



KARL G. MAESER PREPARATORY ACADEMY

TRUTH HONOR VIRTUE



Discipline Policy

Approved January 24, 2017

Contents:

1. Purpose
2. Grounds for Suspension, Expulsion, or Change of Placement
3. Investigations
4. Emergency Safety Interventions (ESI)
5. Searches
6. Authority to Suspend or Expel
7. Due Process for Suspensions of 10 Days or Less
8. Due Process for Expulsions
9. Due Process for Changes of Placement for Students with Disabilities

1. Purpose

It is the purpose of this policy to promote a safe and orderly school environment for all students and employees. Karl G. Maeser Preparatory Academy (Maeser) holds all students, employees, and other adults to the highest standards of behavior on school grounds and during school-sponsored activities. Criminal acts or disruptive behavior of any kind will not be tolerated and any individual who engages in such activity will be subject to school disciplinary action, prosecution, or both.

2. Grounds for Suspension, Expulsion, or Change of Placement

2.1. A student may be suspended or expelled from school for any of the following reasons:

- (i) frequent, flagrant, or willful disobedience, defiance of proper authority, or disruptive behavior including but not limited to fighting, noncompliance with school dress code, or the use of foul, profane, vulgar, or abusive language, or other unreasonable and substantial disruption of a class, activity, or other function of the school;
- (ii) willful destruction or defacing of school property;
- (iii) 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;
- (iv) possession, distribution, control, use, sale, or arranging for the sale of an alcoholic beverage as defined in Utah Code Ann. §32B-1-102;
- (v) possession, distribution, control, use, sale, or arranging for the sale of cigars, cigarettes, electronic cigarettes, or tobacco, as defined by Utah Code Ann. §76-10-101;

- (vi) possession, distribution, control, use, sale, or arranging for the sale of contraband, including but not limited to fireworks, matches, lighters, mace, pepper spray, laser pointers, or any other material or item that has caused or will imminently cause substantial disruption to school operations;
- (vii) inappropriate use or possession of a personal electronic device (PED) as defined by the applicable school level policy;
- (viii) possession or use of pornographic material on school property;
- (ix) behavior which threatens harm or causes harm to the school or school property, to a person associated with the school, or property associated with any such person, regardless of where it occurs;
- (x) harassment, including sexual, racial, ethnic, religious, or disability-related;
- (xi) inappropriate use of Maeser electronic resources or violation of Maeser Acceptable Use Agreement; or
- (xii) criminal activity.

2.2. A student shall be suspended or expelled from school (or considered for a change in placement if a student with a disability) for:

- (i) 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;
- (ii) any violations listed under Section 2.1 of this policy if the violation is serious or persistent;
- (iii) 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.

2.3. Weapons—Mandatory One Year Expulsion

2.3.1. Any student who, in a school building, in a school vehicle, on Maeser property, or in conjunction with any school activity, (a) possesses, controls, sells, arranges for the sale of, uses, or threatens use of a real weapon, explosive, noxious or flammable material; or (b) actually uses or threatens to use a look-alike or pretend weapon with the intent to intimidate another person or to disrupt normal school activities; shall be expelled from all Maeser schools, programs, and activities for a period of not less than one year, subject to the following:

2.3.1.1. Within forty-five (45) days after the expulsion the student shall appear before a member of Maeser Case Management Team, accompanied by a parent or legal guardian; and the Case Management Team shall determine: [a] what conditions must be met by the student and the student's parent for the student to return to school; [b] if the student should be placed on probation in a regular or alternative school setting consistent with Utah Code Ann. §53A-11-907, 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 [c] if it would be in the best interest of both Maeser and the student to modify the expulsion term to less than a year giving highest priority to providing a safe school environment for all students.

2.3.1.2. Students with Disabilities under IDEA and Section 504 [a] 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 violated Section 2.3, the due process procedures outlined in Section 8 of this policy must be followed.

2.4. Drugs and Controlled Substances – Mandatory Suspension or Expulsion

2.4.1. A student shall be suspended or expelled 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 Maeser 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.

2.4.2. Drug Testing

2.4.2.1. Any student who is reasonably suspected of violating section 2.4 may be subject to a drug test for cause, arranged and paid for by Maeser.

2.4.2.2. Any student who has been suspended or expelled for a violation of section 2.4 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

2.4.2.3. Students who refuse to submit to required drug testing and counseling programs, or who refuse to cooperate with Maeser officials with respect to the sharing of appropriate information, may be expelled from Maeser.

