

Da Vinci Schools
Policy and Procedures

SUSPENSION AND EXPULSION

The Board of Trustees is committed to ensuring that all students have equal access to educational opportunities in a safe, supportive, and positive school environment that is conducive to learning and to developing students' sense of self-discipline and responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and involvement of parents/guardians can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

The Chief Executive Officer/Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and correcting student misbehavior in Da Vinci Schools. The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of discipline policies and practices.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed.

Each school may develop disciplinary rules to meet its particular needs consistent with law and Board policies and procedures. However, each Da Vinci school is encouraged to align their disciplinary practices to the other Da Vinci schools.

At all times, the safety of students and staff and the maintenance of an orderly school environment shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules, including rules concerning suspension and expulsion of students, fairly, consistently, and in accordance with Da Vinci Schools' nondiscrimination policies. The Chief Executive Officer/Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively implement appropriate disciplinary strategies, including procedures for the suspension and expulsion of students.

Alternatives to Suspension

To intervene in student behavior, Da Vinci Schools progressive discipline policies in place at each of its schools. The Student and Family Handbook includes information about student expectations

and progression of disciplinary procedures from day-to-day discipline to suspension or expulsion.

The following are alternatives to be considered before suspending a student:

1. Conference between staff, parent/guardian, and the student
2. Parent/guardian shadowing
3. Mentorship (peer/teacher)
4. Written assignment, research, or presentation reflecting on the student's behavior
5. Referral to a school counselor, psychologist, social worker, case manager, or other school support service personnel for case management and counseling
6. Intervention-related teams to assess student behavior, and develop and implement an individualized behavior plan in partnership with the student and his/her parent/guardian
7. Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an IEP or Section 504 Plan
8. Enrollment in a program for teaching prosocial behavior or anger management
9. Participation in a restorative justice program
10. A positive behavior support approach with tiered interventions that occur during the school day
11. Out-of-school programs that address specific behavioral issues or expose students to positive activities and behaviors
12. Volunteer work or community service
13. Loss of privileges
14. Saturday school
15. In-school suspension

Scope and Purpose of Suspensions and Expulsions

Suspension means removal of a student from ongoing instruction for adjustment purposes.

Expulsion means the removal of a student from the immediate supervision and control, or the general supervision, of school personnel.

A student may be suspended or expelled when the student’s behavior is related to a school activity or school attendance occurring at any Da Vinci school, regardless of when it occurs, including, but not limited to, the following:

1. While on school grounds;
2. While going to or coming from school;
3. During the lunch period, whether on or off the school campus; or
4. During, going to, or coming from a school-sponsored activity.

A student identified as an individual with disabilities or for whom Da Vinci Schools has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEIA”) or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to general education students except when federal and state law mandates additional or different procedures. Da Vinci Schools will follow all applicable federal and state laws, including, but not limited to, the Education Code, when imposing any form of discipline on a student identified as an individual with disabilities or for whom Da Vinci Schools has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such students.

A foster student’s educational rights holder, attorney, and county social worker an Indian student’s tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a student has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.

As used in this policy, “school property” includes, but is not limited to, electronic files and databases.

Grounds for Suspension: Discretionary Offenses

Students may be suspended for any of the following acts when it is determined the student:

- 1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- 2) Willfully used force or violence upon the person of another, except in self-defense.
- 3) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the student had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or designee.
- 4) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a

controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

- 5) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- 6) Committed or attempted to commit robbery or extortion.
- 7) Caused or attempted to cause damage to school property or private property.
- 8) Stole or attempted to steal school property or private property.
- 9) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a student of his/her own prescription products.
- 10) Committed an obscene act or engaged in habitual profanity or vulgarity.
- 11) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- 12) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties (only to the extent permitted under Section 48901.1 of the Education Code). Notwithstanding Section 47610 or any other law, the following provisions apply to charter schools:
 - a) A pupil enrolled in a charter school in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended on the basis of having disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, and those acts shall not constitute grounds for a pupil enrolled in a charter school in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
 - b) A pupil enrolled in a charter school in any of grades 6 to 8, inclusive, shall not be suspended on the basis of having disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. This subdivision is inoperative on July 1, 2029.
 - c) Except as provided in Section 48910, commencing July 1, 2024, a pupil enrolled in a charter school in any of grades 9 to 12, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2029.
 - d) (1) A certificated or noncertificated employee may refer a pupil to charter school

administrators for appropriate and timely in-school interventions or supports from the list specified in subdivision (b) of Section 48900.5 for any of the acts enumerated in paragraph (1).

