and may facilitate cheating including, but not limited to phones including picture phones;
23. Violation of school bus or transportation rules or the school bus safety rules;
24. Violation of parking or school traffic rules and regulations, including, but not limited to, driving on school property in such a manner as to endanger persons or property;
25. Violation of directives or guidelines relating to lockers or improperly gaining access to a school locker;
26. Violation of the school's Search of Student Lockers, Desks, Personal Possessions, and Student's Person Policy.
27. Violation of the school district's Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches Policy;
28. Possession or distribution of slanderous, libelous or pornographic materials;

29. Violation of the school district Bullying Prohibition Policy;
30. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel that is unacceptable or provocative, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
31. Criminal activity;
32. Falsification of any records, documents, notes or signatures;
33. Tampering with, changing, or altering records or documents of the school by any method including, but not limited to, computer access or other electronic means;
34. Scholastic dishonesty, which includes, but is not limited to, cheating on a school assignment or test, plagiarism, or collusion including the use of picture phones or other technology to accomplish this end;
35. Impertinent or disrespectful language toward teachers or other school personnel;
36. Violation of the school district's Harassment and Violence Policy;
37. Actions, including fighting or any other assaultive behavior, which causes or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other school personnel, or other persons;
38. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
39. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
40. Verbal assaults, or verbally abusive behavior, including, but not limited to, use of language that is discriminatory, abusive, obscene, threatening, intimidating or that degrades other people;
41. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;

42. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin or sexual orientation;
43. Violation of the school's Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees Policy;
44. Violation of school rules, regulations, policies, or procedures; including, but not limited to, those policies specifically enumerated in this policy;
45. Other acts, as determined by the school, which are disruptive of the educational process or dangerous or detrimental to the student or other students, school personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the school, or which otherwise interferes with or obstruct the mission or operations of the school or the safety or welfare of students or employees.

## **VII. DISCIPLINARY ACTION OPTIONS**

It is the general policy of the school to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school. At a minimum, violation of school rules, regulations, policies or procedures will result in discussion of the violation and a verbal warning. The school shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the school. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, principal, counselor or other school personnel, and verbal warning;
- B. Confiscation by school personnel and/or by law enforcement of any item, article, object, or thing, prohibited by, or used in the violation of, any school policy, rule, regulation, procedure, or state or federal law. If confiscated by the school, the confiscated item, article, object, or thing will be released only to the parent/guardian following the completion of any investigation or disciplinary action instituted or taken related to the violation.
- C. Parent contact;
- D. Parent conference;
- E. Removal from class;
- F. In-school suspension;
- G. Suspension from extracurricular activities;

- H. Detention or restriction of privileges;
- I. Loss of school privileges;
- J. In-school monitoring or revised class schedule;
- K. Referral to in-school support services;
- L. Referral to community resources or outside agency services;
- M. Financial restitution;
- N. Referral to police, other law enforcement agencies, or other appropriate authorities;
- O. A request for a petition to be filed in district court for juvenile delinquency adjudication;
- P. Out-of-school suspension under the Pupil Fair Dismissal Act;
- Q. Preparation of an admission or readmission plan;
- R. Expulsion under the Pupil Fair Dismissal Act;
- S. Exclusion under the Pupil Fair Dismissal Act; and/or
- T. Other disciplinary action as deemed appropriate by the school.

### **VIII. REMOVAL OF STUDENTS FROM CLASS**

- A. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail, or when the teacher determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by this discipline policy. "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.  
Grounds for removal from class shall include any of the following:
  - 1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
  - 2. Willful conduct that endangers surrounding persons, including school employees, the student or other students, or the property of the school;



3. Willful violation of any school rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the teacher or principal requires removal of the student from class.

