



## CODE OF CONDUCT AND DISCIPLINARY PROCEDURES

### **CODE OF CONDUCT**

This code sets forth Community Roots Charter Schools (CRCS) policy regarding how students are expected to behave when participating in school activities, on and off CRCS grounds. The rules of conduct shall also apply to teachers, staff, parents and other persons, whether or not their presence is authorized, on all property or facilities operated under the auspices of CRCS. The CRCS Disciplinary Procedures sets forth how the school will respond to violations of these rules.

#### **I. Rules of Conduct**

##### *Classroom Rules*

At the beginning of each school year, the teachers in each classroom will establish the rules for their classroom and will advise their students of those rules. Those classroom rules shall be considered a part of this Code of Conduct. Violations of classroom rules, if not severe or persistent, will in the first instance be subject to classroom discipline, as set forth in the Disciplinary Procedures.

##### *Maintenance of Order*

There will be disputes, differences, and even heated disagreements from time to time. These must be handled in a non-violent and non-threatening way. No physical fights of any sort will be permitted and all parties who contribute to the cycle of violence will be considered at fault. Disciplinary action will be taken against students who contribute to the cycle of violence. There is to be no "play fighting" and no threatening of physical violence. Bullying and physical, verbal and non-verbal behavior that makes another student feel threatened are prohibited and will result in disciplinary action.

##### *Off-Campus Events*

Students 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. This extends to remote behavior and communications that negatively impact the school community, such as social media posts.

## **II. Students' Rights and Responsibilities**

### *Participation in School Activities*

CRCS will not discriminate in its programs and activities on the basis of race, sex, gender identity, national origin, sexual orientation, religion, creed, status of citizenship, or disability.

### *Freedom of Expression*

Students are entitled to express their personal opinions through speech, writing or by symbolic speech. Written expression of opinion must be signed by the author. The expression of opinions shall not interfere with the freedom of others to express themselves; and any form of expression that is defamatory or hurtful or involves the use of obscenity, or that otherwise disrupts the educational process, is prohibited.

Student participation in the publication of school sponsored newsletters, yearbooks, literary magazines, and similar publications is encouraged as a learning and educational experience. All such publications shall be supervised by faculty advisors. In order to maintain consistency with the school's basic educational mission, the content of such publications will be reviewed and regulated by school authorities.

No person shall distribute any printed or written materials on school property without the prior permission of the Directors or their designee. The Directors or their designee may regulate the time, place, manner and duration of such distribution, and they may regulate the content if in their judgment the content will interfere with discipline in the operation of the school.

### *Search and Seizure*

A student and the student's belongings may be searched by a school official if the official has reason to believe that a search will result in evidence that the student violated the law or a school rule. School authorities may remove items that are prohibited on school property or that may be used to disrupt or interfere with the educational process. Searches shall be conducted under the authorization of either of the Directors or their designee.

Student closets, lockers, cubbies and desks are the property of the school, though the school is not responsible for books, clothing or valuables left in them. A student shall not place or keep in a cubby or desk any article or material that may cause or tend to cause disruption in the classroom. Students have no reasonable expectation of privacy with regard to cubbies and desks and school officials may search cubbies and desks at any time and without prior notice.

### *Due Process Rights of Students and Families*

In all disciplinary proceedings students and their families shall have the rights of due process set forth in the CRCS Disciplinary Procedures, as well as the right to use CRCS Complaint Procedure. They shall have the right to have rules and all disciplinary measures explained in the language of their choice.

### *Records and Privacy*

CRCS shall maintain written records of all suspensions and expulsions, including the name of the student, a description of the behavior engaged in, the disciplinary action taken, and a record of the number of days a student has been suspended or removed for disciplinary reasons.

CRCS is subject to the federal Family Education Rights and Privacy Act of 1974 (FERPA), which requires a school to protect students' privacy. The school will not disclose any information from the student's education records except as authorized pursuant to FERPA or in response to a subpoena, as required by law. The parents or guardians of a student under 18 years old, and students 18 years or older, are entitled to access to the student's school records by submitting a written request to the Directors or their designee. Further information concerning the disclosure of student information and limitations on such disclosure is available in the office of the Directors or their designee.

## **DISCIPLINARY CODE**

Community Roots Charter School's Code of Conduct provides guidelines for behavior in school and when participating in school-related activities. The Disciplinary Code sets forth the procedures for disciplinary responses to violations of the Code of Conduct.

The Directors or their designee are ultimately responsible for the enforcement of the Code of Conduct. Teachers and other staff members are required to report violations of the Code of Conduct to an appropriate Director or their designee, but they are also authorized to make reasonable efforts to stop the prohibited conduct, including through the application of classroom discipline, as described below.