(2) A charter school administrator shall, within five business days, document the actions taken pursuant to paragraph (1) and place that documentation in the pupil's record to be available for access, to the extent permissible under state and federal law, pursuant to Section 49069.7. The charter school administrator shall, by the end of the fifth business day, also inform the referring certificated or noncertificated employee, verbally or in writing, what actions were taken and, if none, the rationale used for not providing any appropriate or timely in-school interventions or supports.

Cal. Ed. Code § 48901.1

- 13) Knowingly received stolen school property or private property.
- 14) Possessed an imitation firearm. "Imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- 15) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- 16) Harassed, threatened, or intimidated a student who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that student from being a witness and/or retaliating against that student for being a witness.
- 17) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- 18) Engaged in, or attempted to engage in, hazing. "Hazing" means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. "Hazing" does not include athletic events or school-sanctioned events.
- 19) Aided or abetted, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person.
- 20) Committed sexual harassment as defined in Section 212.5 of the Education Code. The conduct must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall only apply to students in grades 4 to 12, inclusive.
- 21) Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall only apply

to students in grades 4 to 12, inclusive.

- 22) Intentionally engaged in harassment, threats, or intimidation, directed against Da Vinci Schools personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. This section shall only apply to students in grades 4 to 12, inclusive.
- 23) Made terroristic threats against school officials and/or school property. "Terroristic threat" shall have the same definition as under Section 48900.7 of the Education Code.
- 24) Engaged in an act of bullying. "Bullying" shall have the same definition as under Section 48900(r).

Grounds for Suspension: Non-Discretionary Offenses

A student shall be suspended when there is evidence that the lives, safety, or health of other students and/or school personnel are otherwise in clear, present, and continuing jeopardy or danger as a result of any of the following acts committed by the student:

- (1) Caused serious physical injury to another person, except in self-defense.
- (2) Committed assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.
- (3) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object of no reasonable use to the student.
- (4) Brandished a knife at another person.
- (5) Committed robbery or extortion.
- (6) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code that is more than one avoirdupois ounce of marijuana, and/or the possession of the controlled substance is not the first offense of this nature.
- (7) Unlawful sale of a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (8) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of an alcoholic beverage, or an intoxicant of any kind.
- (9) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery

as defined in Section 243.4 of the Penal Code.

Informal Conference

Only the principal or designee may suspend a student from school. Suspension shall be preceded by a conference conducted by the principal or designee with the student and, whenever practical, the teacher, supervisor or school employee who referred the student to the principal. The conference may be omitted if the principal or designee determines that an emergency situation exists. An “emergency situation” involves a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student’s right to return to school for the purpose of a conference. This conference shall be held within two (2) school days, unless the student waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the student is physically able to return to school for the conference.

At the conference, the student shall be:

1. Informed, orally or in writing, of the charges against them.
2. Provided with an explanation of the evidence that supports the charges.
3. Given the opportunity to present their side of the story.

Notice to Parents/Guardians of the Suspension

At the time of suspension, the principal or designee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. This notice shall state the specific offense(s) committed by the student and indicate the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice will request that the parent/guardian respond to such requests without delay.

No penalties may be imposed on a student for failure of the student’s parent/guardian to attend a conference with school officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student’s parent/guardian at the conference.

Suspension Time Limits

A student shall not be suspended from school for more than five (5) consecutive school days, and not more than twenty (20) school days in any school year. These restrictions on the number of days of suspension do not apply when the suspension is extended pending an expulsion.

Suspension Appeals

A parent/guardian may appeal a suspension within five (5) school days from the date the

suspension was issued. The request is to be submitted to the principal to correct or remove any information (regarding the incident and circumstances that resulted in the suspension) recorded in the student's record which the student or parent/guardian alleges to be any of the following:

1. Inaccurate.
2. An unsubstantiated personal conclusion or inference.
3. A conclusion or inference outside of the observer's area of competence.
4. Not based on the personal observation of a named person with the time and place of the observation noted.
5. Misleading.
6. In violation of the privacy or other rights of the student.