2.4.2.4. Any student who is suspended or expelled for violation of section 2.4 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 once, he/she may be transferred to an alternative placement. If the student tests positive a second time, he/she may be expelled from all Maeser programs or activities. Any student who refuses consent for random drug testing under these conditions shall be expelled from all Maeser programs or activities.

2.4.3. Students with Disabilities Section 504

2.4.3.1. 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 Maeser property or in conjunction with any school activity.

2.4.4. Students with Disabilities under IDEA.

2.4.4.1. 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 8 of this policy must be followed.

2.5. Gang Activity

2.5.1. Students who engage in any form of gang activity on or about school property, or at any school activity may be suspended or expelled under the terms of this policy. Students may also be excluded from participation in extracurricular activities, including interscholastic athletics as determined by the school administration after consultation with law enforcement

2.5.2. Prohibited Gang Activity Defined. For the purposes of this policy, prohibited “gang activities” include, but are not limited to any of the following:

(i) committing any act or omission or using any speech, communication in any method, either verbal or non-verbal, electronic means (flashing signs, gestures, hand-shakes, texting, etc.) that demonstrates membership in or affiliation with a gang;

(ii) soliciting others for membership in a gang;

(iii) requesting any person to pay for “protection”, claiming “turf”, or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;

(iv) possessing a weapon, controlled substances, drug paraphernalia, or other contraband;

(v) committing any illegal act;

(vi) encouraging or inciting another person to act with physical violence upon any other person or cause damage to property;

(vii) marking school property, books, or school work with gang names, slogans, or signs; or

(viii) gang-related graffiti or damage to school property

2.5.3. Confiscation of Gang Items

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

2.5.4. Consultation with Law Enforcement Authorities

2.5.4.1. School officials shall consult with local law enforcement authorities and gang detectives whenever they have questions regarding gang-related clothing, apparel, or other gang activity.

2.6. Bullying, Cyber-bullying, Harassment, and Hazing

2.6.1. Bullying, cyber-bullying, harassment, and hazing of students and employees are against federal law, state law, and Maeser policy, and are not tolerated by Maeser. It

is the intent of Maeser to respond to school-related incidents by implementing prevention efforts where victims can be identified and assessed, and perpetrators educated, in order to create a safer school that provides a positive learning environment for all students.

2.6.2. School officials have the authority to discipline students and employees for off-campus speech that causes or threatens a substantial disruption on campus, at school activities, or causes or threatens a significant interference with a student's educational performance or involvement in school activities.

2.6.3. Definitions

2.6.3.1. "Bullying" means intentionally or knowingly committing an act that endangers the physical health or safety of a school employee or student and:

(1) involves any brutality of physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placement of a harmful substance in the body, or exposure to the elements;

(2) involves consumption of any food, liquor, drug, or other substance;

(3) involves physically obstructing a school employee's or student's freedom to move; and

is done for the purpose of placing a school employee or student in fear of:

(1) physical harm to the school employee or student; or

(2) harm to property of the school employee or student.

Bullying is commonly understood as aggressive behavior that:

(1) is intended to cause distress and harm;

(2) exists in a relationship in which there is an imbalance of power and strength;

(3) is repeated over time.

2.6.3.2. "Cyber-bullying" means using the Internet, a cell phone, or any other electronic device or medium to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual.

2.6.3.3. "Harassment" means repeatedly communicating to an individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.

2.6.3.4. "Hazing" means intentionally or knowingly committing an act that endangers the physical health or safety of a school employee or student and:

(i) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(ii) involves consumption of any food, liquor, drug, or other substance;

(iii) involves other physical activity that endangers the physical health and safety of a school employee or student; or
(iv) involves physically obstructing a school employee's or student's freedom to move; and
(v) is done for the purpose of initiation or admission into, affiliation with, holding office in, or as a condition for membership or acceptance, or continued membership or acceptance, in any school or school sponsored team, organization, program, or event; or
(vi) if the person committing the act against a school employee or student knows the school employee or student is a member of, or candidate for, membership with a school, or school sponsored team, organization, program, or event to which the person committing the act belongs to or participates in.

2.6.3.5. "Retaliation" means an act or communication intended:

(i) as retribution against a person for reporting bullying, cyber-bullying, hazing and harassment; or
(ii) to improperly influence the investigation of, or the response to a report of bullying, cyber-bullying, hazing and harassment.

