



Document Name:	Safe School/ Student Search Policy
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## 1.0 Purpose

- To foster a safe school environment for students and staff, free from violence, intimidation, drug use, and harm from individuals, groups, gangs, and criminal gang-type behavior and any other type of behavior or activity that disrupts the orderly and safe operation of the school.
- To provide due process procedures to protect the rights of students when a disciplinary problem arises.
- To require parents and guardians of students to assume proper legal responsibility for their students' behavior, to cooperate with authorities in encouraging student self-discipline, and to discourage behavior that is disruptive to the school environment.
- To comply with state and federal laws requiring suspension or expulsion for certain types of student behavior.
- To implement this policy in harmony with the school's 3 Streams approach to discipline.

## 2.0 Definitions

### **Suspension:**

For purposes of this policy, suspension is a temporary removal of a student from school and school-sponsored activities for a period of up to one (1) year. A student who is suspended may, at the discretion of the Executive Director ("Director"), have access to homework, tests, and other schoolwork through a home study program but will not be allowed to attend classes or participate in any school activities during the period of suspension.

**Expulsion:**

For purposes of this policy, expulsion means the formal process of dismissing a student from school. Recognizing that students who commit violent or disruptive acts may pose safety problems, the school will work with parents to provide alternative educational placement and programs for the student where appropriate and feasible. However, the Director retains the authority to exclude the student from all programs or activities for the period of expulsion.

**Change of Placement for Students with Disabilities under IDEA and Section 504:**

For purpose of the removal of a student with a disability from the student's current educational placement, a "change of placement" occurs if:

- (1) the removal is for more than ten (10) consecutive school days, or
- (2) the student is subjected to a series of removals that constitute a pattern because they total more than ten (10) school days in a school year or because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Any "change of placement" requires compliance with the procedures outlined in Section 3.9 of this policy.

**Disruptive Student Behavior:**

For the purpose of this policy, "Disruptive student behavior" includes:

- (1) The grounds for suspension or expulsion described in Utah Code Section 53G-8-205 and listed in the below "Suspension and Expulsion" policy; and
- (2) The conduct described in Utah Code Subsection 53G-8-209 (i.e., use of foul language, abusive, or profane language while engaged in school related activities; illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette, tobacco, or alcoholic beverages contrary to law; and hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.)



**Parent:**

For purposes of this policy, "parent" means:

- (1) a custodial parent of a school-age minor;
- (2) a legally appointed guardian of a school-age minor; or
- (3) any other person purporting to exercise any authority over the minor which could be exercised by a person described above.

**Qualifying Minor:**

For purposes of this policy, "qualifying minor" means a school-age minor who:

- (1) is at least nine years old; or
- (2) turns nine years old at any time during the school year.

**School Year:**

For purposes of this policy, "school year" means the period of time designated as the school year by the Board in the calendar adopted each year.

## 3.0 Policy Content

### 3.1 GROUNDS FOR SUSPENSION, EXPULSION, OR CHANGE OF PLACEMENT

Wasatch Waldorf Charter School shall comply with 53G-8-205 of the Utah Code: Grounds for suspension or expulsion from a public school.

- (1) A student may be suspended or expelled from Wasatch Waldorf Charter School for any of the following reasons:
  - (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;
  - (b) willful destruction or defacing of school property;

- (c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;
  - (d) possession, control, or use of an alcoholic beverage as defined in Utah Code Section 32B-1-102;
  - (e) behavior proscribed under Subsection (2) below which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or
  - (f) possession or use of pornographic material on school property.
- (2) A student shall be suspended or expelled from Wasatch Waldorf Charter School for any of the following reasons:
- (a) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:
    - (i) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;
    - (ii) the actual or threatened use of a look-alike weapon with intent to intimidate another person or to disrupt normal school activities; or
    - (iii) the sale, control, or distribution of a drug or controlled substance as defined in Utah Code Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or
    - (iv) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.
  - (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material may be expelled from school for a period of not less than one year subject to the following:
    - (i) within 45 days after the expulsion the student shall appear before the Director or the Director's designee, accompanied by a parent or legal guardian; and
    - (ii) The Director or designee shall determine:

- what conditions must be met by the student and the student's parent for the student to return to school;
  - if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and
  - if it would be in the best interest of the school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the governing board of the school and giving highest priority to providing a safe school environment for all students.
- (3) A student may be denied admission to Wasatch Waldorf Charter School on the basis of having been expelled from Wasatch Waldorf Charter School or any other school during the preceding 12 months.
- (4) Wasatch Waldorf Charter School shall prepare an annual report for the State Board of Education on:
- (a) each violation committed under this section;
  - (b) demographic information regarding each student committing a violation, including gender, race, grade level, age and disability status; and
  - (c) each action taken by the school against a student who committed the violation.
- (5) Students with Disabilities under IDEA and Section 504

Whenever a student receiving special education and related services under the Individuals with Disabilities Education Act ("IDEA") or Section 504 of the Rehabilitation Act is determined to have carried a weapon to school or a school-sponsored activity, the procedures outlined in Section 3.9 of this policy must be followed.

Any student identified as being disabled under either Section 504 of the Rehabilitation Act or the Americans with Disabilities Act who currently is engaging in the illegal use of drugs or alcohol shall be suspended or expelled to the same extent as non-disabled students for the possession, use, control, distribution, sale, or arrangement of the sale

of illegal drugs, alcohol, or controlled substances on School property or in conjunction with any School-sponsored activity.

