

## Policy – Student

### E.3.1 – Suspension & Expulsion

Community Leadership Academy/Victory Preparatory Academy shall provide due process of law to students, parents/ guardians and school personnel through written procedures consistent with law for the suspension or expulsion of students and the denial of admission.

As an alternative to suspension, the principal or designee at personal discretion may permit the student to remain in school with the consent of the student's teachers if the parent/guardian attends class with the student for a period of time specified by the principal or designee. If the parent/guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the accompanying regulations.

This alternative to suspension shall not be used if expulsion proceedings have been or are about to be initiated or if the principal or designee determines that the student's presence in school, even if accompanied by a parent/guardian, would be disruptive to the operations of the school or be detrimental to the learning environment.

#### Delegation of authority

1. The Board delegates to the principal or to a person designated in writing by the principal the power to suspend a student in the school for not more than five school days on the grounds stated in C.R.S. [22-33-106](#)(1) (a), (1) (b), (1) (c) or (1) (e) or not more than 10 school days on the grounds stated in C.R.S. [22-33-106](#)(1) (d) unless expulsion is mandatory under law, but the total period of suspension shall not exceed 25 school days.
2. The Board delegates to the Chief Executive Officer the authority to suspend a student, in accordance with C.R.S. [22-33-105](#), for an additional 10 school days plus up to and including an additional 10 days necessary in order to present the matter to the Board.
3. Unless otherwise determined by the Board, the Board delegates a designee who shall serve as a hearing officer the authority to deny admission to or expel for any period not extending beyond one year any student whom the Chief Executive Officer, in accordance with the limitations imposed by Title 22, Article 33, of the Colorado Revised Statutes, shall determine does not qualify for admission to or continued attendance at CLA/VPA. The hearing officer shall prepare findings of fact and recommendations for the Chief Executive Officer at the conclusion of the hearing. The Chief Executive Officer shall render a written opinion in the expulsion matter within five days after the hearing.

The Chief Executive Officer shall report on each case acted upon at the next meeting of the Board, briefly describing the circumstances and the reasons for action taken. Such denial of admission or expulsion by the Chief Executive Officer shall be subject to appeal to the Board. The appeal shall consist of a review of the facts that were presented, arguments relating to the decision and questions of clarification from the Board.

**Expulsion for unlawful sexual behavior or crime of violence**

When a petition is filed in juvenile court or district court that alleges a student between the ages of 12 to 18 years has committed an offense that would constitute unlawful sexual behavior or a crime of violence if committed by an adult, basic identification information, as defined in state law, along with the details of the alleged delinquent act or offense, is required by law to be provided immediately to the school district in which the juvenile is enrolled.

The information shall be used by the Board to determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or school personnel and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The Board shall take appropriate disciplinary action, which may include suspension or expulsion, in accordance with the student code of conduct and related policies.

The Board may determine to wait until the conclusion of court proceedings to consider expulsion, in which case it shall be the responsibility of the district to provide an alternative educational program for the student as specified in state law.

**Annual reports**

The Board annually shall report to the State Board of Education the number of students expelled from CLA/VPA for disciplinary reasons or for failure to submit certificates of immunization. Expelled students shall not be included in calculating the dropout rate for the school.

**Information to parents**

Upon expelling a student, CLA/VPA personnel shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion, including the right of the parent/guardian to request that CLA/VPA provide services during the expulsion. If the parent/guardian chooses to provide a home-based education program for the student, CLA/VPA personnel shall assist the parent/guardian in obtaining appropriate curricula for the student if requested by the parent/guardian.

If a student is expelled for the remainder of the school year and is not receiving educational services through CLA/VPA, the school shall contact the expelled student's parent or guardian at least once every 60 days until the beginning of the next school year to determine whether the child is receiving educational services from some other source.

**A. Procedure for suspension of 10 days or less**

The Board of Directors has delegated to any school principal the power to suspend a student for not more than five or 10 days, depending upon the type of infraction. The Chief Executive Officer has been delegated the power to suspend a student for additional periods of time. However, the total period of suspension will not exceed 25 school days. As a general rule, a suspension will be 10 days or less.

The following procedures will be followed in any suspension, unless the student is suspended pending an expulsion proceeding, in which case the expulsion procedures will apply:

When the term "parent/guardian" is used, it refers to the parent/guardian of students under 18 years of age; if the student is 18 years or older, it refers to the student. All references to parent/guardian are intended to also include legal custodian.