2.6.3.6. The conduct defined herein constitutes bullying, cyber-bullying, hazing or harassment, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

2.6.4. Prohibited Conduct

2.6.4.1. No school employee or student may:

[a] engage in any form of bullying or harassing a school employee or student, on or about school property, on a school bus, at a school bus stop, or while traveling to or from a school location or school event, or at any school-related or sponsored activity regardless of location or circumstance;

[b] engage in hazing or cyber-bullying a school employee or student at any time or in any location;

[c] engage in retaliation against a school employee; a student; or an investigator for, or witness of, an alleged incident of bullying, harassing, cyber-bullying, hazing, or retaliation; or

[d] make a false allegation of bullying, cyber-bullying, harassment, hazing, or retaliation against a school employee or student.

2.6.5. Investigation and Discipline

2.6.5.1. Each reported violation of the prohibitions noted previously shall be promptly investigated and discipline determined in accordance with this policy.

2.6.5.2. Reporting Requirement

[a] School employees who become aware of bullying, harassment, hazing, or related initiation activity, shall report such incident

immediately to school administrators so that prompt and appropriate action can be taken. School personnel who fail to report incidents of bullying, harassment, or hazing to school or Maeser administrators may face disciplinary action.

[b] Students who observe hazing activities and fail to intervene or report the hazing to school officials may face disciplinary action for conspiring to engage in hazing

2.6.5.3. Coordination with other Policies

[a] School employees who engage in any of these prohibited behaviors may be subject to individual investigation resulting in employment action.

[b] Bullying, harassing, or hazing that is found to be based on a protected class is further prohibited under federal anti-discrimination laws and is subject to provisions of other applicable school policies

2.6.5.4. Parental Notification of Certain Incidents and Threats

2.6.5.4.1. A school administrator shall promptly notify a parent/guardian personally of:

[a] a parent/guardian's student's threat to commit suicide; or

[b] an incident of bullying, cyber-bullying, hazing, harassment, or retaliation involving the parent/guardian's student

2.6.5.5. Record of Notification When a parent/guardian has been notified by a school administrator of a threat or incident, the school administrator shall complete a Record of Parent Notification of Student Threat or Incident form

[a] This record shall be securely and confidentially maintained by the school consistent with state and federal law.

[b] A school shall provide a student a copy of the Record of Parent Notification of Student Threat or Incident related to the student if the student requests a copy of record; and expunge the record maintained in accordance with this section if the student has graduated from high school and requests the record be expunged.

3. Investigations

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

3.1.1. General Investigation Guidelines for School Administrators. School

administrators have 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. School administrators shall conduct investigations according to the following general guidelines:

3.1.1.1. Administrators shall conduct investigations in a way that does not unduly interfere with school activities.

- 3.1.1.2. Administrators shall separate witnesses and offenders in an attempt to keep witnesses from corroborating their statements and have all parties write separate statements concerning the incident under investigation.
 - 3.1.1.3. Administrators shall advise students suspected of wrongdoing orally or in writing of the nature of the alleged offense.
 - 3.1.1.4. 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.
 - 3.1.1.5. When questioning students as part of an investigation, school staff should have another adult present whenever possible.
 - 3.1.1.6. Administrators shall accommodate students with disabilities and any students unable to write their own statements through use of tape recorders, scribes, translators, etc.
 - 3.1.1.7. 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.
 - 3.1.1.8. 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.
 - 3.1.1.9. The form and timing of notice and the extent of the student's opportunity to present his or her version of the facts may be dependent upon the facts and circumstances surrounding the allegations. Maeser will provide such notice and opportunity to be heard as is appropriate to both protect the accused student's rights and protect the health and safety of other Maeser community members.
- 3.2. Coordination with Law Enforcement School administrators have the responsibility and the authority, within their respective jurisdictions, to determine when the help of law enforcement authorities is necessary, as outlined in this policy and Utah State law.
- 3.2.1. School Administrators may invite law enforcement authorities 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 authorities is necessary to prevent injury to persons or property
 - 3.2.2. Investigation Initiated by School Authorities 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 administrator has reason to suspect that a criminal act has been committed and in the opinion of the administrator law enforcement authorities should be notified, the following procedure should be followed:

[a] The administrator shall request that law enforcement authorities conduct an investigation during school hours and question students who are potential witnesses to the alleged criminal behavior.

[b] Unless circumstances dictate otherwise, questioning of the student by school officials shall not begin or continue until law enforcement authorities arrive.

[c] Under direction of the administrator, a 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 or are involved in the investigation.

[d] The administrator shall document the contact or attempted contact with the student's parents or legal guardian.

3.2.3. Investigation Initiated by School Resource Officers (SROs) and other Law Enforcement Authorities

3.2.3.1. School officials shall cooperate with SROs and other law enforcement authorities who are carrying out official duties such as investigating crimes, serving subpoenas, etc., as outlined in Utah Code Ann. §78A-6-1110.