### **3.2 DRUGS AND CONTROLLED SUBSTANCES**

#### **3.2.1 Mandatory Suspension or Expulsion**

A student shall be suspended or expelled from his/her school of attendance for any of the following reasons:

- (a) use, control, possession, distribution, sale, or arranging for the sale of an illegal drug or controlled substance (which includes alcohol), an imitation controlled substance, or drug paraphernalia in a school building, in a school vehicle, on school property, or in conjunction with any school activity;
- (b) misuse or abuse, distribution, sale or arranging for the sale of prescription medication at school or a school function; or
- (c) misuse or abuse of over-the counter remedies, or sharing, distribution, sale, or arranging for the sale of over-the-counter remedies.

A student may possess and use over-the-counter remedies at school only in amounts not to exceed the recommended daily dose including, but not limited to: aspirin, ibuprofen, Tylenol (acetaminophen), cough drops, allergy medication, cough syrup and mouthwash.

#### **3.2.2 Drug Testing**

- (a) Any student who is reasonably suspected of violating section 3.2.1 may be subject to a drug test for cause, arranged and paid for by the school.
- (b) Any student who has been suspended or expelled for a violation of section 3.2.1 may be required to provide a clean drug test and evidence of drug assessment and drug counseling programs as a condition of re-admission to school. Testing and counseling required as a condition of re-admission rather than for the purpose of providing justification for the initial suspension or expulsion shall be arranged and paid for by the student's parent or guardian.

- (c) Students who refuse to submit to required drug testing and counseling programs, or to cooperate with school officials with respect to the sharing of appropriate information, may be expelled from the school.
- (d) Any student who is suspended or expelled for violation of section 3.2.1 may be subject to random drug testing, at any time and for any reason, for a period of one year from the date of offense. If the student tests positive, he/she may be expelled from all school programs or activities. Any student who refuses consent for random drug testing under these conditions shall be expelled from all school programs or activities.

### **3.2.3 Students with Disabilities Under Section 504**

Any student identified as being disabled under either Section 504 of the Rehabilitation Act or the Americans with Disabilities Act who currently is engaging in the illegal use of drugs or alcohol shall be suspended or expelled to the same extent as non-disabled students for the possession, use, control, distribution, sale, or arrangement of the sale of illegal drugs, alcohol, or controlled substances on school property or in conjunction with any school activity.

### **3.2.4 Students with Disabilities Under IDEA**

Whenever a student receiving special education and related services under IDEA knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, the due process procedures outlined in Section 3.9 of this policy must be followed.

### **3.2.5 Gang Prevention AND INTERVENTION - Utah Code §53G-8-207**

For purposes of this policy, "gang" means a group of three or more people who form an allegiance and engage in a range of anti-social behaviors that may include violent or unlawful activity or both. These groups may have a name, turf, colors, symbols, or distinct dress, or any combination of the preceding characteristics.

### **3.2.6 Gang Activity and Apparel Prohibited**

Students who engage in any form of gang activity on or about school property, or at any school-sponsored activity may be suspended or expelled under the terms of this policy. For the purposes of this policy, "gang activities" include, but are not limited to any of the following:

- (a) advocating or promoting a gang or any gang-related activities;
- (b) marking school property, books, or school work with gang names, slogans, or signs;
- (c) conducting gang initiations;
- (d) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;
- (e) aiding or abetting any of the activity described above by a person's presence or support;
- (f) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
- (g) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

### **3.2.7 Confiscation of Gang Items**

Subject to the search and seizure provisions of this policy, gang paraphernalia, apparel, or weapons may be confiscated by School officials at any time.

### **3.2.8 Consultation with Law Enforcement Authorities**

School faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement.

### **3.3 AUTHORITY TO SUSPEND OR EXPEL**

#### **3.3.1 Authority to Suspend for Ten (10) Days or Less for Regular Education Students**

The Director or his or her designee has the authority to suspend a regular education student for up to ten (10) school days. In considering whether to suspend a student, the Director or designee shall consider all relevant factors, including but not limited to, the severity of the offense, the student's age, disability, academic status and disciplinary record, parental capabilities, and community resources. The designee may not suspend for longer than ten (10) school days or otherwise change student placement. Whenever the designee proposes suspending a student for more than ten (10) school days, the designee shall refer the matter to the Director.

#### **3.3.2 Authority to Suspend and Duration of Suspension for Students with Disabilities**

The Director or his or her designee has the authority to suspend a student with disabilities (504 or IDEA) for not more than ten (10) consecutive school days, and additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a pattern resulting in a change of placement. The school need not provide services during periods of removal of ten (10) days cumulative or less if services are not provided to a student without disabilities who has been similarly suspended.

#### **3.3.3 Authority to Suspend for Longer than Ten (10) Days or Expel for Regular Education Students**

The Director may suspend for longer than ten (10) days or expel a regular education student. Expulsions shall be reviewed by the Board if the parent/guardian of the expelled student has expressed a desire for the student to return to the school.

#### **3.3.4 Parental Responsibility**

If a student is suspended for a period longer than ten (10) days or expelled, the student's parent or legal guardian is responsible for undertaking an alternative

education plan that will ensure that the student's education continues during the period of expulsion. The parent or guardian shall work with designated school officials to determine how the student's education will continue through private education paid for by the parents, an alternative program offered by the local school district, or other alternatives which will reasonably meet the educational needs of the student. Costs of educational services which are not provided by the school are the responsibility of the student's parent or guardian.

### **3.3.5**

The parent or guardian and designated school officials may enlist the cooperation of the Division of Child and Family Services, the juvenile court, law enforcement, or other appropriate government agencies in determining how to meet the educational needs of the student.

