

IX. Scholar Discipline Policy/Code of Conduct

SCHOLAR DISCIPLINARY CODE

This Discipline Code (Code of Conduct) sets forth the School's policy regarding how scholars are expected to behave when participating in School activities, on and off School grounds—to include School buses and how the School will respond when scholars fail to behave in accordance with these rules, as well as any conduct off School grounds which is reasonably expected to have a negative impact or effect on the school or learning environment. Contributions to this Code's development came from scholars, teachers, administrators, our families, and community organization members.

In all disciplinary matters, scholars will be given notice and will have the opportunity of due process to present their version of the facts and circumstances leading to the imposition of disciplinary sanctions by the staff. Depending on the severity of the infraction, disciplinary responses include suspension (short or long term), detention, exclusion from extracurricular activities, and expulsion. Where appropriate, School officials also will contact law enforcement agencies.

This Code of Conduct is reviewed at least once a year. Should there be any amendments, adoptions, and/or modifications to the Code of Conduct, those changes are forwarded to the BCCS Board of Trustees for their review and approval.

A. SCHOLAR RIGHTS AND RESPONSIBILITIES

A. Participation in School Activities

All scholars have the following rights and responsibilities:

Rights

1. To have the opportunity to take part in all School activities on an equal basis regardless of race, color, creed, national origin, weight, religion or religious practice, gender or sex, gender expression and identity, sexual orientation or disability, real or perceived;
2. To address the School on the same terms as any citizen;
3. To have School rules and conditions available for review and, whenever necessary, explanation by the School personnel.
4. To have their parents contacted in the event that they find themselves subject to School discipline or for other valid reasons; and
5. To be protected from bullying, harassment and/or discrimination based on actual or perceived race, color, creed, national origin, weight, religion or religious practice, gender or sex, gender expression and identify, sexual orientation or disability, by employees or scholars on BCCS property or at a BCCS sponsored event, function or activity.

Responsibilities

1. To contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. To be familiar with and abide by all BCCS policies, rules and regulations dealing with scholar conduct.

3. To attend School every day unless they are legally excused and be in class, on time, and prepared to learn.
4. To work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
5. To react to direction given by teachers, administrators and other School personnel in a respectful, positive manner.
6. To work to develop mechanisms to control their anger.
7. To ask questions when they do not understand.
8. To accept responsibility for their actions.
9. To seek help in solving problems that might lead to discipline.
10. To dress appropriately for School functions, including wearing their full School uniforms.
11. To conduct themselves as representatives of BCCS when participating in or attending School sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
12. To respect one another and treat each other fairly, civilly and with dignity in accordance with this Scholar Discipline Policy / Code of Conduct, other BCCS policies, and the provisions of the Dignity for All Students Act, including the responsibility to act in a manner that fosters an environment free from intimidation, bullying, harassment and/or discrimination.
13. To secure all personal belongings. BCCS will not be held responsible for the loss and/or theft of any personal property, including, but not limited to, electronic devices.
14. To promptly report violations of the BCCS Scholar Discipline Policy / Code of Conduct to a teacher, School personnel, building Principal or his or her designee.

Similarly, all scholars are bound by the same rules for exclusion from School activities and public address.

B. Records

The Family Education Rights and Privacy Act of 1974 (FERPA) requires a School to protect a scholar's privacy. The School will not disclose any information from the scholar's permanent records except as authorized pursuant to FERPA, or in response to a subpoena, as required by law. The parent(s) or guardian(s) of a scholar under 18 years of age, or a scholar 18 years of age or older, is entitled to access to the scholar's School records by submitting a written request to the Principal. Further information concerning the disclosure of scholar information and limitations on such disclosure may be found in FERPA. All families are informed of their rights under FERPA at least three times throughout the school year via our Parent Orientation Night, The Brighter Choice Times (School newsletter) and correspondence via letter.

C. Freedom of Expression

1. Scholars are entitled to express their personal opinions verbally, in writing, or by symbolic speech. The expression of such opinions, however, shall not interfere with the freedom of others to express them, and written expression of opinion must be signed by the author. Any form of expression that involves libel, slander, the use of obscenity, or personal attacks, or that otherwise disrupts the educational process, is prohibited. All forms of expression also must be in compliance with the Scholar Disciplinary Code and the School dress code, violations of which are punishable as stated in the Disciplinary Code.