[a] When law enforcement authorities can show a need to do so, they shall be permitted to conduct an investigation on school grounds during school hours.

3.2.3.2. 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 law enforcement authorities shall be required to get prior approval of the school administrator or other designated person before beginning an investigation on school premises;

(ii) the school administrator shall document the circumstances warranting the investigation as soon as practical;

(iii) alleged criminal behavior related to the school environment brought to the school administrator's attention by law enforcement authorities shall be dealt with under the provisions of this policy in addition to any court action;

(iv) law enforcement authorities 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, permission from parent or guardian, or serve as a designated School Resource Officer;

(v) directory information is limited to a student's name, home address, date of birth, phone number, class schedules and parents' home address, email address, and phone numbers for use in case of emergency.

3.2.3.3. Release of Student to Law Enforcement Authorities

[a] Law enforcement authorities may, without a court order, take a student into custody as outlined in Utah Code Ann. §78A-6-112.

[b] Where it is necessary to take a student into custody on school premises, law enforcement authorities shall:

- (i) contact the school administrator and relate the circumstances necessitating such action;
- (ii) consult with the school administrator as to how an arrest is to be made in order to cause the least disruption to the school process;
- (iii) when possible, have the school administrator summon the student to the administrator's office prior to taking the student into custody;
- (iv) notify the parent or legal guardian of the action under Utah Code Ann. §78A-6-112(3).

[c] The school administrator shall immediately notify the Director's office of the removal of a student from school by law enforcement authorities.

[d] When a student has been taken into custody or arrested on school premises without prior notification to school administration, school staff present shall encourage law enforcement authorities to inform an administrator of the circumstances as quickly as possible. If the officers decline to tell an administrator, the school staff members present shall immediately notify an administrator

3.2.3.4. Quelling Disturbances of School Environment

3.2.3.4.1. Law enforcement may be requested to assist in controlling disturbances of the school environment which a school administrator has found to be unmanageable by school personnel, and 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 event, and who refuse to abide by a school administrator's directive to leave the premises.

3.2.3.5. Coordination of Policies with Law Enforcement Authorities

3.2.3.5.1. School administrators shall meet at least annually with local law enforcement authorities to discuss Maeser's Student Conduct and Discipline Policy and rules on law enforcement contacts with Maeser. Law enforcement authorities shall be asked to inform their staffs about the terms of the Student Conduct and Discipline Policy.

4. EMERGENCY SAFETY INTERVENTIONS

4.1. A school employee may not subject a student to physical restraint or seclusionary time out unless utilized as a necessary emergency safety intervention (ESI) in compliance with this section.

4.2. Definitions

4.2.1. An "emergency safety intervention (ESI)" is the use of seclusionary time out or physical restraint when a student presents an immediate/imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm. An "emergency safety intervention" is not for disciplinary purposes.

- 4.2.2. “Physical restraint” means personal restriction immobilizing or reducing the ability of an individual to move his arms, legs, body, or head freely.
- 4.2.3. “Seclusionary time out” means that a student is placed in a safe enclosed area, isolated from adults and peers, and the student is, or reasonably believes, he will be prevented from leaving the area.

4.2.4. General Procedures

- 4.2.4.1. Teachers and other personnel who may work directly with students shall be trained on the use of effective alternatives to ESI as well as the safe use of ESI and a release criteria.

4.2.4.2. ESI shall:

- [a] be applied for the minimum time necessary to ensure safety;
- [b] be discontinued as soon as imminent danger of physical harm to self or others has dissipated;
- [c] be discontinued if the student is in severe distress;
- [d] never be used as punishment or discipline;
- [e] in no instance be imposed for more than 30 minutes

4.3. ESI Committee

- 4.3.1. Maeser’s ESI committee is comprised of the Director, the appropriate Dean of Students, an appointed parent of an enrolled student, and two certified educational professionals with behavior training and knowledge in both state rules and Maeser’s discipline policies.

- 4.3.2. Maeser’s ESI committee will meet as needed to monitor the use of ESI at Maeser, and will determine and recommend professional development needs, as well as develop any necessary policies for local dispute resolution processes to address concerns regarding disciplinary actions.

4.4. Students with Disabilities Receiving Special Education Services

- 4.4.1. Use of ESI for a student with a disability receiving specialized educational services under IDEA or Section 504, shall be subject to the applicable state Least Restrictive Behavioral Interventions (LRBI) policies and procedures for special education/504 programs.