### **3.3.6**

The school shall contact the parent or guardian of each student under age 16 who has been expelled from all school programs and services at least once a month to determine the student's progress if the parent/guardian of the expelled student has expressed a desire for the student to return to the school.

### **3.3.7 Authority to Institute Change of Placement for Student with Disabilities**

Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA, procedures outlined in the State of Utah Special Education Rules shall be followed, including prior written notice to parents or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

### **3.4 PROCEDURES FOR ADDRESSING DISRUPTIVE STUDENT BEHAVIOR – Utah Code Ann. § 53G-8-210**

#### **3.4.1 Efforts to Resolve Disruptive Student Behavior Problems**

**Information About Resources.** The school will provide to a parent of a student who engages in disruptive student behavior a list of resources available to assist the parent in resolving the student’s disruptive behavior problem.

**Procedures for Resolving Problems.** The Director or a member of the SSEG designated by the Director will work with students who engage in disruptive student behavior according to the procedures identified in Section 3.6, below, in an attempt to help the student’s behavior to improve and to prevent problems from escalating.

#### **3.4.2 Notice of Disruptive Student Behavior**

The Director is authorized to issue notices of disruptive student behavior to students who are qualifying minors. The Director will issue a “notice of disruptive student behavior” to a qualifying minor who:

- (a) engages in “disruptive student behavior” that does not result in suspension or expulsion three times during the school year; or
- (b) engages in disruptive student behavior that results in suspension or expulsion once during the school year.

The notice of disruptive student behavior will:

- (a) require the qualifying minor and a parent of the qualifying minor to whom the notice is issued to:
  - (i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and
  - (ii) cooperate with the student’s teacher, the Director, and the SSEG in correcting the student's disruptive student behavior;
- (b) contain a statement indicating:
  - (i) the number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or

- expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation; and
- (ii) that the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and
  - (c) be mailed by certified mail to, or served in person on, a parent of the qualifying minor.

### **3.4.3 Contesting Notice**

A qualifying minor, or a qualifying minor's parent, may contest a notice of disruptive student behavior by requesting in writing, within ten (10) business days after receipt of the notice, a meeting with the SSEG at which the parent and the SSEG will discuss the facts related to the student's behavior, the basis of the parent's concerns with or objections to the issuance of the notice, and efforts that have been made to address the behavior problems.

### **3.4.4 Habitual Disruptive Student Behavior Citation**

The Director may issue a "habitual disruptive student behavior citation" to a qualifying minor who:

- (a) engages in disruptive student behavior that does not result in suspension or expulsion at least six times during the school year;
- (b)
  - (i) engages in disruptive student behavior that does not result in suspension or expulsion at least three times during the school year; and
  - (ii) engages in disruptive student behavior that results in suspension or expulsion at least once during the school year; or
  - (iii) engages in disruptive student behavior that results in suspension or expulsion at least twice during the school year.

### **3.4.5 Referral to Juvenile Court**

A qualifying minor to whom a habitual disruptive student behavior citation is issued shall be referred to the juvenile court.

### **3.4.6 Notice to Parents.**

Within five (5) days after the day on which a habitual disruptive student behavior citation is issued, the Director shall provide documentation to a parent of the qualifying minor who receives the citation of the efforts made by the school to attempt to resolve the disruptive student behavior problems under Section 3.6, below.

### **3.5 ALTERNATIVES TO EXPULSION, OR CHANGE OR PLACEMENT FOR FREQUENT OR FLAGRANT DISRUPTIVE BEHAVIOR – Utah Code Ann. §53G-8-207**

A continuum of intervention strategies shall be available to help students whose behavior in school repeatedly falls short of reasonable expectations. Prior to suspending a student for more than ten (10) days or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not so extreme or violent that immediate removal is warranted, good faith efforts shall be made to implement a remedial discipline plan to allow the student to remain in the school.

Before referring the student for long-term suspension, expulsion or change of placement under this section, school staff should demonstrate that they have attempted some interventions, which may include some or all of the following interventions:

- Talking with the student;
- Class schedule adjustment;
- Phone contact with the parent or legal guardian;
- Informal parent/student conferences;
- Behavioral contracts;
- After-school make-up time;
- Short-term in-school suspension (ISS);
- Short-term at-home suspensions;
- Appropriate evaluation;
- Home study;
- Alternative programs;
- Law enforcement assistance as appropriate.

### **3.5.1 Parental Attendance with Student – Utah Code Ann. §53G-8-207**

As part of a remedial discipline plan for a student, the school may require the student's parent or guardian, with the consent of the student's teachers, to attend class with the student for a period of time specified by a designated school official. If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the provisions of this policy.

### **3.6 DUE PROCESS FOR SUSPENSIONS OF TEN (10) DAYS OR LESS**

When a student is suspected of violating Wasatch Waldorf Charter School policy, a school administrator or member of the SSEG must meet with and inform him/her of the allegations and provide the student the opportunity to give his/her version of the incident. The following procedure shall apply to all students facing suspension of ten (10) school days or less:

- 3.6.1 A school administrator shall inform the student of the charges against him/her, the disciplinary action being recommended, and provide the student with the opportunity to present his or her version of the facts.
- 3.6.2 If the student denies the charges, the student shall be provided with an explanation of the evidence and an opportunity to present his/her version of the incident to the school administrator. The student shall be requested to present his/her version of the incident in writing. Students with disabilities or young students who are unable to write their own statements shall be accommodated through the use of tape recorder, scribe, etc.
- 3.6.3 If suspension is recommended, the school administrator shall notify the custodial parent or guardian of the student of the following without delay:
  - (a) that the student has been suspended;
  - (b) the grounds for the suspension;
  - (c) the period of time for which the student is suspended; and
  - (d) the time and place for the custodial parent or guardian to meet with a designated school official to review the suspension.