2. Scholar participation in the publication of School sponsored scholar newsletters, yearbooks, literary magazines and similar publications is encouraged as a learning and educational experience. These publications, if any, shall be supervised by qualified faculty advisors and shall strive to meet high standards of journalism. In order to maintain consistency with the School's basic educational mission, the content of such publications is controlled by School authorities. No person shall distribute any printed or written materials on School property without the prior permission of the Principal. The Principal may regulate the content of materials to be distributed on School property to the extent necessary to avoid material and substantial interference with the requirements of appropriate discipline in the operation of the School. The Principal may also regulate the time, place, manner and duration of such distribution.

D. Search and Seizure

1. A scholar and/or the scholar's belongings may be searched by a School official if the official has a reasonable suspicion to believe that a search of that scholar will result in evidence that the scholar violated the law or a School rule. All searches should be conducted in a private setting when possible, and with more than one individual present to conduct/witness the search. If a School official does not have reasonable suspicion to believe that a search of a scholar will result in evidence that the scholar violated the law or a School rule, such searches of a scholar's person or their personal belongings may only be conducted under the supervision and authorization of the School Principal or his/her designee. Items which are prohibited on School property, or which may be used to disrupt or interfere with the educational process, may be removed from the scholar by School authorities.
2. Scholar lockers and desks remain the property of the School, though the School is not responsible for books, clothing, or valuables left in lockers or desks. A scholar shall not place or keep in a locker or desk any article or material which is of a non-School nature and may cause or tend to cause the disruption of the mission of the School. Lockers, school desks and computer files are School property and students should have no expectation that the contents of the locker and/or desk will remain private. Scholar lockers and desks may be subject to being searched when there is reasonable suspicion and during random searches. The privacy rights of the scholar will be respected regarding any items that are not illegal or against School policy within their desks or lockers. Items which are prohibited on School property, or which may be used to disrupt or interfere with the educational process, may be removed from scholar lockers or desks by School authorities.

E. Off-Campus Events

Scholars at School-sponsored, off-campus events shall be governed by all the guidelines of the School and are subject to the authority of School officials. Failure to obey the lawful instructions of School officials shall result in a loss of eligibility to attend School sponsored off-campus events and may result in additional disciplinary measures in accordance with the Scholar Disciplinary Code.

B. DEFINITIONS

For purposes of this Code:

- **“School Property”** shall refer to inside or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of the BCCS Charter School; or in or on a School bus (Education Law Section 11[1]).
- **“School Bus”** shall refer to every motor vehicle owned and operated for the transportation of scholars, children of scholars, teachers and other persons acting in a supervisory capacity, to or from School or School activities, or, privately owned and operated for compensation for the transportation of scholars, children of scholars, teachers and other persons acting in a supervisory capacity to or from School or School activities (Education Law Section 11[1] and Vehicle and Traffic Law Section 142).
- **“School Function”** shall refer to a School sponsored extracurricular event or activity (Education Law Section 11[2]).
- **“Disability”** shall refer to (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment, provided, however, that in all provisions of this article dealing with employment, the term must be limited to disabilities which, upon the provision of reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held (Education Law Section 11[4] and Executive Law Section 292[21]).
- **“Discrimination”** is the denial of the rights of a scholar to equal access to the programs, activities or services offered or sponsored by the public Schools resulting from deliberate indifference to **harassment** of the scholar as defined below.
- **“Harassment or Bullying”** shall refer to the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying that (a) has or would have the effect of unreasonably and substantially interfering with a scholar’s educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a scholar to fear for his/her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a scholar; or (d) occurs off School property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach School property For purposes of this definition, the term “threats, intimidation or abuse” shall include verbal and non-verbal actions. (Education Law §11[17]).

Such conduct shall include, but is not limited to threats, intimidation, or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex; provided nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a persons’ gender that would be permissible under Education Law sections 3201-a or 2854(2)(a) and Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under Section 504 of the Rehabilitation Act of 1973.