Within thirty (30) days of receipt of an appeal, a neutral officer or a hearing panel shall meet with the student and parent/guardian and any pertinent school personnel. A hearing panel shall be composed of the following persons, provided that the parent/guardian or adult student has given written consent to release information from the student's records to the members of the panel so convened: a school administrator, a certificated employee, and a non-certificated employee – none of whom are members of the Board or employed on the staff of the school in which the student is enrolled.

If the neutral officer or hearing panel sustains any or all of the allegations, the principal shall be ordered to correct or remove and destroy the information regarding the incident and circumstances that resulted in the suspension from the student's records. If the neutral officer or hearing panel upholds the suspension, the matter is closed. The parent/guardian or student has the right to include in the student's record a written statement or response concerning the disciplinary action.

Homework During Suspension

Upon the request of a parent/guardian, a teacher shall provide to a student who has been suspended for two or more schooldays, the homework that the student would otherwise have been assigned. If a homework assignment that is requested and turned into the teacher by the student either upon the student's return to school from suspension or within the timeframe originally prescribed by the teacher, whichever is later, is not graded before the end of the academic term, that assignment shall not be included in the calculation for the student's overall grade in the class.

Grounds for Expulsion: Discretionary Offenses

The principal may recommend the expulsion of a student for any of the following acts, unless the principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction could appropriately address the conduct:

- (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (3) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the student had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or designee.
- (4) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (5) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (6) Committed or attempted to commit robbery or extortion.
- (7) Caused or attempted to cause damage to school property or private property.
- (8) Stole or attempted to steal school property or private property.
- (9) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a student of his/her own prescription products.
- (10) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (11) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (12) Knowingly received stolen school property or private property.
- (13) Possessed an imitation firearm. "Imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (14) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of , or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

- (15) Harassed, threatened, or intimidated a student who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that student from being a witness and/or retaliating against that student for being a witness.
- (16) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (17) Engaged in, or attempted to engage in, hazing. "Hazing" means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. "Hazing" does not include athletic events or school-sanctioned events.
- (18) Aided or abetted, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person.
- (19) Committed sexual harassment as defined in Section 212.5 of the Education Code. The conduct must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall only apply to students in grades 4 to 12, inclusive.
- (20) Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall only apply to students in grades 4 to 12, inclusive.
- (21) Intentionally engaged in harassment, threats, or intimidation, directed against Da Vinci Schools personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. This section shall only apply to students in grades 4 to 12, inclusive.
- (22) Made terroristic threats against school officials and/or school property. "Terroristic threat" shall have the same definition as under Section 48900.7 of the Education Code.
- (23) Engaged in an act of bullying. "Bullying" shall have the same definition as under Section 48900(r).

Both the recommendation and order to expel a student for committing any of the acts listed above must be based on a finding of one or both of the following:

1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
2. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.

Grounds for Expulsion: Mandatory Offenses

The principal shall recommend expulsion of a student that is determined to have committed any of the following acts at school or at a school activity off school grounds:

1. Possessed, sold, or otherwise furnished a firearm. The act of possessing an imitation firearm, as defined above, is not an offense for which expulsion is mandatory.
2. Brandished a knife at another person.
3. Unlawful sale of a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
4. Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
5. Possessed an explosive.

Extension of Suspension

Upon a recommendation for expulsion, the student and parent/guardian will be invited to a meeting with the principal to determine if the suspension should be extended pending an expulsion hearing. That determination shall be based on a finding that either the student's presence would cause a danger to persons or property or a threat of disrupting the instructional process.

Authority to Expel

Only the principal can recommend the expulsion of a student from Da Vinci Schools, and only the Administrative Hearing Panel ("Panel") may order the expulsion following a hearing before it. The Panel shall include three or more certificated persons – none of whom are members of the Board or employed on the staff of the school in which the student is enrolled. Panel members may include teachers, school administrators, Chiefs or Directors from Da Vinci Schools, one of whom shall be identified as the presiding officer. The Chief Executive Officer/Superintendent or designee shall be responsible for assembling the Panel that will hear and determine the outcome of each expulsion matter.