4.5. Physical Restraint

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

- [a] to protect the student or another person from serious physical harm;
- [b] to take possession of a weapon, other dangerous objects in the possession or under the control of a student; or
- [c] the student is destroying property

- 4.5.2. When an employee exercises physical restraint as an ESI on a student, the following types of physical restraint are prohibited:

- [a] prone, or face-down;
- [b] supine, or face-up;

[c] restraint which obstructs the airway or adversely affects the student's primary mode of communication;

[d] mechanical restraint, except for seatbelts or safety equipment used to secure students during transportation; or

[e] chemical restraint, except as prescribed by a licensed physician and implemented in compliance with a student's Health Care Plan.

4.6. Seclusionary Time Out

4.6.1. A school employee may, when acting within the scope of employment, place a student in seclusionary time out as an ESI under the following circumstances:

4.6.1.1. the student presents an immediate danger of serious physical harm to self or others;

4.6.1.2. any door remains unlocked; and

4.6.1.3. the student is within line sight of the employee at all times.

4.7. Notification

4.7.1. If a crisis situation occurs requiring an ESI be used, the school or employee shall notify the student's parent/guardian, the school administrator, and the school director immediately.

4.7.2. If the ESI is applied for longer than fifteen minutes, the school shall immediately notify the student's parent/guardian and school administration.

4.7.3. Parent notifications made under this section shall be documented in the student information system as required by R277-609-6(C)(4).

4.7.4. Within 24 hours of using ESI, the school shall notify the parent/guardian that they may request a copy of any notes or additional documentation taken during the crisis situation.

4.7.5. Upon request of a parent/guardian, the school shall provide a copy of any notes or additional documentation taken during a crisis situation.

4.7.6. A parent/guardian may request a time to meet with school staff and administration to discuss the crisis situation.

4.8. Prohibition of Corporal Punishment

4.8.1. A school employee may not inflict or cause the infliction of corporal punishment

5. Searches

5.1. 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 have the authority to conduct reasonable searches of students and student property. To protect individual rights and guard against excessive intrusion, school officials engaging in searches of students and property shall abide by the following guidelines:

5.2. General Guidelines

5.2.1. Searches of a student's person or personal property (coats, hats, backpacks, book bags, purses, wallets, notebooks, gym bags, electronic devices, etc.) may be conducted:

5.2.2. [a] with the student's consent. Wherever possible, before conducting the search, the school official shall request the student's consent to the inspection and inform

the student that he/she may withhold consent. Such consent, if offered, shall be voluntary; or

5.2.3. [b] without the student's consent when school officials have reasonable suspicion to believe a student possesses evidence that:

(i) a policy or law has been violated; or

(ii) presents an immediate danger of physical harm or illness to students, staff or school property; and

(iii) the items being searched are capable of concealing such evidence.

5.2.4. The search must be reasonably related to the suspicion and not excessively intrusive in light of the student's age, history and school record and the nature of the infraction. The scope of any search should be limited by the reasonable suspicion that motivated the search. If an item is found that leads to reasonable suspicion that additional, related items may also exist, the search may be extended.

5.2.5. Whenever possible, another staff member shall be present at any search of a student or student property.

5.2.6. A school official may at any time, request assistance of the appropriate law enforcement agency having jurisdiction over the facilities of the school.

5.2.7. A school official shall be responsible for the custody, control, and disposition of any illegal or dangerous substance or objects taken from a student. Anything found in the course of a search which is evidence of a student violation of school rules shall be tagged for identification at the time it is seized and kept in a secure place by the school official.

5.2.8. All contraband discovered in a search by school officials shall be immediately confiscated and turned over to law enforcement authorities if school officials have reason to believe the contraband is related to the commission of a criminal act.

5.3. School Property – Lockers, Desks, Other Storage Areas Provided for Student Use

5.3.1. Students have no right or expectation of privacy in school lockers, desks, or other storage areas. While lockers, desks, and other storage areas are under the joint control of students and the school they are solely school property and may be searched at any time by school officials with or without cause. Once a locker, desk or other storage area is opened for search, any search of student belongings contained within the locker must comply with the guidelines for searches of personal belongings in Section 5.1–2 of this policy.

5.4. Vehicles

5.4.1. Vehicles in the possession of students and parked on school premises may be searched, based on consent or reasonable suspicion by the appropriate school official. Searches of vehicles of staff members or visitors shall be conducted by law enforcement personnel.

5.5. Searches of Person

5.5.1. In addition to the general guidelines above, search of a student's person or intimate personal belongings shall be conducted:

(i) in a private area of the school by a school official of the same gender as the student being searched;

(ii) whenever possible, in the presence of the student (for belongings) and another staff member of the same gender.