- 3.6.4 The school administrator shall also notify the non-custodial parent, if requested in writing, of the suspension. This does not apply to the portion of school records which would disclose any information protected under a court order. The custodial parent is responsible to provide the school a certified copy of any court order prohibiting notification to the noncustodial parent.
- 3.6.5 School administrators shall document the charges, evidence, and action taken.
- 3.6.6 In general, the notice and informal conference outlined in Sections 3.7.1 through 3.7.3 shall precede the student's removal from school. If, in the judgment of the administrator, notice is not possible because the student poses a danger to a person or property or an on-going threat of disrupting the academics process, he/she may be removed immediately. However, in such cases, the necessary notice and informal hearing shall follow as soon as possible.

### **3.7 DUE PROCESS FOR SUSPENSIONS OF MORE THAN TEN (10) DAYS AND EXPULSIONS**

When a student is suspected of violating Wasatch Waldorf Charter School policy, the Director must meet with and inform him/her of the allegations and provide the student the opportunity to give his/her version of the incident. The following procedure shall apply to all students facing suspension of more than ten (10) school days or expulsion:

- 3.7.1 The Director shall inform the student of the charges against him/her, the disciplinary action being recommended, and provide the student with the opportunity to present his or her version of the facts.
- 3.7.2 If the student denies the charges, the student shall be provided with an explanation of the evidence and an opportunity to present his/her version of the incident to school administrators.
- 3.7.3 If the Director desires or contemplates expelling a student or suspending a student for longer than ten (10) school days, he/she shall submit a Safe Schools referral to the SSEG.

3.7.4 Prior to sending the referral to the SSEG, the Director should meet with the student's custodial parent or guardian to discuss the charges against the student and the proposed discipline. In situations where this is not possible, the Director must meet with the student's custodial parent or guardian no later than ten (10) school days after the suspension begins to discuss the charges against the student and the proposed discipline. The Director shall also notify the noncustodial parent, if requested in writing by a noncustodial parent, of the possible expulsion.

### **3.7.5 Notice to Student and Parent/Guardian**

If the SSEG determines, after considering the totality of the circumstances, that a student should be expelled or suspended for longer than ten (10) school days, the SSEG shall send a written notice by certified mail, return receipt requested, to the student's parent or legal guardian, that includes all of the following:

- (a) a description of the alleged violation(s) or reason(s) giving rise to disciplinary action;
- (b) the penalty being imposed (duration of suspension or expulsion);
- (c) a statement that a due process hearing may be requested in writing within ten (10) working days of receipt of the notice;
- (d) a statement that, if a hearing is requested, the Director has the authority to appoint an impartial Hearing Officer(s), who may be an employee of the school;
- (e) a statement that the expulsion is taking effect immediately and will continue for the stated period unless and until a hearing is requested in a timely manner and the Hearing Officer determines otherwise;
- (f) the mailing date of the notice; and
- (g) a statement that, if a hearing is not requested within ten (10) working days after receipt of the notice, the SSEG's decision to expel or suspend the student will be final, and the parent's right to oppose the decision will be waived.

### **3.7.6 Hearing Procedures**

If a hearing is requested in response to the Notice sent pursuant to Section 3.8.5, the following procedures shall apply:

- 3.7.6.a After receipt of the request, the Director shall appoint a Hearing Officer as soon as possible. The Hearing Officer shall schedule the hearing for as soon as practical but not later than ten (10) working days following receipt of the request.
- 3.7.6.b The Hearing Officer shall send a written Hearing Notice to the custodial parent or guardian informing the custodial parent or guardian of:
  - (a) the name of the Hearing Officer;
  - (b) the date, place, and time of the hearing;
  - (c) the circumstances, evidence, and issues to be discussed at the hearing;
  - (d) the right of all parties to cross-examine witnesses subject to the Hearing Officer's determination that this right should be limited to protect student witnesses from retaliation, ostracism or reprisal;
  - (e) the right of all parties to appeal to the governing Board within ten (10) working days following the decision if the parties disagree with the Hearing Officer's decision;
  - (f) the right of all parties to examine all relevant records; and
  - (g) the right of all parties to be represented by counsel.
- 3.7.6.c The Hearing Officer shall conduct the hearing on the record and shall:
  - (a) ensure that a written record of the Hearing is made, a copy of which shall be provided to all parties upon request, with the cost borne by the school;
  - (b) consider all relevant evidence presented at the hearing; allow the right to cross-examination of witnesses, unless the Hearing Officer determines that this right should be limited to protect student witnesses from ostracism, retaliation or reprisal;
  - (c) allow all parties a fair opportunity to present relevant evidence;

- (d) make a determination based upon a preponderance (>50%) of the evidence; and
- (e) issue a written decision including Findings of Fact and Conclusions.

### **3.7.7 Hearing Rules**

Formal Rules of Evidence do not apply to the Hearing and no discovery is permitted. However, the following rules will apply:

- (a) parties may have access to information contained in school files to the extent permitted by law;
- (b) hearings shall be closed to the press and the public;
- (c) documents, testimony, or other evidence submitted by the parties after the hearing, will not be considered by the Hearing Officer;
- (d) the Hearing Officer may excuse witnesses or parties, or suspend or terminate a hearing if persons involved in the hearing are abusive, disorderly, disruptive, or if they refuse to abide by the rules and orders of the Hearing Officer.