- **“Hostile Environment”** in the context of harassment and bullying, shall refer to an environment that is so severe or pervasive as to unreasonably and substantially interfere with a scholar’s education.
- **“Material Incident of Harassment, Bullying and/or Discrimination”** shall refer to a single, verified incident or a series of related verified incidents where a scholar is subject to harassment, bullying and/or discrimination by a scholar and/or employee on School property or at a School function. This term includes a verified incident or series of related incidents of harassment or bullying that (1) occur off School property; (2) meet the definition of harassment and/or bullying as set forth above; and (3) is the subject of a written or oral complaint to the superintendent, Principal or their designee, or other School employee.
- **“Employee”** shall refer to any person receiving compensation from BCCS or employee of a contracted service provider or worker placed within the School under a public assistance employment program, pursuant to title nine B of article five of the Social Services Law, and consistent with the provisions of such title for the provision of services to such Charter School, its scholars or employees, directly or through contract, whereby such services performed by such person involve direct scholar contact (Education Law Sections 11[4] and 1125[3]).
- **“Sexual Orientation”** shall refer to actual or perceived heterosexuality, homosexuality, or bisexuality (Education Law Section 11[5]).
- **“Gender”** shall refer to actual or perceived sex and includes a person's gender identity or expression (Education Law Section 11[6]).
- **“Race”** shall refer to any traits which are historically associated with race, including but not limited to hair texture and protective hairstyles (Education Law Section 11[9]).
- **“Protective Hairstyles”** shall include but are not limited to, hairstyles such as braids, locks, and twists (Education Law Section 11[10]).
- **“Emotional Harm”** that takes place in the context of “harassment or bullying” shall refer to harm to a scholar’s emotional well-being through creation of a hostile school environment that is so severe or pervasive as to unreasonably and substantially interfere with a scholar’s education.
- **“Disruptive scholar”** shall refer to an elementary or secondary scholar under the age of 21 who is substantially disruptive of the educational process or substantially interferes with the teacher’s authority over the classroom.
- **“Parent”** shall refer to a parent, guardian or person in parental relation to a scholar.
- **“Weapon”** shall be defined the same as “dangerous weapon” in 18 U.S.C. 930(g)(2), which is: a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.
- **“Firearm”** shall be defined as in 18 U.S.C. 921(a), which is: (a) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any weapon described above; (c) Any firearm muffler or firearm silencer; and (d) Any destructible device, which is defined as any explosive, incendiary, or poison gas, such as a bomb, grenade, rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or other similar device.
- **“Insubordination”** shall refer to an act by a scholar that is disobedient or defiant of authority.
- **“Violent scholar”** shall refer to a scholar under the age of 21 who:
 1. Commits an act of violence upon a School employee, or attempts to do so.

2. Commits, while on School property or at a School function, an act of violence upon another scholar or any other person lawfully on School property or at the School function, or attempts to do so.
 3. Possesses, while on School property or at a School function, a weapon.
 4. Threatens, while on School property or at a School function, to use a weapon, even if such weapon is not in the scholar's possession.
 5. Knowingly and intentionally damages or destroys the personal property of any School employee or any person lawfully on School property or at a School function.
 6. Knowingly and intentionally damages or destroys School property.
- **"Short-term suspension"** shall refer to the removal of a scholar from School for disciplinary reasons for a period of five (5) or fewer days;
 - **"Long-term suspension"** shall refer to the removal of a scholar from School for disciplinary reasons for a period of more than five (5) days;
 - **"Expulsion"** shall refer to the permanent removal of a scholar from School for disciplinary reasons.

C. DIGNITY FOR ALL STUDENTS ACT

It is the policy of the State of New York, as set forth in the Dignity for All Students Act ("DASA") as well as federal civil rights statutes, including Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 and all subsequent amendments, to afford all scholars in public Schools an environment free from discrimination and harassment.

In order to foster an environment which promotes and supports scholars' ability to learn and to meet high academic standards in BCCS, the Board of Trustees and BCCS is dedicated to ensuring the School promptly addresses any conduct which is inconsistent with the School's educational mission or which detracts from a healthy and positive School climate, including discriminatory or harassing behaviors as defined by the Dignity for All Students Act or related federal civil rights statutes set forth above. BCCS is committed to providing all its scholars with an environment free from discrimination and harassment and shall take steps to prevent harassment and discriminatory behaviors through educational measures designed to promote tolerance, respect for others and to promote awareness and sensitivity to discrimination or harassment to encourage civility and a climate of mutual respect, equality and dignity for all scholars on School grounds and at all School sponsored activities, programs or events. Harassment against any scholar by any scholar or employee that creates a hostile environment by conduct will not be tolerated.