1. Notice. The principal, designee or the Chief Executive Officer at the time of contemplated action will give the student and the parent/guardian notice of the contemplated action. Such notice may be oral or in writing.
2. Contents of notice. The notice will contain the following basic information:
  - a. A statement of the charges against the student.
  - b. A statement of what the student is accused of doing.
  - c. A statement of the basis of the allegation. Specific names may be withheld if necessary to shield a witness.

This information need not be set out formally but should sufficiently inform the student and parent/guardian of the basis for the contemplated action.

3. Informal hearing. In an informal setting, the student will be given an opportunity to admit or deny the accusation and to give his or her version of the events. The administrator may allow the student to call witnesses or may personally call the accuser or other witnesses. The administrator may hold a more extensive hearing in order to gather relevant information prior to making a decision on the contemplated action.
4. Timing. The notice and informal hearing should precede removal of the student from school. There need be no delay between the time notice is given and the time of the hearing.

5. If the student's presence in school presents a danger. Notice and an informal hearing need not be given prior to removal from school where a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process. In this case, an informal hearing will follow as soon after the student's removal as practicable.
6. Notification following suspension. If a student is suspended the administrator delegated the authority to suspend will immediately notify the parent/guardian that the student has been suspended, the grounds for such suspension and the period of such suspension. The notification will include the time and place for the parent/guardian to meet with the administrator to review the suspension.
7. Removal from school grounds. A suspended student must leave the school building and the school grounds immediately following the meeting with the parent/guardian at which time the best way to transfer custody of the student to the parent/guardian will be determined.
8. Readmittance. No student will be readmitted to school until a meeting with the parent/guardian has taken place or until, in the opinion of the administrator, the parent/guardian has substantially agreed to review the suspension with the administrator. However, if the administrator cannot contact the parent/guardian or if the parent/guardian repeatedly fails to appear for scheduled meetings, the administrator may readmit the student. The meeting will address whether there is a need to develop a remedial discipline plan for the student in an effort to prevent further disciplinary action.
9. Make-up work. Suspended students will be provided an opportunity to make up school work during the period of suspension, so the student is able to reintegrate into the educational program of the school following the period of suspension. Administrators will provide the parent/guardians with notice that the teachers will provide assignments, course work, and test for period of suspension when requested and grade them when completed. Credit for make-up work which is completed satisfactorily will be determined in accordance with the administrative regulations relative to academic goals.

#### **B. Procedure for expulsion or denial of admission**

In the event the Board contemplates action denying admission to any student or prospective student or expelling any student, the following procedures will be followed:

1. Notice. Not less than 5 days prior to the date of the contemplated action, the Board or an appropriate administrator will send written notice of such proposed action to be delivered to the student and the student's parent/guardian. Such delivery may be by United States mail addressed to the last known address of the student or the student's parent/guardian.

2. Emergency Notice. In the event it is determined that an emergency exists necessitating a shorter period of notice, the period of notice may be shortened provided that the student or the student's parent/guardian have actual notice of proposed action prior to actual expulsion or denial of admission.
3. Contents of Notice. The notice will contain the following basic information:
  - a. A statement of the basic reasons alleged for the contemplated denial of admission or expulsion.
  - b. A statement that a hearing on the question of expulsion or denial of admission will be held if requested by the student or parent/guardian within 10 days after the date of the notice.
  - c. A statement of the date, time and place of the hearing in the event one is requested.
  - d. A statement that the student may be present at the hearing and hear all information against him or her, that the student will have an opportunity to present such information as is relevant and that the student may be accompanied and represented by a parent/guardian and an attorney.
  - e. A statement that failure to participate in such hearing constitutes a waiver of further rights in the matter.
4. Conduct of hearing. A hearing may be requested by the parent/guardian. Such hearing will be conducted by a hearing officer. The hearing may be conducted in open session or may be closed except to those individuals deemed advisable by the hearing officer but including in all events the student, the parent/guardian and, if requested, an attorney. Such individuals as may have pertinent information will be admitted to a closed hearing to the extent necessary to provide such information.

Testimony and information may be presented under oath. However, technical rules of evidence will not be applicable, and the hearing officer may consider and give appropriate weight to such information or evidence he deems appropriate. The student's written statement, if any, may be presented as evidence in accordance with applicable law. The student or representative may question individuals presenting information.

A sufficient record of the proceedings will be kept so as to enable a transcript to be prepared in the event either party so requests. Preparation of the transcript will be at the expense of the party requesting the same.

The hearing officer will make specific factual findings and submit those findings and a recommendation regarding expulsion to the Chief Executive Officer. The Chief Executive Officer will review the hearing officer's factual findings and recommendation and issue a written decision within five days of the hearing.