### **3.7.8 Appeals**

- (a) Within ten (10) working days following receipt of the Hearing Officer's written decision, either party may appeal the decision, in writing, to the school's governing Board.
- (b) Within ten (10) working days following receipt of an appeal, the Board shall rule on the appeal.

## **3.8 DUE PROCESS FOR CHANGE OF PLACEMENT OF STUDENTS WITH DISABILITIES**

Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504 or ADA, procedures outlined in the Utah State Board of Education Special Education Rules shall be followed, including prior written notice to parents or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

### **3.8.1 Required Services**

(a) 504 and ADA Students

When a determination is made that the conduct of a 504 or ADA student (but not a student who is disabled under IDEA) is not a manifestation of the student's disability pursuant to Section 3.9.5 (IEP Meeting for Manifestation Determination), the student shall be subject to the same disciplinary consequences as regular education students, up to and including expulsion from school without educational services. (See OSEP memorandum of April 26, 1995.)

(b) IDEA

A school need not provide services during periods of removal to a student with a disability under IDEA who has been removed from his or her current placement for ten (10) school days or less in that school year if services are not provided to a student without disabilities who has been similarly removed. If a student with a disability under IDEA has been removed from his or her current placement for more than ten (10) school days in the same school year, for the remainder of the removals, the school shall provide services to the extent necessary to enable the student to progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. School personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's IEP.

### **3.8.2 Change of Placement for Weapons or Drugs**

A student's IEP team may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than forty-five (45) days, if:

(a) The student carries a weapon to school or to a school-sponsored activity; or

- (b) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school-sponsored activity.

### **3.8.3 Change of Placement Due to Student's Serious Misconduct**

School officials may request an expedited due process hearing in order to change the placement of a student with a disability to an appropriate interim alternative educational setting, recommended by the student's IEP team, for not more than forty-five (45) days. A hearing officer may order such a change, if he/she:

- (a) Determines that school officials have demonstrated by substantial evidence that maintaining the current placement of a student is substantially likely to result in injury to the student or others;
- (b) Considers the appropriateness of the student's current placement;
- (c) Considers whether school officials have made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
- (d) Determines that the interim alternative educational setting being recommended by school officials
  - (i) has been selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP; and
  - (ii) includes services and modifications designed to address the behavior at issue so that it does not recur.

### **3.8.4 Parental Notice**

As soon as a decision is made by school officials to remove a student with a disability from his/her current placement for more than ten (10) school days, the student's parents must be notified of that decision and of all procedural safeguards outlined by law and school policy.

### **3.8.5 IEP Meetings for Manifestation Determination**

Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision is made to remove the student from the current placement, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action. The manifestation review must be conducted by the student's IEP team and other qualified School personnel.

In conducting the manifestation review, the IEP team may determine that the behavior of the student was not a manifestation of student's disability only if the IEP team:

- (a) First considers, in terms of behavior subject to disciplinary action, all relevant information, including:
  - (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the student;
  - (ii) Observations of the student; and
  - (iii) The student's IEP and placement; and
- (b) Then determines whether:
  - (i) The conduct in question was caused by or had a direct and substantial relationship to the child's disability; or
  - (ii) The conduct in question was the direct result of the school's failure to implement the student's IEP.

If the IEP team determines that either of the standards above was met, the behavior must be considered a manifestation of the student's disability.

#### **3.8.5.a Determination that Behavior was not Manifestation of Disability**

If the result of the manifestation review is a determination that the behavior of a student with a disability was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, except that a free appropriate public education must still be made available to the student if the student is suspended or expelled from school.

### **3.8.5.b Determination that Behavior was Manifestation of Disability**

If the result of the manifestation review is a determination that the behavior of a student with a disability was a manifestation of the student's disability, the student must remain in or be returned to the prior placement.

### **3.8.6 IEP Meetings for Functional Behavioral Assessments**

#### **(a) Post-Discipline Functional Behavioral Assessments**

If school officials have not conducted a functional behavioral assessment and implemented a behavioral intervention plan for the student before the behavior that results in a removal from school for longer than ten (10) school days or a change of placement to an interim alternative educational setting, school officials shall convene an IEP meeting to develop an assessment plan and appropriate behavioral interventions to address that behavior.

#### **(b) Pre-Discipline Behavioral Intervention Plans**

If the student already has a behavioral intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.

### **3.8.7 Placement During Appeals and Stay Put**

- (a)** If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student must remain subject to the disciplinary action pending the decision of the hearing officer or until the expiration of the forty-five (45) day period, whichever occurs first, unless the parent and school officials agree otherwise.
- (b)** If a student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the student must remain in the current placement (the student's placement prior to the interim alternative education setting), unless school officials succeed in getting an order through an expedited hearing as described above in Section 3.9.3.

### **3.9 SITE-BASED SAFE SCHOOLS MEASURES**

#### **3.9.1 Closed Campus**

Wasatch Waldorf Charter School has a "closed campus" policy, under which students are prohibited from leaving school grounds during the school day without authorization from the school's office.

#### **3.9.2 Physical Restraint**

A school employee may, when acting within the scope of employment, use and apply physical restraint or force as may be reasonable and necessary under the following circumstances:

- (a) To protect any person from physical injury;
- (b) To take possession of a weapon, other dangerous objects or controlled substances in the possession of a student;
- (c) To restrain or remove a student from a situation when that student is violent or disruptive, or is a danger to him/herself or others, or
- (d) To protect property from damage when physical safety is at risk.