By combining prevention with education, BCCS' goal is to decrease incidents of discrimination and harassment while simultaneously increasing awareness among scholars and staff to be sensitive and alert to the warning signs of bullying, cyber bullying, sexting, and harassment as well as their obligation to report or act when such acts occur. Essential components of this effort shall include:

The BCCS Board of Trustees will appoint at least one Dignity for All Students Act Coordinator (“DAC”) per School. Prior to the beginning of the school year, parents and scholars shall be advised of the names of the staff members in each School who were appointed to the Dignity for All Students Act Coordinator position(s) for that school year. BCCS in conjunction with the DAC shall review procedures and forms for School-wide use for reporting, investigation, remediating, tracking and preventive actions taken to discourage reoccurrence instances of harassment or discrimination. In addition, BCCS will submit and report to the State on an annual basis material incidents of discrimination and harassment on School grounds or at School functions, using the reporting form developed by the State Education Department.

Staff who receive oral or written reports of harassment, bullying and/or discrimination or who witness such acts shall report the incident orally within one (1) school day to the Principal, a BCCS administrator or their designee. Following the oral report, a written report of the act(s) of harassment, discrimination and/or bullying shall be filed within two (2) school days.

Scholars will be strongly encouraged to report incidents of harassment, bullying and/or discrimination which they witness to the building administrator, a staff member or the person designated to receive such complaints in each building.

BCCS prohibits any and all retaliatory behavior directed against those who are victims of harassment, bullying and/or discrimination, as well as retaliatory behavior directed against those who witness and report incidents of harassment, bullying and/or discrimination to BCCS officials.

The DASA Protocols for BCCS can be found on the School’s website at the link below: http://www.brighterchoice.org/?page_id=3892.

D. DISCIPLINARY PROCEDURES FOR SCHOLARS

As a general rule, discipline for scholars will be progressive. This means that a scholar’s first violation will usually merit a lighter penalty than subsequent violations.

Discipline is most effective when it deals directly with the problem at the time and place it occurs, and in a way that scholars’ view as fair and impartial. School personnel who interact with scholars are expected to use disciplinary action only when necessary and to place emphasis on the scholars’ ability to grow in self-discipline.

Disciplinary action, when necessary, will be fair and consistent so as to be the most effective in changing scholar behavior.

In determining the appropriate disciplinary action, School personnel authorized to impose disciplinary penalties will consider the following:

- The scholar's age.
- The nature of the offense and the circumstances, which led to the offense.

- The scholar's prior disciplinary record.
- The effectiveness of other forms of discipline.
- Information from parents, teachers and/or others, as appropriate
- Other extenuating circumstances.

Scholars who are found to have violated the Scholar Discipline Policy / Code of Conduct may be subject to the following penalties, either alone or in combination:

1. Oral warning;
2. Written warning;
3. Written notification to parent;
4. Lunch Detention (in classroom, or office);
5. Teacher Assigned Detention (in classroom);
6. Conference with parents;
7. Administrative detention;
8. Suspension from transportation;
9. Suspension from extra-curricular and co-curricular activities;
10. Suspension from social or extra-curricular activities;
11. Suspension of other privileges;
12. Restorative justice (i.e. community service)
13. In-School suspension;
14. Removal from classroom by teacher;
15. Short-term suspension from School;
16. Long-term suspension from School;
17. Expulsion

Short Term Suspensions (five or fewer days)

A scholar who is determined to have committed any of the infractions listed below: (1) while on School property; (2) at a School function; or (3) while off School property and such misconduct could be reasonably expected to have a negative impact or effect on the school or learning environment, shall be subject minimally to a short-term suspension, depending on the specific facts and circumstances of the infraction(s).

Disciplinary Infractions Which May Result in a Short Term Suspension (for illustration purposes, not an exhaustive list):

- Attempting to assault any scholar or staff member.
- Vandalism.
- Endangering the physical safety of another by the use of force or threats of force, which reasonably places the victim in fear of imminent bodily injury.
- Engaging in conduct which disrupts School or classroom activity or endangering or threatening to endanger the health, safety, welfare, or morals of others, whether or not such behavior occurs on the School's property.
- Failing to complete assignments, carry out directions, or comply with disciplinary sanctions.
- Plagiarizing, cheating, or committing another form of academic dishonesty.
- Using obscene or abusive language or gestures.