5. Appeal

Within 5 days after the decision of the Chief Executive Officer, the student may appeal the decision to the Board. Failure to request an appeal within 5 days will result in a waiver of the right to appeal and the Chief Executive Officer's decision will become final.

If an appeal is properly requested, the Board will review the findings of fact from the hearing and arguments relating to the decision. The student may be represented by counsel at the appeal. Representatives of the school and the parents may make brief statements to the Board, but no new evidence may be presented unless such evidence was not reasonably discoverable at the time of the hearing. Members of the Board may ask questions for purposes of clarification of the record.

The Board will make final determination regarding the expulsion of the student.

6. Parental responsibility. If a student between the ages of six and 16 is expelled, the parent/guardian will be responsible for ensuring compliance with the compulsory school attendance law during the expulsion period. Upon expelling a student, school personnel will provide information to the student's parent/guardian concerning the educational alternatives available to the student during the period of expulsion, including the right of a parent/guardian to request that the school provide services during the expulsion. If the parent/guardian chooses to provide a home-based education program for the student, school personnel will assist the parent/guardian in obtaining appropriate curricula for the student if requested by the parent/guardian.

If a student is expelled for the remainder of the school year, the school will contact the expelled student's parent/guardian at least once every 60 days until the beginning of the next school year to determine whether the child is receiving educational services. School personnel need not contact the parent/guardian after the student is enrolled in another school district or in an independent or parochial school, or if the student is committed to the department of human services or sentenced to a juvenile or adult detention facility.

7. Readmittance. An expelled student will not be readmitted to school until after a meeting between the principal or designee and the parent/guardian has taken place and placement availability is determined based on space, lottery, admittance policies and procedures, and behavior and academic review.

**C. Procedure for expulsion for crimes of violence**

The following procedures will apply when CLA/VPA receives notification that a student has been charged in juvenile or district court with a crime of violence as defined by state law.

1. The Board or its designee will make a preliminary determination whether it will proceed with an expulsion hearing, based on the following factors:

- a. The student's behavior was detrimental to the safety or welfare of other students, teachers or school personnel
- b. Educating the student in school would disrupt the learning environment, provide a negative example for other students or create a dangerous and unsafe environment for students, teachers or other school personnel
- c. Grounds for expulsion of the student exists

The determination may be made in executive session to the extent allowed by state law.

2. If it is determined that the student should not be educated in the school and that grounds for expulsion exist, the school will proceed with the expulsion of the student, in accordance with the procedures set forth above.

3. Alternatively, expulsion proceedings may be postponed, pending the outcome of the court proceedings. If the expulsion proceedings are postponed, the student will not be permitted to return to school during that period. An appropriate alternative education program, including but not limited to, an on-line program authorized by state law or a home-based education program will be established for the student during the period pending the resolution of the juvenile proceedings. The time that a student spends in an alternative education program will not be considered a period of expulsion.

4. If the student pleads guilty to the charge, is found guilty or is adjudicated a delinquent juvenile, the Board or designee may proceed to expel the student following the procedures set forth in these regulations.

5. Information regarding the details of the alleged crime of violence will be used by the Board or its designee for the purposes set forth in this policy, but will remain confidential unless the information is otherwise available to the public by law.

#### **Grounds for Suspension/Expulsion**

According to Colorado Revised Statutes [22-33-106](#) (1) (a-e) and 3 (e), the following shall be grounds for suspension or expulsion from a public school:

1. Continued willful disobedience or open and persistent defiance of proper authority.
2. Willful destruction or defacing of school property.
3. Behavior on or off school property which is detrimental to the welfare or safety of other pupils or of school personnel including behavior which creates a threat of physical harm to the child or other children.
4. Declaration as a habitually disruptive student for which expulsion shall be mandatory.
  - a. For purposes of this paragraph, "habitually disruptive student" means a child who been suspended pursuant to paragraph (a), (b), (c), or (e) of this exhibit three times during the course of the school year for causing a material and substantial disruption in the classroom, on school grounds, in school vehicles or at school

activities or events because of behavior that was initiated, willful and overt on the part of the child.

b. The student and the parent, guardian, or legal custodian shall have been notified in writing of each suspension counted toward declaring the student as habitually disruptive.

c. No child shall be declared to be a habitually disruptive student prior to the development of a remedial discipline plan for the child that shall address the child's disruptive behavior, personal educational needs, and the goal of keeping the child in school. The remedial discipline plan shall be developed after the second suspension for a material and substantial disruption. The school shall encourage and solicit the full participation of the child's parent, guardian, or legal custodian in the development of the remedial discipline plan.