School employees may not use:

- (a) prone, or face-down, physical restraint; supine, or face-up, physical restraint;
- (b) physical restraint that obstructs the airway of a student, or any physical restraint that adversely affects a student's primary mode of communication;
- (c) mechanical restraint, except those protective, stabilizing or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, including seatbelts or any other safety equipment when used to secure students during transportation;
- (d) chemical restraint, except as:
  - (i) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

- (ii) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;
- (e) subject to the requirements of R277-609, seclusionary time out, except when a student presents an immediate danger of serious physical harm to self or others.
- (f) for a student with a disability, emergency safety interventions written into a student's individualized education program (IEP), as a planned intervention, unless school personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in R277-608-4 have been attempted, a FBA has been conducted, and a positive behavior intervention plan based on data analysis has been written into the plan and implemented.

The use of physical restraint shall be for the minimum time necessary to ensure safety. All physical restraint must be immediately terminated when student is no longer an immediate danger to self or others, or if student is in severe distress.

School employees may not physically restrain a student for more than 30 minutes. In situations where restraint for more than 30 minutes may be required to ensure safety of the student or others, law enforcement should be contacted to assist.

When an employee exercises physical restraint on a student, the public education employee shall immediately notify the school administration. The school shall immediately notify the student's parent or guardian and inform parents that they may request any notes or documentation regarding the incident. The employee imposing physical restraint shall write a report outlining the incident and the reasons for the use of physical restraint within three (3) days following the incident. This report shall be filed with the Director, who then is responsible for sending a copy of the report to the Emergency Safety Intervention Committee. The original of the report shall be kept in the employee's file.

The School's Emergency Safety Intervention Committee (which is comprised of the members of the SSEG at Wasatch Waldorf Charter School) shall comply with the requirements of R277-609-6(6)-(7) and shall receive and review reports regarding the

use of physical restraint, seclusionary time-outs, and other emergency safety interventions at the School. The Emergency Safety Intervention Committee shall provide an annual report to the School's Governing Board regarding the use of emergency safety interventions at the School.

Utah Admin. Code R. 277-609-3(B)-(C).

### **3.9.3 Corporal Punishment**

School employees may not inflict or cause the infliction of corporal punishment upon a student.

## **3.10 EXTRACURRICULAR ACTIVITIES**

Participation in interscholastic athletics and other extracurricular activities is not a constitutionally protected civil right. Therefore, students who are suspended or expelled may lose the privilege of participation during the period of suspension/expulsion and may not be allowed to invoke due process procedures to challenge the denial of extracurricular participation.

### **3.11 RE-ADMISSION OF EXPELLED STUDENTS AND DENIAL OF ADMISSION BASED ON PRIOR EXPULSION – Utah Code Ann. §53G-8-205**

A student who is expelled from the school can only be re-admitted to the school through the school's standard lottery procedures. A student may be denied admission to the school if he or she was expelled from the school or any other school during the preceding 12 months.

## **3.12 INVESTIGATIONS**

Whenever the Director has reason to believe that school rules or policies have been broken, he or she shall proceed with an investigation. However, if the Director believes that laws have been broken or child abuse has occurred, he/she shall request appropriate authorities to conduct the investigation.

### **3.12.1 General Investigation Guidelines**

The Director has the authority and duty to conduct investigations and to question students pertaining to infractions of school rules, whether or not the alleged conduct is

a violation of criminal law. The Director shall conduct investigations according to the following general guidelines:

- (a) The Director shall conduct investigations in a way that does not unduly interfere with school activities.
- (b) The Director shall separate witnesses and offenders in an attempt to keep witnesses from collaborating their statements and have all parties provide separate statements concerning the incident under investigation; written statements are preferable, if possible.
- (c) The Director shall advise students suspected of wrongdoing orally or in writing of the nature of the alleged offense.
- (d) Students must be provided an opportunity to give their version of the incident under investigation; however, refusals to respond or provide information should be respected.
- (e) When questioning students as part of an investigation, school staff should have another adult present whenever possible.
- (f) The Director shall accommodate students with disabilities and young children unable to write their own statements through use of tape recorders, scribes, etc.
- (g) All students involved in the investigation shall be instructed that retaliation is prohibited. Any act of reprisal against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing is strictly prohibited and subject to disciplinary action.
- (h) When the investigation is completed and if it is determined that disciplinary action may be in order, due process requirements must be met. Specifically, the student must be given proper notice of the charges against him/her and the disciplinary action being recommended, as well as a fair opportunity to present his or her version of the facts.

### **3.12.2 Coordination with Law Enforcement**

The Director has the responsibility and the authority to determine when the help of law enforcement officers is necessary, as outlined in this policy and Utah State law.

The school administration may invite law enforcement officials to the school to:

- (a) conduct an investigation of alleged criminal conduct on the school premises or during a school-sponsored activity;
- (b) maintain a safe and orderly educational environment; or
- (c) maintain or restore order when the presence of such officers is necessary to prevent injury to persons or property.

### **3.12.3 Investigation of Criminal Conduct**

During an investigation for violation of school rules, it may become evident that the incident under investigation may also be a violation of criminal law. If the school official has reason to suspect that a criminal act has been committed and, in the opinion of the Director, law enforcement should be notified, the following procedure should be followed:

- (a) The Director shall request that law enforcement officers conduct an investigation during school hours and question students who are potential witnesses to the alleged criminal behavior.
- (b) The school official shall inform the student's parent or legal guardian as soon as possible that the student may have committed a criminal act and that law enforcement authorities will be involved in the investigation.
- (c) Unless circumstances dictate otherwise, questioning of the student by school officials shall not begin or continue until the law enforcement officers arrive. The student shall not be questioned by law enforcement unless or until he/she has received Miranda warnings from the officer.
- (d) Reasonable attempts shall be made to contact the student's parents or legal guardian who, unless an emergency exists, shall be given the opportunity to meet with the student and to be present with the student during questioning by law enforcement authorities.
- (e) The Director shall document the contact or attempted contact with the student's parents or legal guardian. If the Director cannot contact the student's parent or guardian, or if the parent or guardian is unable to be present with the student for questioning, the Director shall be present and document generally what occurs during the interview.