(iii) Authorized searches of a student's person are as follows:

[a] the student's pockets;

[b] purses, briefcases, backpacks, or any objects in the possession of the student;

[c] a "pat-down" of the exterior of the student's clothing and the removal of any identified item;

[d] removal of an article of exterior clothing such as a jacket, shoes, socks;

[e] a student's electronic device if warranted and to the extent warranted; and

[f] requesting the student turn pockets inside out, and roll up sleeves.

5.5.1.1. Under no circumstances may school officials require students to remove any other items of clothing during the search.

5.5.1.2. 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 authorities shall be summoned immediately to conduct further search and investigation.

5.6. Canine Searches

5.6.1. The school administrator, in conjunction with local law enforcement officials, may determine when, and if, a specially trained detection canine shall be used in the school to search for drugs, weapons, or other contraband. In creating a proper and effective learning environment within the framework of mutual respect and trust, school administrators shall use caution and discretion in determining when to use a drug detecting canine in the school. No detection canine shall be used in the school for searches without the permission of the school administrator.

5.6.1.1. Students. Sniffing of students by detection canines is considered to be a search under the Fourth Amendment, may be embarrassing or frightening, and shall not be permitted in schools.

5.6.1.2. Lockers and Vehicles. The sniffing of school lockers, personal items (backpacks, gym bags, book bags, etc.) or a student's vehicle on school property by detection canines of lockers and vehicle in school parking lots may be permitted. A positive alert by a detection canine may be considered reasonable grounds for a school official to conduct a search of the locker, personal items, or vehicle as outlined in this policy.

5.7. Searching Students and Possessions While at School-sponsored Activities

5.7.1. The authorization to search shall also apply to all situations in which the student is under the jurisdiction of Maeser, including all students participating in extracurricular activities and athletics, dually enrolled students, and students taking online courses, when applicable.

5.8. Parent Notification

5.8.1. School officials have no obligation to contact parents before detaining and questioning students. It is good practice when a student is questioned about serious allegations of the student's own misbehavior, that a parent should be notified to protect the interest and wellbeing of the student.

5.9. Documentation

5.9.1. 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:

- (i) the time, place and date of the search;
- (ii) information received that established the need for the search and the name of the informant, if any;
- (iii) the name and title of individuals conducting and observing the search;
- (iv) substances or objects found and the disposition made of them (police, school, etc.); and
- (v) subsequent action taken including parental notification

6. Authority to Suspend or Expel

6.1. Authority to Suspend and Duration of Suspension for Regular Education Students

6.1.1. The school administrator has the authority to suspend a regular education student for up to ten (10) school days per incident. In considering whether to suspend a student, the school administrator 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 school administrator is prohibited from suspending for longer than ten (10) school days, expelling, or otherwise changing student placement. Whenever such action is contemplated or desired, the school administrator shall make a referral to the Case Management Team (CMT).

6.2. Authority to Suspend and Duration of Suspension for Students with Disabilities

6.2.1. The school administrator has the authority to suspend a student with disabilities (504 or IDEA) for not more than ten (10) consecutive school days for any violation of school rules, 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.

6.3. Authority to Expel and Duration of Expulsion

6.3.1. The Board or Maeser's Case Management Team (CMT) may expel a student for violations under this part for a fixed or indefinite period, provided that indefinite expulsions shall be reviewed by the Case Management Team and the conclusions reported to the Board, at least once each year

6.3.2. Parental Responsibility

6.3.2.1. If a student is expelled for a period longer than ten (10) days, the student's parent or legal guardian is responsible for undertaking an alternative education plan which 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 school or Maeser, or other alternatives which will reasonably meet the educational needs of the student. Costs of educational services which are not provided by Maeser are the responsibility of the student's parent or guardian

[a] 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.

[b] Maeser shall contact the parent or guardian of each student under age sixteen (16) who has been expelled from all Maeser programs and services at least once a month to determine the student's progress

6.4. Authority to Institute Change of Placement for Student with Disabilities

6.4.1. Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA, procedures outlined in 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.

7. Due Process for Suspensions of 10 Days or Less

7.1. The following procedure shall apply to all students facing suspension of ten (10) school days or less:

7.1.1. The 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.

7.1.2. 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 a school administrator.

7.1.3. The student shall be requested to present his/her version of the incident in writing. Students with disabilities or students who are unable to write their own statements shall be accommodated through the use of tape recorder, scribe, translator, etc.

7.1.4. The school administrator shall notify the custodial parent or guardian of the student of the following without delay:

(i) that the student has been suspended;

(ii) the grounds for the suspension;

(iii) the period of time for which the student is suspended; and

(iv) the time and place for the custodial parent or guardian to meet with a designated school official to review the suspension.