Notice of Expulsion Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten (10) calendar days before the date of the hearing. The notice shall include all of the following:

1. The date, time, and place of the hearing.

2. A statement of specific facts and charges upon which the proposed expulsion is based.
3. A copy of the school's disciplinary rules that relate to the alleged violation.
4. A statement of the student's or parent's/guardian's obligation to provide information about the student's status at the school to any other school district or school to which the student seeks enrollment.
5. The right to appear in person or to be represented by legal counsel or a non-attorney advisor.
6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The right to confront and question all witnesses who testify at the hearing.
8. The right to question all evidence presented, and to present oral and documentary evidence on the student's behalf, including witnesses.

Expulsion Hearing

Students recommended for expulsion are entitled to a hearing before the Panel, as described above, to determine whether the student should be expelled. The hearing shall be held within thirty (30) school days after the principal determines that the student has committed an expellable offense, unless the hearing is postponed for good cause.

The hearing shall be conducted in a session closed to the public, unless the student submits a written request, at least five (5) calendar days prior to the date of the hearing, to have the hearing conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in closed or public session, the Panel may meet in closed session to deliberate and determine whether the student should be expelled.

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs.

A decision of the Panel to expel must be documented in its findings of fact based upon substantial evidence relevant to the charges presented at the hearing. No decision to expel shall be based solely on hearsay evidence, except when the Panel, upon finding that good cause exists, determines that the disclosure of either the identity of a witness and/or the testimony of that witness at the hearing would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations that shall be examined only by the Panel.

If the Panel decides not to order the expulsion of a student who committed a discretionary offense, the student shall be immediately reinstated and permitted to return to their educational program at the school from which the expulsion referral originated.

If the Panel finds that the student committed a non-discretionary offense, but does not order expulsion, the student shall be immediately reinstated and may be referred to their prior school, or another school that serves the same grade level, if available.

Expulsion Hearings Involving Allegations of Sexual Assault or Sexual Battery

In a hearing involving allegations of sexual assault or sexual battery, a complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of their right to:

1. Receive five (5) days' notice before being called to testify at the hearing.
2. Have up to two adult support persons of their choosing (*i.e.*, parent/guardian, legal counsel) present in the hearing at the time the witness testifies.
3. Have the hearing closed during the time the witness testifies.

The following are procedures for all hearings involving allegations of sexual assault or sexual battery:

1. The hearing may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of the complaining witness.
2. A nonthreatening environment shall be provided for a complaining witness in order to better enable them to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints.
3. A room separate from the hearing room must be provided for the complaining witness to use prior to and during breaks in the testimony.
4. The presiding officer:
 - a. Shall allow the complaining witness reasonable periods of relief from examination and cross-examination during which they may leave the hearing room.
 - b. May arrange the seating within the hearing room of those present in order to facilitate a less intimidating environment for the complaining witness.
 - c. May limit the time for taking the testimony of a complaining witness to the hours the witness is normally in school, if there is no good cause to take the testimony during other hours.
 - d. May permit one of the complaining witness's support persons to accompany them to the witness stand.
5. Before a complaining witness testifies, support persons shall be admonished that the hearing

is confidential and may not be discussed with anyone not in attendance at the hearing. The presiding officer of the Panel may remove a support person whom the presiding officer finds is disrupting the hearing. If one or both of the support persons is also a witness, the following provisions apply:

- a. The school must present evidence that the person's presence is both desired by, and will be helpful to, the complaining witness.
 - b. The presiding officer shall permit the person to stay unless it is established that there is a substantial risk that the testimony of the complaining witness would be influenced by the support person.
 - c. The presiding officer may remove a person from the hearing whom they believe is prompting, swaying, or influencing the witness.
 - d. The testimony of the support person shall be presented before the testimony of the complaining witness and the complaining witness shall be excluded from hearing room during that testimony.
6. Evidence of specific instances of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard absent a determination by the presiding officer that extraordinary circumstances exist requiring the evidence be heard. Before the person conducting the hearing makes the determination on whether extraordinary circumstances exist requiring that specific instances of a complaining witness' prior sexual conduct be heard, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.
7. If the hearing is to be conducted at a public meeting, a complaining witness shall have the right to have their testimony heard in a session closed to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.