- (f) If the parent or student refuses to consent to questioning by law enforcement authorities, the law enforcement authorities shall determine the course of action to be pursued.

#### **3.12.4 Investigation Initiated by Law Enforcement Authorities**

School officials shall cooperate with law enforcement authorities who are carrying out official duties such as investigating crimes, serving subpoenas, etc.

- (a) When law enforcement officers can show a need to do so, they shall be permitted to conduct an investigation on school grounds during school hours.
- (b) Such a need will ordinarily be shown if delay in police investigation might result in danger to a person, flight from jurisdiction by a person reasonably suspected of a crime, or destruction of evidence. In such cases:
  - (i) The officers shall be required to get prior approval of the Director or other designated person before beginning an investigation on school premises.
  - (ii) The Director shall document the circumstances warranting the investigation as soon as practical.
  - (iii) Alleged criminal behavior related to the school environment brought to the Director's attention by law enforcement officers shall be dealt with under the provisions of Section 3.13.1.
  - (iv) Law enforcement officials (investigating school-related or student-related crimes) may not have access to student education records, aside from directory information, unless they have a subpoena or court order or permission from parent or guardian.
  - (v) Directory information is limited to a student's name, home address, date of birth, phone number, class schedules and parents' address and phone numbers for use in case of emergency.

#### **3.12.5 Release of Student to Law Enforcement Official**

- (a) Students may not be released to law enforcement authorities voluntarily by school officials unless the student has been detained or unless the parent or legal guardian and the student agree to the release.

- (b) When students are removed from school for any reason by law enforcement authorities, every reasonable effort shall be made to contact the student's parent or legal guardian immediately except in cases of child abuse and neglect. Such effort shall be documented.
- (c) The Director shall immediately notify the Board of the removal of a student from school by law enforcement authorities.
- (d) Where it is necessary to take a student into custody or detained on school premises, the law enforcement officer shall contact the Director and relate the circumstances necessitating such action.
- (e) Whenever the need arises to make arrests or take students into custody on school premises, the Director shall make reasonable efforts to consult and confer with the law enforcement officers as to how an arrest is to be made.
- (f) When possible, the Director shall have the student summoned to the office before the student is taken into custody.
- (g) When a student has been taken into custody or arrested on school premises without prior notification to the Director, the school staff present shall encourage the law enforcement officers to tell the Director of the circumstances as quickly as possible. If the officers decline to tell the Director, the school staff members present shall immediately notify the Director and the Board.

### **3.12.6 Quelling Disturbances of School Environment**

Law enforcement officers may be requested to assist in controlling disturbances of the school environment that the Director has found to be unmanageable by school personnel and that has the potential of causing harm to students and other persons or to property. Such circumstances include situations where a parent or member of the public exhibits undesirable or illegal conduct on or near school grounds or at a school-sponsored activity and who refuse to abide by a directive to leave the premises.

### **3.13 INVESTIGATION OF CHILD ABUSE AND NEGLECT**

Utah law requires that whenever any person, including any school employee, has reason to believe that a child has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in such, he/she shall immediately notify the nearest peace

officer, law enforcement agency, or office of the Division of Child and Family Services. An oral report shall be made immediately, with a written report to follow within twenty-four (24) hours.

- 3.13.1 When making an oral report of abuse, a school employee should always have the person notified identify himself/herself. The notified person's name shall be entered on the written report.
- 3.13.2 A copy of the written report shall be put in a child abuse-neglect file to be maintained by the Director, for all reported cases of suspected child abuse or neglect.
- 3.13.3 The child abuse-neglect reporting form shall not be placed in the student's personal file.
- 3.13.4 It is not the responsibility of the Director or other school employees to prove that the child has been abused or neglected, or to determine whether the child is in need of protection.
- 3.13.5 Investigation by staff prior to submitting a report shall not go beyond that necessary to support a reasonable belief that a reportable problem exists.
- 3.13.6 To determine whether or not there is reason to believe that abuse or neglect has occurred, professional school employees may (but are not required to) gather information only to the extent necessary to determine whether a reportable circumstance exists.
- 3.13.7 School employees shall not conduct Interviews with the child or suspected abuser.
- 3.13.8 Notes of voluntary or spontaneous statements by the child shall be made and given to the investigating agency.
- 3.13.9 The Director, school employees, Division of Child and Family Services and law enforcement personnel are required to preserve the anonymity of those making the initial report and any others involved in the subsequent investigation.

3.13.10 Investigations are the responsibility of the Division of Child and Family Services.

- (a) The Director or other school employees shall not contact the parents, relatives, friends, neighbors, etc. for the purpose of determining the cause of the injury and/or apparent neglect.
- (b) School officials shall cooperate with social service and law enforcement agency employees authorized to investigate reports of alleged child abuse and neglect, assisting as asked as members of interdisciplinary child protection teams in providing protective diagnostic, assessment, treatment, and coordination services.

3.13.11 Persons making reports or participating in good faith in an investigation of alleged child abuse or neglect are immune, in accordance with state law, from any civil or criminal liability that otherwise might arise from those actions.

3.13.12 The school shall distribute annually to all school employees copies of the school's procedures for reporting suspected child abuse or neglect.