- Wearing inappropriate, insufficient, or disruptive clothing or attire, and/or violating the scholar dress code.
- Violate any federal or State statute or regulation, local ordinance or School policy.
- Inappropriate use of School technology or internet, including but not limited to, laptops, computers and tablets.
- Refuse or fail to comply with a lawful order or direction of a School official in the performance of his or her duty.
- Distribute or post on School property any written material, pamphlets or posters without the prior approval of the Principal.
- Committing any other act which School officials reasonably conclude warrants a disciplinary response.

In addition, a scholar who commits any of the acts listed above which would ordinarily result in a short-term suspension, may instead or in addition, be subject to a long-term suspension at the Principal's discretion, which could be a minimum suspension of at least 5 days, or, depending on the individual case, could be subject to expulsion.

Procedures for Short-Term Suspensions

The Principal or designee may impose a short-term suspension. Before imposing a short-term suspension, the Principal shall verbally inform the scholar of the suspension, the reason or reasons for it, and whether it will be served in School or out of School. The scholar shall be given an opportunity to deny or explain the charges.

The Principal or designee also shall immediately notify the parent(s) or guardian(s) in writing that the scholar has been suspended from School. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of suspension at the last known address and by email, where a current email address is on file. Where possible, notification also shall be provided by telephone if the School has been provided with a contact telephone number for the parent(s) or guardian(s). Such notice shall provide a description of the incident or incidents which resulted in the suspension and shall offer the opportunity for an immediate informal conference with whoever has imposed the suspension. The notification and informal conference shall be in the dominant language used by the parent(s) or guardian(s).

Long-Term Suspensions or Expulsion

A scholar who is determined to have committed any of the infractions listed below: (1) while on School property; (2) at a School function; or (3) while off School property and such misconduct could be reasonably expected to have a negative impact or effect on the school or learning environment, shall be subject minimally to a long-term suspension, and potentially expulsion from School, depending on the specific facts and circumstances of the infraction(s).

Disciplinary Infractions Which May Result in a Long Term Suspension or Expulsion (for illustration purposes, not an exhaustive list):

- Possessing, using, attempting to use, threatening to use or transferring any weapon, firearm, knife, razor blade, explosive, mace, teargas, or other dangerous object of no reasonable, legal use to the scholar at School.

- Assaulting or committing an act of violence on any other scholar or staff member.
- Possessing, using, or attempting to use or distribute alcohol, drugs or drug paraphernalia.
- Willfully cause physical injury to any other person, or threaten to use force which would result in such injury.
- Willfully damage or destroy School property, nor remove or use such property without authorization.
- Without permission, expressed or implied, enter into any private office or classroom of an administrative officer, teacher, or staff member.
- Without authorization, remain in any building or facility after it is normally closed, nor without permission enter any building or facility prior to its normal opening.
- Refuse to leave any building or facility after being required to do so by the Principal or an authorized administrative officer or his or her designee.
- Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures, and meetings or deliberately interfere with the freedom of any person to express their views, unless such disruption is necessary to maintain order of the educational process.
- Possess on School property any rifle, shotgun, pistol, revolver, knife, chain, club or other weapon, whether or not the person has a license to possess such weapon.
- Commit acts which threaten the safety and welfare of persons on School property.
- Engaging in repeated harassing, bullying and/or discriminatory conduct which has or would have the effect of unreasonably and substantially interfering with a scholar's educational performance, opportunities or benefits or mental, emotional and/or physical well-being, including conducts, threats, intimidation or abuse that reasonably causes or would be reasonably expected to cause emotional harm; or that reasonably causes or would be reasonably expected to cause a physical injury to a scholar or to cause a scholar to fear for his/her physical safety or well-being; or conduct that creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach School property.
- Committing any act which School officials reasonably conclude warrants a long-term suspension or expulsion from School.