7.1.5. The school administrator shall also notify the non-custodial parent, if requested in writing, of the suspension.

(i) This does not apply to the portion of school records which would disclose any information protected under a court order.

(ii) The custodial parent is responsible to provide the school a certified copy of any court order prohibiting notification to the noncustodial parent.

7.1.6. School administrators shall document the charges, evidence, and action taken.

7.1.7. In general, the notice and informal conference outlined in 7.1.1 through 7.1.3 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 thereafter as practicable.

8. Due Process for Expulsions

8.1. For purposes of this policy, an expulsion is defined as any separation from the school longer than ten (10) days in duration.

8.2. The 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.

8.2.1. 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.

8.2.2. If the school administrator desires or contemplates expelling a student for longer than ten (10) school days, he/she shall submit a Safe Schools referral to the (CMT) on the CMT referral forms.

8.2.3. Prior to sending the referral to the CMT, but in no instance longer than ten (10) school days after the suspension began, the school administrator shall meet with the custodial parent or guardian to discuss the charges against the student and the proposed discipline. The school administrator shall also notify the noncustodial parent, if requested in writing by a noncustodial parent, of the possible expulsion as outlined in section 7.1.5 of this policy.

8.3. Expulsionary Hearing Protocol

8.3.1. If the CMT meets to determine whether a student will be suspended, notice will be provided to the student and parent/guardian.

8.3.2. Parents/Guardians are permitted to attend the Expulsionary Hearing along with the accused student.

8.3.3. The school administrator shall inform the student of the charges against him/her, the possible disciplinary actions, and provide the student with the opportunity to present his or her version of the facts.

8.3.4. 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 a school administrator.

8.3.5. The CMT may ask further questions of the student.

8.3.6. Notice to Student and Parent/Guardian

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

- (i) a description of the alleged violation(s) or reason(s) giving rise to disciplinary action;
- (ii) the penalty being imposed (duration of expulsion);
- (iii) a statement that a due process hearing may be requested in writing within ten (10) working days of receipt of the notice;
- (iv) 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 Maeser;
- (v) a statement that the expulsion is taking effect immediately and will continue for the stated period unless a hearing is requested in a timely manner and the Hearing Officer determines otherwise;
- (vi) the mailing date of the notice; and
- (vii) a statement that, if a hearing is not requested within ten (10) working days after receipt of the notice, Maeser's decision to expel the student will be final, and the parent's right to oppose Maeser's decision will be waived.

8.3.7. Appeal Procedures

8.3.7.1. If a hearing is requested in response to the Notice of Expulsion, the following procedures shall apply:

- (i) After receipt of the request, Maeser shall schedule a hearing as soon as possible but not later than ten (10) working days following receipt of the request.
- (ii) A written Hearing Notice shall be sent 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 Director 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.

8.3.7.2. 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 Maeser;
- [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; and
- [d] issue a written decision including Findings of Fact and Conclusions.

8.3.7.3. Hearing Rules

8.3.7.3.1. 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 Maeser 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.

8.3.7.4. 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 Director.