5. Serious violations in a school building or in or on school property for which suspension or expulsion shall be mandatory.

Expulsion is mandatory for:

a. the sale of a drug or controlled substance as defined in C.R.S. [12-22-303](#)

b. the commission of an act which if committed by an adult would be robbery pursuant to Part 3, Article 4, Title 18, C.R.S. or assault pursuant to Part 2, Article 3, Title 18, C.R.S. other than the commission of an act that would be third degree assault under C.R.S. [18-3-204](#) if committed by an adult.

c. the carrying, bringing, using or possessing a dangerous weapon without the authorization of the school or school district, except that if a student discovers that he or she has carried, brought or is in possession of a dangerous weapon and the student notifies a teacher, administrator or other authorized person in the school district, and as soon as possible delivers the dangerous weapon to that person, expulsion shall not be mandatory.

As used in this paragraph, "dangerous weapon" means:

a. A firearm, whether loaded or unloaded, or a firearm facsimile that could reasonably be mistaken for an actual firearm

b. Any pellet or BB gun or other device, whether operational or not, designed to propel projectiles by spring action or compressed air

c. A fixed blade knife with a blade that measures longer than three inches in length or a spring loaded knife or a pocketknife with a blade longer than three and one-half inches

d. Any object, device, instrument, material, or substance, whether animate or inanimate, used or intended to be used to inflict death or serious bodily injury



- e. Repeated interference with a school's ability to provide educational opportunities to other students.
  - 6) Failure to comply with the provisions of Part 9, Article 4, Title 15, C.R.S. (immunization requirements). Any suspension, expulsion or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

According to C.R.S. [22-33-106](#) (2), subject to the district's responsibilities under the Exceptional Children's Education Act the following shall be grounds for expulsion from or denial of admission to CLA/VPA or diversion to an appropriate alternate program:

1. Physical or mental disability such that the child cannot reasonably benefit from the programs available.
2. Physical or mental disability or disease causing the attendance of the child to be detrimental to the welfare of other students.

#### **Discipline of Students with Disabilities**

Students with disabilities are neither immune from CLA/VPA's disciplinary process nor entitled to participate in programs when their behavior impairs the education of other students. Students with disabilities who engage in disruptive activities and/or actions dangerous to themselves or others will be disciplined in accordance with their IEP, Section 504, any behavioral intervention plan or this policy.

#### **Suspension for up to 10 school days**

Students with disabilities may be suspended for up to 10 days in any given school year for violations of the student code of conduct. These 10 days need not be consecutive. The school shall provide an opportunity for a pupil to make up work during the period of suspension.

#### **Manifestation determination**

When a disciplinary change in placement is being considered beyond 10 days in a given school year related to a disabled student's behavior, the IEP team and other qualified personnel shall review the relationship between the student's disability and the behavior. Such a review must take place immediately, if possible, but no later than 10 school days from the date of the decision to take disciplinary action.

The team will determine whether the student's behavior is a manifestation of the disability and whether the student's disability impaired his or her ability to control or understand the impact and consequences of the behavior.

**Disciplinary action for behavior that is not a manifestation**

A student with disabilities whose behavior is determined not to be a manifestation of his or her disability, disciplinary procedures shall be applied to the student in the same manner as applied to non-disabled students.

During any period of suspension or change of placement beyond 10 days in any given school year, services shall be provided to the extent necessary to enable the student to continue to appropriately progress in the general curriculum and appropriately advance toward the goals of the IEP.

**Disciplinary action and/or alternative placement for behavior that is a manifestation**

A student with disabilities whose behavior is determined to be a manifestation of his or her disability may not be expelled but will be disciplined in accordance with his or her IEP, Section 504 plan, or any behavioral intervention plan and this policy.

In addition to any disciplinary action provided for in the IEP or behavioral intervention plan, a disabled student may be suspended or removed to an alternative setting for up to an additional 10 school days in any given school year, beyond any 10 day suspension already given in that year, to the extent suspension would be applied to non-disabled students.

Disabled students carrying weapons to school or possessing, selling, or soliciting drugs may be suspended or removed to an alternative setting for the same amount of time as would be applied to a non-disabled student, but not more than an additional 45 school days in any given school year, beyond any 10 day suspension already given in that year.

A hearing officer may order removal to an alternative setting for 45 days, beyond any 10 day suspension already given in that year, when the school demonstrates by substantial evidence that maintaining the student's current placement is substantially likely to result in injury to the student or others.