Such removal shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

- B. If a student is removed from class more than ten (10) times in a school year, the school shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

**C. Procedures for Removal of a Student from a Class.**

1. Prior to removal from class, except in the case of an obvious egregious act, a student will be warned to stop the unwanted behavior;
2. If the behavior continues and the student is willfully interfering with the education process and/or safety of the classroom, he or she will be given a completed pass/referral to a specified location;
3. The teacher may either escort the student or send the student alone, according to the teacher's discretion;
4. The teacher will verify through any means that the student arrived at the specified location;
5. The teacher will complete a referral through JMC at the first practical opportunity. In the case of a student with an IEP, the teacher will consult with the case manager for the protocol specified in the IEP.

**D. Responsibility for and Custody of a Student Removed From Class.**

1. The referring teacher is to ensure that the referred student has arrived at the specified location and responsibility has been transferred to another adult;
2. The referring teacher will discern if an escort is required, if necessary the teacher must escort or find a suitable escort to assist with the transition;
3. The student will complete 5-point processing facilitated by the special education department, the main office, or the school counselor. The record will be stored, and the aforementioned facilitator will determine if and when the student is to return to class, however only the principal has the authority to suspend a student from school.

**E. Procedures for Return of a Student to a Class from Which the Student Was Removed.**

1. The student may be returned to the classroom he or she was removed from or may be required to remain in the processing location until such a time he or she can demonstrate an ability and willingness to adhere to school and classroom expectations;
2. If the student is to return to the class he or she was removed from, it must be after the processing was appropriately completed and with an escort when possible;
3. Upon returning to the classroom, there will be a brief conference between the teacher and the student to ensure there is agreement regarding how the rest of the period will conclude. The student will only be readmitted when such an agreement is reached.

**F. Procedures for Notification.**

1. When a student is removed from class there will be documentation of the event through JMC as soon as is practical. The referral is not available to parents/guardians until the principal reviews it and adds an “action;”
2. For serious offenses, the notification of the parent/guardian will occur as soon as is practical and no later than 24 hours after the offense. The teacher, case manager, school counselor and principal will confer to determine the most appropriate person to relay the information.

**G. Disabled Students; Special Provisions.**

1. If the student has an active IEP, the case manager will be involved in determining the pre-approved steps for dealing with the student;
2. The IEP should specify which protocols to follow. If it does not, the IEP team would need to determine through the IEP process whether or not to add protocols for behavior when warranted;
3. Teachers, staff and the principal are required to follow IEP directives.

**H. Procedures for Detecting and Addressing Chemical Abuse Problems of Students While on School Premises.**

1. Students may demonstrate a reason for the staff to suspect a chemical abuse issue, including but not limited to incidences in the school or community involving chemicals and/or alcohol;

2. When a student demonstrates possible chemical abuse, he or she may be referred by the school's principal or the court system to an organization specializing in chemical abuse issues;
3. The school itself does not employ chemical dependency personnel.

**I. Procedures for Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct.**

**J. Any Procedures Determined Appropriate for Encouraging Early Involvement of Parents or Guardians in Attempts to Improve a Student's Behavior.**

1. When a student demonstrates a proclivity or inclination toward violating school rules or acting in an otherwise unsafe manner, the teachers, special education team, and principal may choose to ask for parent cooperation, support or involvement at any stage.

**K. Any Procedures Determined Appropriate for Encouraging Early Detection of Behavioral Problems.**

1. Teachers and staff will accurately document incidents as they occur and practice ongoing open communication with other teachers and school staff to share relevant information with others who also have the students in an effort to detect behavioral problems early.

**IX. DISMISSAL**

- A. "Dismissal" means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

The school shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding, which may result in suspension, exclusion or expulsion.

The school shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

- B. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:
1. Willful violation of any reasonable board of directors' regulation, including those found in this policy;

2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including school employees, or property of the school.