### ***I. Classroom Discipline***

From time-to-time students will engage in behavior that violates classroom rules but does not, in the opinion of the teacher, warrant suspension from school. Although similar behavior might warrant suspension if it were repeated or persistent, in the first instance the Director, or their designee, may use lesser forms of discipline in order to create boundaries and assign consequences for inappropriate behavior.

The types of discipline that may be imposed in such circumstances include, but are not limited to:

- a warning
- time out or temporary loss of privilege
- a conference with a Director or designee
- a phone call to a parent
- a conference between teacher and parent
- a letter of apology
- a behavior contract

A behavior contract is an agreement between teacher and student to work on academic or social behaviors in order to promote the student's independence, confidence and success. Behavior contracts for elementary school children may include pictures, key words, and phrases. As the student grows and successfully masters the skills presented in the contract, the contract will be adapted to the student's progress or end.

If the teacher, together with a Director, determines that a student should be temporarily removed from the classroom for a period not to exceed the remainder of the school day, the teacher and Directors or their designee will give the student an opportunity to describe his or her version of the events that led to the removal and, if the removal still appears warranted, they shall notify the student's parent or guardian by telephone about the removal and the reasons for it. If the Directors or their designee decides that a longer removal is warranted, the procedures for in-school suspension shall be followed.

## ***II. In-School Suspension***

In-school suspension refers to the removal of a student from his or her regular classroom for disciplinary reasons for a full day or longer. An in-school suspension results in the temporary placement of the student in another area of the school building, where the student will receive substantially equivalent alternative instruction.

If, after a reasonable attempt to impose discipline in the classroom or a removal from the classroom for less than a full day, a student's classroom teachers determine that the student's behavior has not responded to such classroom discipline, the teachers shall refer the student to one of the Directors or their designee for consideration of an in-school suspension. The Directors or their designee may impose an in-school suspension if the violation of the Code of Conduct warrants removal from the classroom and the student can be educated within the school building without causing disruption to the educational process.

### ***Procedures and Due Process for In-School Suspensions***

Upon determination that an in-school suspension is warranted, the Directors or their designee will explain to the student the reason for the removal from the classroom and will give the student an opportunity to describe his or her version of the events that led to the disciplinary action. The Directors or their designee will also immediately notify the student's parents or guardians and schedule an informal conference to discuss the misconduct and the proposed discipline. Notice shall be by telephone; however, if the school is unable to reach the parents or guardians by telephone within 24 hours of the suspension, written notice shall be delivered to the last known address.

## ***III. Out-of-School Suspension and Expulsion***

Out-of-school suspension refers to the temporary removal of a student from school for disciplinary reasons. Expulsion refers to the permanent removal of a student from school with no opportunity to return.

When an apparent violation of the Code of Conduct occurs, the student will be given an opportunity to address the charges against him or her and provide their own side of the story. If a student is determined to have violated the Code of Conduct and, in the professional judgment of the Directors or their designee, based on the circumstances and the student's disciplinary record, an in-school suspension is not appropriate, the student shall be subject to an out-of-school suspension. The length of the suspension will depend on the nature and circumstances of the violation of the Code of Conduct and the student's disciplinary record.

Under certain circumstances the Directors or their designee may recommend that proceedings be initiated which may lead to expulsion. Expulsion proceedings will be initiated only in the event that all other disciplinary actions have failed to lead to satisfactory conduct within the school setting.

### ***Procedures and Due Process for Out-of-School Suspensions That Do Not Exceed Five Days***

When an apparent violation of the Code of Conduct occurs, the student will be given an opportunity to address the charges against him or her and provide their own side of the story. Upon determining that a student's behavior or actions warrant an out-of-school suspension for a period not to exceed five (5) school days, the Directors or their designee shall inform the student that he or she is being considered for suspension and state the reasons for such action. The Directors or their designee also shall immediately notify the student's parents or guardians in writing, which notice shall include a description of the behavior or incidents giving rise to the potential suspension and shall schedule an informal conference to be held on the matter. Such notice, in the dominant language used by the parents or guardians, shall be delivered to the last

known address by express mail or equivalent means reasonably calculated to assure receipt within 24 hours of suspension. If the school has been provided with a contact telephone number for the parents or guardians, notice shall also be provided by telephone. The notice and opportunity for an informal conference shall take place prior to the suspension unless the student's presence in the school poses a continuing danger to people or property or an ongoing threat of disruption to the academic process, in which case the notice and opportunity for an informal conference must take place as soon after the suspension as is reasonably practicable.

### ***Procedures and Due Process for Out-of-School Suspension That Exceed Five Days and Expulsion***

When the school seeks to suspend a student for more than five (5) days, CRCS will provide an opportunity for a fair hearing at which the student may challenge the proposed disciplinary action. The hearing will be conducted by a hearing officer appointed by the Executive Committee of the CRCS Board of Trustees (CRCS EC).