Penalty for Gun-Free Schools Act / Firearm Violations

Federal and New York law require the suspension from School for a period of not less than one year of a scholar who is determined to have brought a firearm or weapon to the School, or to have possessed a firearm or weapon at School, except that the Principal may modify such suspension requirement for a scholar on a case-by-case basis, if such modification is in writing, in accordance with the Federal Gun-Free Schools Act of 1994 (as amended).

The definition of "firearm" is provided in 18 USC § 921(a), which is: (a) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any weapon described above; (c) Any firearm muffler or firearm silencer; and (d) Any destructible device, which is defined as any explosive, incendiary, or poison gas, such as a bomb, grenade, rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or other similar device.

The definition of “weapon” is provided in 18 USC § 930(g)(2), which is: a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. For example, a “weapon” would include but is not limited to, a gun, firearm, a pocket knife with a blade of greater than 2½ inches in length, gravity knife, switchblade, cane sword, chuka stick, death star, dagger, bludgeon, blackjack, billy club, metal knuckles, explosives or a fire bomb.

The Principal shall refer a scholar under the age of sixteen who has been determined to have brought a weapon or firearm to School to a presentment agency for a juvenile delinquency proceeding consistent with Article 3 of the Family Court Act.

Procedures for Long-Term Suspensions or Expulsion

The Principal may impose a long-term suspension or expel a scholar from School. A long-term suspension or expulsion may be imposed only after the scholar has been found in violation of the code of conduct at a formal suspension hearing. Expulsion of a scholar shall only be the penalty imposed under extreme and unique circumstances. Upon determining that a scholar's action warrants a possible long-term suspension or more serious discipline, the Principal shall verbally inform the scholar that he is being suspended and is being considered for a long-term suspension (or expulsion) and state the reasons for such actions.

The Principal also shall immediately notify the scholar's parent(s) or guardian(s) in writing. Written notice shall be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of suspension at the last known address and by email, where a current email address is on file. Where possible, notification also shall be provided by telephone if the School has been provided with a contact telephone number for the parent(s) or guardian(s). Such notice shall provide a description of the incident or incidents, which resulted in the suspension and shall indicate that a formal hearing will be held on the matter, which may result in a long-term suspension (or expulsion). The hearing will be scheduled on the sixth (6th) day unless the scholar's parent(s)/guardian(s) request a postponement of the hearing to a later date. During such a postponement, the scholar shall remain on suspension from School. The notification provided shall be in the dominant language used by the parent(s) or guardian(s). At the formal hearing, the scholar has the right to be represented by counsel, to testify, question witnesses, and present evidence.

If the suspension proceeding has been initiated by the Principal, the Principal shall personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The hearing officer's report shall be advisory only and the Principal may accept or reject all or part of it. The Principal's decision after the formal hearing to impose a long-term suspension or expulsion may be appealed first to the BCCS Board of Trustees and next to the chartering entity and then the New York State Education Department's Board of Regents in accordance with the School's Complaint Policy and the Charter Schools Act.

Discipline Appeals Policy

Scholar(s) and parent(s)/legal guardian(s) may appeal any disciplinary action resulting in a suspension of more than three (3) days to the Brighter Choice Board of Trustees.

Scholar(s) and parent(s)/legal guardian(s) may also appeal any disciplinary action resulting in the scholar's expulsion from the Brighter Choice Charter School to the Brighter Choice Board of Trustees.

The Appeal to the Board must be in writing and sent to the Board Chair within twenty (20) calendar days of the date of the decision to suspend or expel the scholar. The Appeal must provide specific reasons for why the decision is being appealed. The Appeal must be sent to the Brighter Choice Board of Trustees Board Chair, Brighter Choice Charter School, 250 Central Avenue, Albany, New York 12206.

Pending the outcome of any appeal, the Board Chair may suspend enforcement of the suspension or expulsion. The Board will not hear oral arguments as part of the appeal. The Board's decision will be made within ten (10) calendar days of the Board Chair's receipt of the notice of appeal. The Board will consider the appeal in Executive Session and shall have the authority to affirm, reverse, or modify the length / level of discipline imposed.

Pursuant to Education Law Section 2855, a scholar and/or their parent(s)/legal guardian(s) may also bring an appeal/complaint to the New York State Board of Regents if they disagree with the BCCS Board of Trustees' Appeal determination. All such appeals/complaints must be submitted in writing to the State Education Department's Charter School Office, either via mail at: Charter School Office, NYS Education Department, 89 Washington Avenue, Albany, NY 12234, or via email to: charterschools@nysed.gov.