C. Suspension Procedures

1. “Suspension” means an action by the principal, under rules promulgated by the board of directors, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the suspending principal shall provide the board of directors with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less, except as may be provided in federal law for a student with a disability.
2. If a student’s total days of removal from school exceed ten cumulative days in a school year, the school shall make reasonable attempts to convene a meeting with the student and the student’s parent or guardian before to subsequently removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian’s expense. The purpose of this meeting is to attempt to determine the pupil’s need for assessment or other services or whether the parent or guardian should have the student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder.
3. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. The principal must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect. The principal may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school is in the process of initiating an expulsion, in which case the principal may extend the suspension to a total of fifteen (15) days.
4. A child with a disability may be suspended. When a child with a disability has been suspended for more than five (5) consecutive days or ten (10) cumulative school days in the same year, and that suspension does not involve a

recommendation for expulsion or exclusion or other change in placement under federal law, relevant members of the child's IEP team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the child's IEP. That meeting must occur as soon as possible, but no more than ten (10) days after the sixth (6<sup>th</sup>) consecutive day of suspension or the tenth (10<sup>th</sup>) cumulative day of suspension has elapsed.

5. The principal shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the pupil to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting.
6. The principal shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, the principal shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.
7. After the principal notifies a student of the grounds for suspension, the principal may, instead of imposing the suspension, do one or more of the following:
  - b. assign the student to attend school on Saturday as supervised by the principal or the principal's designee; and
  - c. petition the juvenile court that the student is in need of services under Minn. Stat. Ch. 260C.
8. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minn Stat. §§ 121A.40 through 121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference. (See attachment sample Notice of Suspension)

9. The principal shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone as soon as possible following suspension.
10. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.
11. Notwithstanding the foregoing provisions, the student may be suspended pending the board of director's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

D. Expulsion and Exclusion Procedures

1. "Expulsion" means the board of director's action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the board of directors.
2. "Exclusion" means an action taken by the board of director's to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year. The authority to exclude rests with the board of director's.
3. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40 through 121A.56.
4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.
5. The student and parent or guardian shall be provided written notice of the school's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40 through 121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The school shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal

assistance resource list is available from the Minnesota Department of Education (MDE)

6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the school, student, parent or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student, parent or guardian and shall be closed, unless the student, parent or guardian requests an open hearing.
8. The school shall record the hearing proceedings at school's expense, and a party may obtain a transcript at its own expense.
9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The school shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from CFL. The board of directors may appoint an attorney to represent the school in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.
11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.
12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for the school.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.

16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the board of directors and served upon the parties within two (2) days after the close of the hearing.
17. The board of director's shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The board of director's may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the board of director's must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.
18. A party to an expulsion or exclusion decision made by the board of director's may appeal the decision to the Commissioner within twenty-one (21) calendar days of board of directors action pursuant to Minn. Stat. § 121A.49. The decision of the board of director's shall be implemented during the appeal to the Commissioner.
19. The school shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
20. The school must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.
21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, the principal shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the school.

## **X. ADMISSION OR READMISSION PLAN**

The principal shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan may include measures to improve the student's behavior including completing a character education program consistent with Minn. Stat. § 120B.232, Subd. 1 and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The



readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

#### **XI. NOTIFICATION OF POLICY VIOLATIONS**

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, principal or other school official may provide additional notification as deemed appropriate.

#### **XII. STUDENT DISCIPLINE RECORDS**

It is the policy of the school that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable school policies and federal and state law, including the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

#### **XIII. DISABLED STUDENTS**

Students who are currently identified as disabled under IDEA or Section 504 will be subject to the provisions of this policy provided that their misbehavior is not a manifestation of the student's disability, unless an educational program has specified a necessary modification.

Before initiating an expulsion or exclusion of a student with a disability, relevant members of the child's IEP team and the child's parent shall, consistent with federal law, conduct a manifestation determination and determine whether the child's behavior was (i) caused by or had a direct and substantial relationship to the child's disability and (ii) whether the child's conduct was a direct result of a failure to implement the child's IEP. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the school district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that the school had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the school shall continue to provide special education and related services during the period of expulsion or exclusion.

#### **XIV. DISTRIBUTION OF POLICY**

The school will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in school's main office.

**XV. REVIEW OF POLICY**

The principal and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the board of directors for consideration, which shall conduct an annual review of this policy.