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## Agora Cyber Charter School

### Board of Trustees Policy

### DISCIPLINARY EXCLUSIONS AND HEARINGS POLICY

In accordance with 22 Pa Code §§12.6, 12.7 and 12.8, the following definitions guide the Agora Cyber Charter School ("Charter School"), in suspending and/or excluding students from school as a consequence of student's violation(s) of the Charter School Code of Conduct. Exclusions affecting certain students with disabilities shall be governed by 22 Pa Code §711.

**Exclusion from School:** may take the form of suspension or expulsion;

(1) Suspension is exclusion from school for a period of from one (1) to ten (10) consecutive school days.

(i) Suspensions may be given by the Chief Executive Officer ("CEO") or the designee of the Charter School.

(ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.

(iii) The parents or guardians shall be notified immediately in writing when the student is suspended.

(iv) When the suspension exceeds three (3) school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements of the Pennsylvania Code.

(v) Suspensions may not be made to run consecutively beyond the ten (10) school day period.

- (vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the Board of Trustees ("Board").
- (2) Expulsion is exclusion from school by the Board for a period exceeding ten (10) school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing pursuant to the Pennsylvania Code.
- (i) During the period prior to the hearing and decision of the Board in an expulsion case, the student shall be placed in the normal class except as set forth in subsection (ii).
  - (ii) If it is determined after an informal hearing that a student's presence in the normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than ten (10) school days. A student may not be excluded from school for longer than fifteen (15) school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.
  - (iii) Students who are under 18 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.
- (1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.
  - (2) Within thirty (30) days of action by the Board, the parents or guardians shall submit to the Charter School written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the Charter School, within the (10) days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals with Disabilities Education Act 2004.
  - (3) If the approved educational program is not complied with, the Charter School may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See Pennsylvania Code § 12.1(b) (relating to free education and attendance).

### **Exclusion from classes – in-school suspension**

- (1) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.
- (2) Communication to the parents or guardian shall follow the suspension action taken by the Charter School.
- (3) When the in-school suspension exceeds ten (10) consecutive school days, an informal hearing with the CEO or the designee shall be offered to the student and the student's parent or guardian prior to the eleventh (11<sup>th</sup>) school day in accordance with the procedures in the Pennsylvania Code.

(4) The Charter School has the responsibility to make provision for the student's education during the period of the in-school suspension.

### **Hearings**

(a) *General.* Education is a statutory right, and students shall be afforded due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing.

(b) *Formal hearings.* A formal hearing is required in all expulsion actions. The hearing may be held before the Board or an authorized committee of the Board, or a qualified hearing examiner appointed by the Board. When a committee of the Board or a hearing examiner conducts the hearing, a majority vote of the entire Board is required to expel a student. The following due process requirements shall be observed with regard to the formal hearing:

(1) Notification of the charges shall be sent to the student's parents or guardians by certified mail.

(2) At least three (3) days notice of the time and place of the hearing shall be given. A copy of the expulsion policy, notice that legal counsel may represent the student and hearing procedures shall be included with the hearing notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.

(3) The hearing shall be held in private unless the student or parent requests a public hearing.

(4) The student may be represented by counsel, at the expense of the parents or guardians, and may have a parent or guardian attend the hearing.

(5) The student has the right to be presented with the names of witnesses against the student, and copies of the statements and affidavits of those witnesses.

(6) The student has the right to request that the witnesses appear in person and answer questions or be cross-examined.

(7) The student has the right to testify and present witnesses on the student's own behalf.

(8) A written or audio record shall be kept of the hearing. The student is entitled, at the student's expense, to a copy. A copy shall be provided at no cost to a student who is indigent.

(9) The proceeding shall be held within fifteen (15) school days of the notification of charges, unless mutually agreed to by both parties. A hearing may be delayed for any of the following reasons, in which case the hearing shall be held as soon as reasonably possible:

(i) Laboratory reports are needed from law enforcement agencies.

(ii) Evaluations or other court or administrative proceedings are pending due to a student invoking their rights under the Individuals With Disabilities Education Act 2004 (20 U.S.C.A. §§ 1400–1482).

(iii) In cases in juvenile or criminal court involving sexual assault or serious bodily injury, delay is necessary due to the condition or best interests of the victim.

(10) Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.

(c) *Informal hearings.* The purpose of the informal hearing is to enable the student to meet with the appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.

(1) The informal hearing is held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses might be avoided.

(2) The following due process requirements shall be observed in regard to the informal hearing:

(i) Notification of the reasons for the suspension shall be given in writing to the parents or guardians and to the student.

(ii) Sufficient notice of the time and place of the informal hearing shall be given.

(iii) A student has the right to question any witnesses present at the hearing.

(iv) A student has the right to speak and produce witnesses on their own behalf.

v. The Charter School shall offer to hold the informal hearing within the first five (5) days of the suspension.

## **Attendance/School Work During Suspension And Prior To Expulsion**

Students serving an out-of-school suspension are responsible to make up missed exams and work and shall be permitted to complete assignments pursuant to established guidelines. Students who are facing an expulsion hearing must be allowed to attend their normal classes if the formal hearing is not held within the ten-school day suspension. If it is not possible to hold the formal hearing within the first ten (10) school days, the Charter School may exclude such a student from class for up to five (5) additional school days for a total of fifteen (15) school days, if after an informal hearing, it is determined that the student's presence in the normal class would constitute a threat to the health, safety or welfare of others. Any further exclusion prior to a formal hearing may be only by mutual agreement. Such students shall be given alternative education, which may include home study.

Students who are under eighteen (18) years of age are still subject to compulsory school attendance even though expelled and shall be provided an education. The parent/guardian has the initial responsibility of providing the required education and shall, within thirty (30) days, submit written evidence to the charter school that the required education is being provided or that they are unable to do so. If the parent/guardian is unable to provide for the required education, the charter school shall, within ten (10) days of receipt of the parent's/guardian's notification, make provision for the student's education.

## **Discipline of Students with Disabilities**

The Charter School shall comply with the Individuals with Disabilities Education Improvement Act (IDEA 2004) and any applicable federal and state statutes or regulations when disciplining students with disabilities. Students with disabilities who engage in inappropriate behavior, disruptive or prohibited activities, and/or conduct injurious to themselves or others shall be disciplined in accordance with their Individualized Education Programs (IEP), behavioral intervention plan, Title 22 Chapter 711 and relevant portions of Chapter 12 of the State Board of Education Regulations, IDEA 2004, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and any other applicable federal or state law.

~~See: Suspensions and Expulsions - Students with Disabilities Board Policy for further information.~~

## **Special Rules for Students with an Intellectual Disability**

The disciplinary removal of a child with an intellectual disability attending the Charter School for any amount of time is considered a change in placement under 22 Pa. Code §711.61.

If a discipline problem involving a student eligible for special education with an intellectual disability is immediate or so severe as to warrant immediate action, the charter school must first contact the parents/guardians to see if they will agree to the change in educational placement. If the parents/guardians agree, the LEA issues notice to the parents/guardians. If there is no

agreement, the charter school may contact the PDE Bureau of Special Education at 717-787-6134 to request permission to impose a disciplinary exclusion which would be a change in educational placement. When PDE approves the change in educational placement, the charter school must issue a notice to the parents/guardians. PDE cannot approve requests for a change in placement which would continue beyond 10 consecutive school days. When PDE does not approve the change in educational placement, the parents/guardians may request a due process hearing and then the pendency requirements under 34 C.F.R. §300.518 apply.

**TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.**