An appeal or complaint to the NYS Board of Regents must contain a detailed statement of the appeal/complaint including the provision of the School's charter or law that the scholar and/or their parent(s)/legal guardian(s) allege was violated.

Behavioral Contract

The School may design written agreements with scholars subject to punishment under this Code to identify target behaviors, define expectations, and describe consequences, provided that the affected scholar and his/her parent(s) or guardian(s) are informed that the decision to enter into such a contract is voluntary.

Loss of School Privileges

After notice to the scholar and parent(s) or guardian(s), a scholar may be suspended from participation in any or all extracurricular activities. The scholar and parent(s) or guardian(s) shall be given an opportunity to meet informally with the Principal or teacher involved. If possible, the Principal or teacher involved shall hold any requested meeting prior to imposing the suspension from participation in extracurricular activities.

E. PROVISION OF INSTRUCTION DURING REMOVAL

The School will ensure that alternative educational services are provided to a child who has been suspended or removed to help that child progress in the School's general curriculum. For a scholar who has been suspended, alternative instruction will be provided to the extent required by applicable law, which is one hour per day for elementary-age scholars and two hours per day for secondary-age scholars. For a scholar

who has been expelled, alternative instruction will be provided in like manner as a suspended scholar until the scholar enrolls in another School for a reasonable period thereafter or until the end of the school year.

Alternative instruction will be provided to scholars suspended or expelled in a way that best suits the needs of the scholar. Instruction for such scholars shall be sufficient to enable the scholar to make adequate academic progress, and shall provide them the opportunity to complete the assignments, learn the curriculum and participate in assessments. Instruction will take place in one of the following locations: the child's home, a contracted facility within the School's school district location, or a suspension room or other room at the School. During any removal for drug or weapon offenses, additional services shall include strategies designed to prevent such behavior from recurring. Instruction will be provided by one or more individuals who shall be certified or qualified in accordance with § 2854(3)(a-1) of the Education Law.

F. DISCIPLINARY PROCEDURES FOR SCHOLARS WITH DISABILITIES

Scholars with disabilities or scholars who are presumed to have a disability have the same rights and responsibilities as other scholars, and may be disciplined for the same behavioral offenses. In the event that this policy is inconsistent with federal law, regulations, or guidance, however, such federal law, regulations, or guidance shall govern. Discipline of a scholar identified as having a disability or presumed to have a disability will be in accordance with the following:

1. Scholars for whom the Individualized Educational Plan ("IEP") includes specific disciplinary guidelines will be disciplined in accordance with those guidelines. If the disciplinary guidelines appear not to be effective or if there is concern for the health and safety of the scholar or others if those guidelines are followed with respect to a specific infraction, the matter will be immediately referred to the local school district's Committee on Special Education ("CSE") for consideration of a change in the guidelines.
2. Scholars for whom the IEP does not include specific disciplinary guidelines may be disciplined in accordance with standard School policy relating to each infraction. The school district's CSE shall be notified immediately of any suspension or removal from classes, and the School shall work with the CSE to arrange appropriate alternate instruction.
 - a. If there is any reason to believe that the infraction is a result of the scholar's disability, the scholar will immediately be referred to the school district's CSE. If a connection is found, no penalty may be imposed, and the School will work with the CSE to consider a possible program modification.
 - b. If a scholar identified as having a disability is suspended during the course of the school year for a total of eight days, such scholar will immediately be referred to the district's CSE for reconsideration of the scholar's educational placement. Such a scholar shall not be suspended for a total of more than 10 days during the school year without the specific involvement of the district's CSE prior to the 11th day of suspension or removal, because such suspensions or removals may be considered to be a change in placement.
 - c. In considering the placement of scholars referred because of disciplinary problems, the district's CSE is expected to follow its ordinary policies with respect to parental notification and involvement.
3. In order to keep the resident school district's CSE appropriately informed of any disciplinary actions taken, the School will notify the resident district CSE whenever a procedural safeguards notice is issued pursuant to 34 CFR §300.523.