Either before or within 10 days after any change in placement or suspension (beyond any 10 day suspension already given in that year) related to a disciplinary problem, the IEP team must meet to determine an appropriate alternative setting, to develop a behavioral assessment plan or to review and modify an existing intervention plan, and review and modify the IEP where necessary.

Nothing in this policy shall prohibit an IEP team from establishing consequences for disruptive or unacceptable behavior as a part of the student's IEP. The plan shall be subject to all procedural safeguards established by the IEP process.

**Expedited hearings:**

An expedited hearing is available when:

1. The parent/guardian disagrees with the IEP team's determination regarding manifestation or with any decision regarding placement.
2. The parent/guardian disagrees with the proposed new placement following an interim alternative placement.
3. The school believes it is dangerous for the student to be returned to the previous placement.

During any challenge to placement, the student will stay in the alternative placement.

**Students not identified as disabled**

Students who have not been identified as disabled may be subjected to the same disciplinary measures applied to children without disabilities if the school did not have "knowledge" of the disability.

The school has knowledge of the disability when:

1. The parent/guardian has expressed concern in writing that the student needs special education.
2. The parent/guardian has requested an evaluation.
3. The student's teacher or other personnel have expressed concern about the student's behavior or performance to the principal, RTI team, or special education personnel.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited.

None of the above procedures shall prohibit an IEP team from establishing consequences for disruptive or unacceptable behavior as part of the student's IEP. The plan shall be subject to all procedural safeguards established by the IEP process.

**Educational Alternatives for Expelled Students**

All expelled students receiving services will be included in the school's pupil enrollment, including those expelled prior to the October count date.

Parents/guardians shall be notified in writing at the beginning of each school year of their right to request services from the school if their child is expelled. In addition, written notification shall be provided to the parent/guardian at the time of any expulsion.

All requests for services for expelled students must be made in writing to the principal or designee by the student or the student's parent/guardian within 10 school days of the expulsion.

Within 10 school days of receiving the request, the principal will notify the student and the parent/guardian of the goal in providing educational services, the services to be provided by the district and the amount of credit the student will receive.

Upon request of a student or the student's parent/guardian, the school shall provide educational services deemed appropriate by the school for any student expelled from CLA. The educational services will be designed to enable the student to return school or to enroll in a non-public, non-parochial school or in an alternative school.

Educational services includes tutoring, alternative educational programs, including on-line programs authorized by state law, or vocational education programs that provide instruction in the academic areas of reading, writing, mathematics, science and social studies. In addition to educational services, the student or parent/guardian may request any of the services provided by the school through agreements with state agencies and community organizations for at-risk students.

The school shall determine the amount of credit the student shall receive toward completion of their grade for the educational services provided.

Educational services provided by the school shall be designed to provide a second chance for the student to succeed in achieving an education. While receiving educational services, a student may be suspended or expelled pursuant to the discipline code of the school. Except as required by federal law for special education students, any student who is suspended or expelled while receiving educational services pursuant to this policy shall not receive further services until the period of suspension or expulsion is completed.

The educational services may be provided directly by the school or through agreements with state agencies and community organizations entered into pursuant to state law. The services need not be provided on school property.

Students who are expelled for conduct or behavior involving a threat of harm to students or personnel shall be served through a home-study course or in an alternative school setting designed to address such conduct or behavior, at the discretion of the school.

The Chief Executive Officer is directed to apply for moneys through the expelled student services grant program established by Colorado law to assist in providing such services.

**RESOLUTION 2019 – 103**

**COMMUNITY LEADERSHIP ACADEMY, INC.**

**Authorizing Delegation of Designee to Serve as Expulsion Hearing Officer**

**WHEREAS**, the Community Leadership Academy is a Colorado public charter school under the control of the organization’s Board of Directors (“Governing Board”); and

**WHEREAS**, C.R.S. 22-33-105 (2)(c) provides that the Board of Education of each District (the Governing Board for a charter school) may deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district.

A board of education (Governing Board) may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing.

The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108; and

**WHEREAS**, the Governing Board desires to delegate the authority to an administrator to serve as the expulsion hearing officer.

**NOW, THEREFORE**, the Governing Board of Community Leadership Academy, Inc. hereby finds, determines, declares, orders, and resolves as follows:

School administrators will serve as hearing officers for expulsion proceedings at Community Leadership Academy State Charter School, Victory Preparatory Academy Middle State Charter School, and Victory Preparatory Academy High State Charter School.

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President, Board of Directors

September 5, 2019

**ATTEST:** \_\_\_\_\_

Secretary, Board of Directors

September 5, 2019