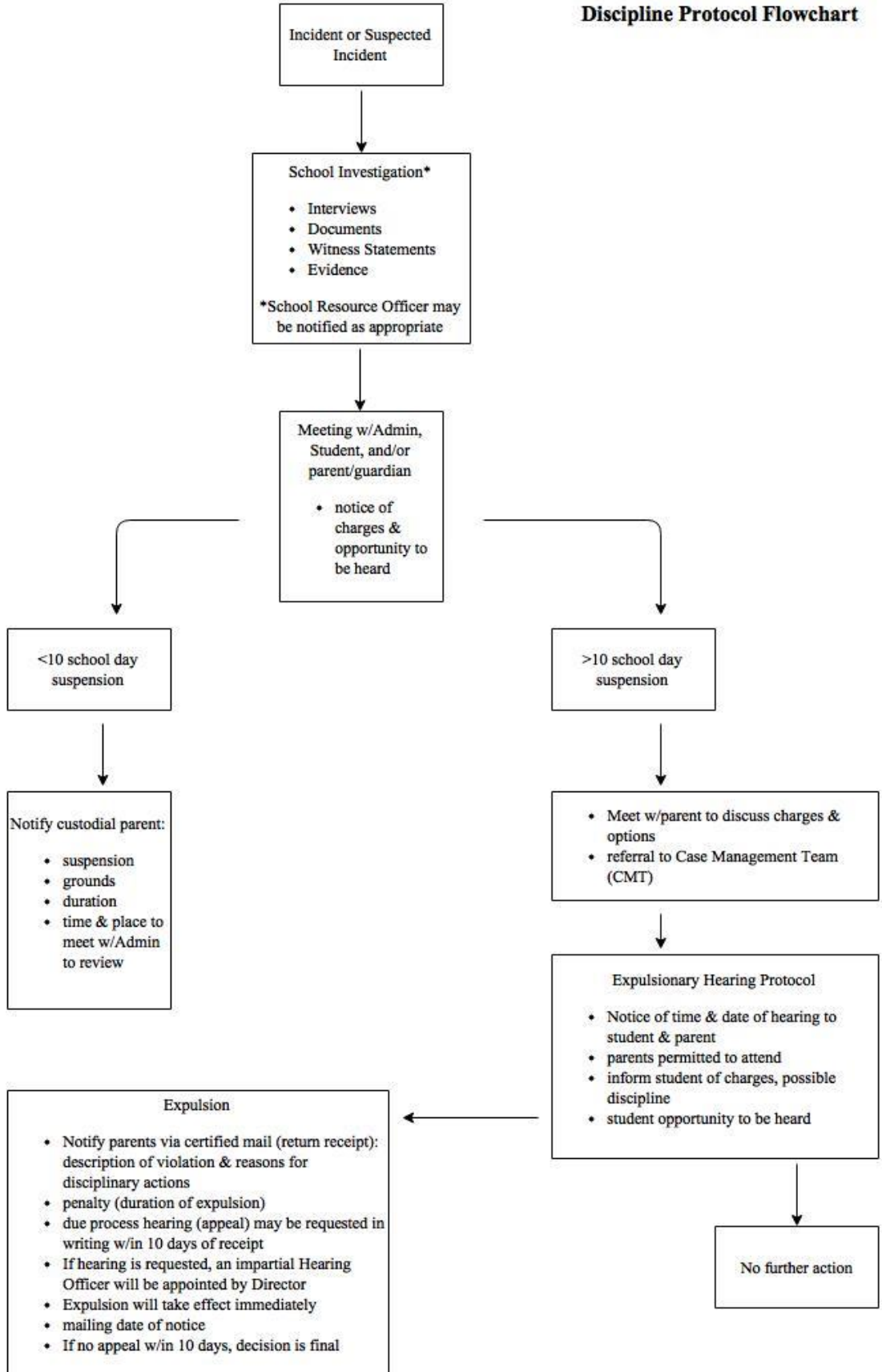
[b] Within ten (10) working days following receipt of the appeal, the Director shall rule on the appeal or refer the appeal to the President of the Board.

[c] If the appeal is referred to the Board, the Board may schedule, and hold, a hearing consistent with Maeser policy.

9. Due Process for Changes of Placement for Students with Disabilities

9.1. When 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. When a determination is made that the conduct of a 504 or ADA student is not a manifestation of the student's disability, the student shall be subject to the same disciplinary consequences as regular education students, up to and including expulsion from school without educational services. NOTE: These procedures can also be found in Parental Procedural Safeguard for Children with Disabilities and their Parents.

Discipline Protocol Flowchart



References:

Gun Free School Act; 20 U.S.C. §7151

Family Educational and Privacy Rights Act; 20 U.S.C. §1232g (h)(1)-(2), 34 C.F.R. §99.36
Education of Individuals with Disabilities Education Act (IDEA), Title 20, Chapter 33

Rehabilitation Act of 1973, 29 U.S.C. §705 (20) (c) (iv)

Americans with Disabilities Act (ADA), 42 U.S.C. §12132

Utah Code Ann. §53A-11-802—Prohibition of corporal punishment; Use of reasonable and necessary physical restraint or force.

Utah Code Ann. Title 53A, Chapter 11, Part 9—School Discipline and Conduct Plans.

Utah Code Ann. Title 53A, Chapter 11, Part 10— Notification by juvenile court and law enforcement agencies.

Utah Code Ann. Title 53A, Chapter 11, Part 15—School Safety and Crisis Line

Utah Code Ann. Title 53A, Chapter 11a—Bullying and Hazing.

Utah Code Ann. §78A-6-112—Minor taken into custody by peace officer, private citizen, or probation officer; Grounds; Notice requirements

Utah Code Ann. §78A-6-1110—Cooperation of political subdivisions and public or private agencies and organizations.

Utah Administrative Code R277-608 – Prohibition of Corporal Punishment in Utah’s Public Schools.

Utah Administrative Code R277-615 – Standards and Procedures for Student Searches.