Record of Expulsion and Expulsion Hearing

A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

The principal or designee shall maintain a record of each expulsion, including the expulsion order and the causes for the expulsion, in the student's mandatory interim record. The record shall be forwarded to any school in which the student subsequently enrolls upon receipt of a request from

the new school for the student's records.

Written Notice to Expel

Following the hearing, the Chief Executive Officer/Superintendent or designee shall send written notice of the Panel's decision to expel, including the findings of fact, to the student and parent/guardian. This notice shall also include the following:

1. The specific offense committed by the student.
2. A statement of the student's or parent's/guardian's obligation to inform any school which the student seeks to enroll of the student's expulsion.
3. The date when the student can be reviewed for readmission, and a description of the process by which readmission is conducted.
4. A copy of the rehabilitation plan

The Chief Executive Officer/Superintendent or designee shall send a copy of the written notice to expel to the authorizer. The Chief Executive Officer/Superintendent or designee shall also notify the superintendent of the school district of the student's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the student, including report cards or a transcript of grades, and health information.

Rehabilitation Plan

At the time of the expulsion order, the Panel shall establish a rehabilitation plan for the student, which may include, but is not limited to, periodic review as well as assessment at the time of review for readmission. The plan should include the specific conditions that the student must satisfy during the period of expulsion and can include improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

Placement

Students who are expelled shall be responsible for seeking alternative education programs including, but not limited to, programs within Los Angeles County or their school district of residence. Da Vinci Schools shall work cooperatively with parents/guardians as requested to assist with locating alternative placements during expulsion.

Period of Expulsion and Readmission

At the time of the expulsion order, the Panel shall set a date not more than one (1) calendar year from the date the expulsion occurred, when the student shall be reviewed for readmission to Da Vinci Schools. In determining the period of expulsion, the Panel shall consider the nature of the act that resulted in the student's expulsion, including, but not limited to, the severity and intent of

the act, the student's specific circumstances, and the safety of the student and others.

The decision to readmit a student or to admit a previously expelled student from a school district, private school, or another charter school shall be in the sole discretion of the Chief Executive Officer/Superintendent following a meeting with the Chief Executive Officer/Superintendent or designee, the student, and the parent/guardian to determine whether the student has successfully completed the rehabilitation plan and to determine whether the student poses a threat to others or will be disruptive to the school environment. The student's readmission is also contingent upon the charter school's capacity at the time the student seeks readmission.

Expulsion Appeals

The parent/guardian may appeal the expulsion by submitting a written request to the Chief Executive Officer/Superintendent within ten (10) calendar days from the date of the written notice to expel. The request must specify the reason(s) for the appeal and include any supporting documentation. Upon receipt of a timely request, the Chief Executive Officer/Superintendent or designee shall convene a hearing before the Board within thirty (30) calendar days. Notice of the hearing shall be provided to the student and parent/guardian at least ten (10) calendar days prior to the date of the hearing. The notice shall include all of the following:

1. The date, time, and place of the hearing.
2. A statement of specific facts and charges upon which the expulsion is based.
3. The right to appear in person or to be represented by legal counsel or a non-attorney advisor.
4. A statement that the appeal shall be heard in closed session, unless the parent/guardian requests in writing at least five (5) calendar days prior to the hearing that it be conducted at a public meeting. If such request is made, the hearing shall be held in public session as long as the privacy rights of any other students would not be violated by doing so.
5. The right to provide a five-minute oral presentation before the Board, summarizing the reason(s) for the appeal.
6. A statement that failure to pursue the appeal with diligence within the time frames established by Da Vinci Schools may be deemed an abandonment of the appeal and the Chief Executive Officer/Superintendent or designee may dismiss the appeal.

The Board's review is limited to the record of proceeding of the Panel. Unless evidence was improperly excluded or, in the exercise, no evidence other than that contained in the record of proceeding may be heard. The Board's review of the Panel's decision shall be limited to the following questions:

1. Whether the Panel acted without or in excess of its jurisdiction (e.g., the hearing was not commenced within the time periods established by Da Vinci Schools, the expulsion order is not based on an expellable act, the act is not related to school activity or school attendance).
2. Whether there was a fair hearing before the Panel.