4. The School shall work with the district to ensure that the district's CSE meets within 10 school days, or if possible immediately upon notification of any of the following, for the purpose of considering a change in placement for the scholar involved:
 - a. The commission of an infraction by a scholar with a disability who has previously been suspended for the maximum allowable number of days.
 - b. The commission of any infraction which is a result of the scholar's disability.
 - c. The commission of any infraction by a disabled scholar, regardless of whether the scholar has previously been suspended during the school year if, had such infraction been committed by a non-disabled scholar, the Principal would seek to impose a suspension or removal in excess of five days.
5. The School shall immediately notify the resident district's CSE whenever it suspends or removes a scholar for more than 10 school days in a year or commences a removal that constitutes a change in placement so that the district' CSE may meet to establish a behavioral intervention plan or modify such a plan or its implementation. The School shall work with the resident district's CSE to ensure that each scholar's behavioral modification plan is fully implemented.

Protection for Children Not Yet Eligible for Special Education and Related Services

The Charter School will comply with the federal Child Find Requirements (34 CFR §300.111), which requires schools to have in place a process for identifying, locating and evaluating scholars with disabilities. If the School determines that a scholar has special needs or a disability is suspected, the scholar will be referred to the CSE of the scholar's school district of residence for an evaluation.

Additionally, the Charter School will adhere to the requirements of 34 CFR §300.527. In accordance with such section, scholars who have not yet been determined to be eligible for special education and related services and who have engaged in behavior that violated the Charter School's discipline code may assert any of the protections provided in Part 300 of Title 34 of the Code of Federal Regulations if the School had knowledge that the scholar was a scholar with a disability before the behavior that precipitates the disciplinary action occurred.

Provision of Services During Removal

The Charter School will adhere to the requirements of 34 CFR §300.121 to ensure that its scholars with disabilities have the right to a free appropriate public education. The Charter School also will abide by the requirements for compulsory education as provided in §2854(1) (a) and §2854(1)(b) of Article 56 of the New York State Education Law. The Charter School does not need to provide services to a removed child during the first 10 school days of his/her removal in a school year, so long as services are not provided to a child without a disability who has been similarly removed.

During any subsequent removal for up to 10 school days, services must be provided to the extent determined necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his/her IEP. In these cases, School personnel, in consultation with the child's special education teacher, make the service determination.

During any long-term removal for behavior, that is not a manifestation of the child's disability, services must be provided to the extent necessary to enable the child to appropriately progress in the general curriculum and in achieving the goals of his/her IEP. These service determinations are made by the district's CSE.

The Principal shall have final authority to suspend or remove a scholar with disabilities or suspected of having disabilities. The Principal also shall maintain all necessary records regarding the number of days a scholar with a disability has been suspended or removed for disciplinary reasons.

CSE Meetings

Meetings of the district's CSE to either develop a behavioral assessment plan or, if the child has one, to review such plan are required when (1) the child is first removed from his/her current placement for more than 10 school days in a school year; and (2) when commencing a removal which constitutes a change in placement.

Subsequently, if other removals occur which do not constitute a change in placement, the School will work with the district's CSE to review the child's assessment plan and its implementation to determine if modifications are necessary. If one or more members of the district's CSE believe that modifications are needed, then the district's CSE is expected to meet to modify the plan and/or its implementation.

Due Process

If discipline which would constitute a change in placement is contemplated for any scholar, then (1) not later than the date on which the decision to take such action is made, the parents of the scholar with a disability shall be notified of that decision and provided the procedural safeguards notice described in 34 CFR §300.504; and (2) immediately, if possible, but in no case later than 10 school days after the date on which such decision is made, the district's CSE and other qualified personnel shall meet and review the relationship between the child's disability and the behavior subject to the disciplinary action.

If, upon review, it is determined that the child's behavior was not a manifestation of his/her disability, then the child may be disciplined in the same manner as a child without a disability, except as provided in 34 CFR §300.121(d) (which relates to the provision of services to scholars with disabilities during periods of removal).

Parents may request a hearing to challenge the manifestation determination. Except as provided below, the child will remain in his/her current educational placement during the pendency of the hearing.

If a parent requests a hearing or an appeal regarding a disciplinary action relating to weapons or drugs to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in the disciplinary action, whichever occurs first, unless the parent and Charter School agree otherwise.