### **3.14 SEARCHES OF PERSON OR PROPERTY**

Given the school's custodial and tutelary responsibility for children, and the Board's intent to preserve a safe environment for all students and staff, the Board recognizes that school officials must have the authority to conduct reasonable searches of students and student property. School officials engaging in searches of students and property shall abide by the following guidelines:

#### **3.14.1 Searches of Students and Student Property**

Searches of a student's person, personal property (coats, hats, backpacks, bookbags, purses, wallets, notebooks, gym bags, etc.) may be conducted whenever the student's conduct creates a reasonable suspicion that a particular school rule or law has been violated and that the search is reasonably related to the suspicion and not excessively intrusive in light of the age and sex of the student and nature of the infraction. Circumstances warranting a search include those in which school officials have a reasonable suspicion that the student or student property is concealing weapons, drugs,

alcohol, tobacco, unsafe contraband, pornography, pagers or lost/stolen/misplaced items.

### **3.14.2 Searches of Personal Belongings**

- (a) Personal belongings may be searched by school officials whenever school officials have a reasonable suspicion to believe a student is concealing evidence of a policy violation or criminal activity and the items being searched are capable of concealing such evidence. The student may be asked to open personal belongings and to turn over personal property for search by a school official. All searches of student property by school officials shall be witnessed by an objective third party (such as another teacher, or police officer) to observe that the search is not excessively intrusive.
- (b) Any contraband discovered in a search by school officials shall be immediately confiscated and turned over to law enforcement officers if school officials have reason to believe the contraband is related to the commission of a criminal act.

### **3.14.3 Searches of Person**

School officials shall ensure that any searches of a person meet the following guidelines:

- (a) The search shall be conducted in a private area of the school by a school official of the same sex as the student being searched;
- (b) The search shall be observed by an objective third party of the same sex as the student being searched (i.e., Director, teacher, police officer);
- (c) School officials may ask the student to remove his/her hat, coat, shoes and socks, turn pockets inside out, and roll up sleeves to see if the student is hiding contraband;
- (d) Under no circumstances may school officials require students to remove any other items of clothing or touch students in any way during the search.
- (e) If this limited search does not turn up suspected contraband and school officials have reasonable suspicion that the student is concealing contraband in his/her inner clothing (i.e., hiding drugs, weapons or other contraband underneath shirts, pants or underwear), law enforcement officers shall be summoned immediately to conduct further search and investigation.

- (f) In general, all questioning and searching of students conducted by law enforcement officers shall proceed according to the investigation guidelines in Section 3.13 of this policy.

#### **3.14.4 Documentation of Searches**

School officials shall thoroughly document the details of any search conducted of a student's property or person. Documentation shall be made at the time of the search, or as soon as possible thereafter, and shall include the following:

- (a) The time, place and date of the search;
- (b) The reasonable suspicion giving rise to the search (i.e., what did school officials suspect to find during the search);
- (c) The name and title of individuals conducting and observing the search;
- (d) A statement about evidence that was found or not found as a result of the search;
- (e) A statement about who took possession of contraband (i.e., police, school, etc.);
- (f) Information regarding the attempts of school officials to notify parents about the search.

### **3.15 RECORDS—INTERAGENCY COLLABORATION – 20 U.S.C. § 1232g(h)(i)-(2); Utah Code Ann. §53G-8-402 - 405**

#### **3.15.1 Board and Director Notification by Juvenile Court and Law Enforcement Agencies**

- (a) Within three (3) days of being notified by the juvenile court that a juvenile has been adjudicated or of being notified by a law enforcement agency that a juvenile has been taken into custody or detention for a violent felony, defined in Utah Code Ann. § 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5 Weapons, the President of the Board shall notify the Director.
- (b) Upon receipt of the information, the Director shall make a notation in a secure file other than the student's permanent file; and, if the student is still enrolled in the School, the Director shall notify staff members who should know of the adjudication, arrest or detention.

- (c) Staff members receiving information about a juvenile's adjudication, arrest or detention may only disclose the information to other persons having both a right and a current need to know.

### **3.15.2 Student Discipline Records/Education Records**

School officials may include appropriate information in the education record of any student concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.

### **3.15.3 Disclosure of Discipline Records to Other Educators**

School officials may disclose student discipline information described above to teachers and other school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

### **3.15.4 Disclosure of Discipline Records to Other Agencies**

School officials shall not release personally identifiable student discipline records to other government agencies, including law enforcement agencies, unless the agency produces a subpoena or court order (such as a standing court order from juvenile court), or unless the student's parent or guardian has authorized disclosure.

## **3.16 TRAINING**

3.16.1 All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the school's commitment to a safe and orderly school environment.

3.16.2 Employees who have specific responsibilities for investigating and resolving safe schools violations shall receive yearly training on this policy and related legal developments.

- 3.16.3 The Director shall be responsible for informing students, parents, and staff of the terms of this policy including the procedures outlined for investigation and resolution of violations.

### **3.17 POLICY DISSEMINATION AND REVIEW**

- 3.17.1 The School shall compile an annual report of all out-of-school suspensions and expulsions and submit it to the Board. For each suspension or expulsion, the report shall indicate the student's race, gender, disability status, and age/grade, as well as the reason for the discipline, the length of the discipline, and a statement as to whether the student was referred to the Board.
- 3.17.2 A summary of this policy shall be posted in the school, and the policy will be posted on the school's website. The policy or a summary of the policy shall also be published in student registration materials, student and employee handbooks, and other appropriate school publications as directed by the Board.
- 3.17.3 This policy shall be reviewed as necessary with appropriate revisions recommended to the Board.

## **4.0 Relevant Procedures, Guidelines & Restrictions**

## **5.0 Appendices**