3. Whether there was a prejudicial abuse of discretion in the hearing (e.g., school officials did not meet the procedural requirements established by Da Vinci Schools, the decision to expel is not supported by the prescribed findings, the findings are not supported by substantial evidence).

4. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not be produced at the time of the expulsion hearing.

The Board may either reverse or uphold the decision of the Panel. If the Board enters a decision to reverse the Panel's decision, the Board may direct Chief Executive Officer/Superintendent or designee to expunge any references to the expulsion action in its records and that of the student, and the expulsion shall be deemed not to have occurred. The Board's decision shall be final. Within three (3) school days of the hearing, the student and the principal shall be notified, in writing, of the Board's final order.

Special Considerations: Suspension and Expulsion of Students with Disabilities

Notification of SELPA

The Chief Executive Officer/Superintendent or designee shall immediately notify and coordinate with the SELPA the suspension or expulsion of any student with a disability or whom Da Vinci Schools would be deemed to have knowledge of having a disability.

Services During Suspension

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum; to progress toward meeting the goals set forth in the student's IEP or Section 504 Plan; and to receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, that are designed to address the misconduct so that it does not recur. These services may be provided in an interim alternative educational setting.

Procedural Safeguards/Manifestation Determination

Within ten (10) school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, Da Vinci Schools, the parent/guardian, and relevant members of the IEP or Section 504 Team ("Team") shall review all relevant information in the student's file, including the student's IEP or Section 504 Plan, any teacher observations, and any relevant information provided by the parents/guardians to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
2. If the conduct in question was the direct result of the Da Vinci Schools' failure to implement the IEP or Section 504 Plan.

If the Team determines that either of the above is applicable for the student, the conduct shall

be determined to be a manifestation of the student's disability. In which case, the Team shall:

1. Conduct a functional behavioral assessment and implement a behavioral intervention plan for the student, provided that Da Vinci Schools had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;
2. Develop a behavior intervention plan, or if a plan has already been developed, review and modify it, as necessary, to address the behavior; and
3. Return the student to the placement from which they were removed, unless the parent/guardian and Da Vinci Schools agree to a change of placement as part of the modification of the behavioral intervention plan.

If the Team determines that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of Da Vinci Schools' failure to implement the IEP or Section 504 Plan, then Da Vinci Schools may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

Due Process Appeals

The parent/guardian of a student with a disability who disagrees with any decision regarding placement or the manifestation determination, or Da Vinci Schools believes that maintaining the current placement of the student is substantially likely to result in injury to the student or to others, may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings or by utilizing the dispute provisions of the Section 504 Policy and Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent/guardian or Da Vinci Schools, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, whichever occurs first, unless the parent/guardian and Da Vinci Schools agree otherwise.

Special Circumstances

Da Vinci Schools may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates Da Vinci Schools' code of student conduct.

The principal or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

1. Carries or possesses a weapon, as defined in Section 930 of Title 18 of the United States Code, to or at school, on school premises, or to or at a school function;

2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or
3. Has inflicted serious bodily injury, as defined by Section 1415(k)(7)(D) of Title 20 of the United States Code, upon another person while at school, on school premises, or at a school function.

The student's interim alternative educational setting shall be determined by the student's IEP Team.

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to IDEIA and who has violated Da Vinci Schools' code of student conduct may assert the procedural safeguards granted under this policy only if Da Vinci Schools had knowledge that the student was disabled before the behavior occurred.

Da Vinci Schools shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

1. The parent/guardian expressed concern, in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to the supervisory or administrative personnel of the school, or to one of the student's teachers, that the student is in need of special education or related services;
2. The parent/guardian has requested an evaluation of the student pursuant to Section 1414(a)(1)(B) of Title 20 of the United States Code; or
3. The student's teacher, or other school personnel, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the director of special education or to other supervisory personnel of Da Vinci Schools.

If Da Vinci Schools knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to IDEIA-eligible individual with disabilities, including the right to stay-put.

Da Vinci Schools shall not be deemed to have knowledge that the student had a disability if the parent/guardian has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible. If Da Vinci Schools had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. Da Vinci Schools shall conduct an expedited evaluation if requested by the parent/guardian; the student shall remain in the education placement determined by Da Vinci Schools pending the results of the evaluation.

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