When the Directors or their designee determine that a violation of the Code of Conduct may be punishable by a suspension of more than five (5) days, they will initially suspend the student for five days, following the procedures described above, including immediate written notice to parents or guardians by overnight delivery and telephone notice if possible. The written and telephone notice will include the following additional information:

- Notice that the student has been referred to CRCS EC for consideration of a long-term suspension or expulsion and the scheduled date of the fair hearing.
- Identification of the rules that the school believes were violated and a description of the conduct that resulted in the referral for long-term suspension or expulsion and the reason that long term suspension or expulsion is being considered.
- Notice that at the fair hearing the student has the right to be represented by a lawyer or advocate, the right to question witnesses and the right to present evidence.

At the hearing, the hearing officer will first consider evidence pertaining to the conduct that led to the referral for suspension and the consequences sought by the school. Parents or guardians shall have the right to review the student's education records, including the disciplinary record and anecdotal reports, before the hearing and to provide their own written explanation for any information which is part of the educational record. At the hearing, the student, parents or guardians shall have the right to present the student's case and to question witnesses.

In the event that CRCS and the student's parents or guardians decide to delay the hearing to a date following the start of suspension, the hearing must take place prior to a sixth day of suspension unless the student's parents or guardians reasonably request, in writing, that the hearing be postponed, provided however, that the requested delay shall not exceed five (5) additional school days and the student shall remain out of school for the period of the delay. If the hearing must be postponed for any other reason and parents or guardians do not consent to the delay, the student will return to school after five (5) days and remain until the hearing takes place.

If the hearing officer determines to impose a long-term suspension or to expel a student from CRCS, a written decision will be prepared explaining the reason for the decision and conveyed to the student and parent or guardian. A written or audio record of the hearing will be provided to the parent or guardian. The student's parent or guardian may appeal the decision to impose a long-term suspension or expel a student to the full Board of Trustees, with the exception of any Board member that originally served as a hearing officer. For matters relating to alleged violations of law or of the school's charter, if the student's parent or guardian is dissatisfied with the Board's decision, they may appeal it to the Office of Charter Schools of the New York City Department of Education. If still dissatisfied, they may appeal it further to the New York State Board of Regents.

#### ***IV. Student Disciplinary Offenses***

Student disciplinary offenses are those actions or inactions that violate the Code of Conduct or interfere with the delivery of educational services, jeopardize the health, safety, and well-being of any member of the school community, or threaten the integrity and stability of the school itself.

- A disciplinary offense may occur while the student is: at school and/or on, or adjacent to school grounds; participating in a school-sponsored activity; walking to or from school or a school-sponsored event; walking to or from, waiting for, or riding on school-provided transportation; or walking to or from, waiting for, or riding on public transportation to and from school or a school-sponsored activity conducted off school grounds.
- School-related disciplinary offenses may also include misconduct outside the school, such as the misuse of social media that could reasonably affect the school or learning environment. School administration will use their professional judgment in determining which disciplinary action(s) will be most effective in dealing with the student's misconduct, taking into account the following factors:
  - o The student's age and maturity level
  - o The nature and seriousness of the infraction and the circumstances which led to the infraction
  - o The student's previous disciplinary record
  - o The effectiveness of other forms of discipline
  - o Information from parents, teachers and/or others, as appropriate
  - o The student's attitude and any other relevant factors

The following list of actionable offenses is not exhaustive but provides examples of violations of the Code of Conduct. The list may be modified from time to time and/or supplemented by teachers on CRCS's rules for classes and other school events.

List of Certain Actionable Offenses:

1. DISRUPTING THE SCHOOL ENVIRONMENT (Violation of these may result in suspension and/or other consequences, depending on circumstances)

1.1 Arriving Late to School or Class: Student tardiness disrupts class, inconveniences others, and often results in academic difficulties. Students may not be late to school or class. (Note that while students may not be suspended out of school or expelled for tardiness, they may not be promoted to the next grade if too much class time is missed.)

1.2 Cutting School, Class, Detention, or Mandatory School Events: Students are required to attend all classes, assigned detention, and mandatory school events. Students are not permitted to have unexcused absences or to leave the school building without permission. In addition to other disciplinary consequences, these offenses may result in long-term suspension and/or expulsion. In addition, missing class may result in a student failing to be promoted to the next grade level.

1.3 Misbehaving on School-Provided Transportation: Students may not misbehave while walking to or from, waiting for, or riding on school-provided transportation, including the school bus. Please note that students are subject to temporary or permanent denial of school-provided

transportation (in which case students and parents are responsible for travel to and from school) suspension and/or other consequences, depending on the circumstances. Misbehavior includes, but is not limited to, using inappropriate language, making excessive noise, touching other students inappropriately, being disrespectful of others, or failing to follow the bus driver's instructions.

1.4 Blocking Access to any Part of the School Building: Students are not permitted to block access to any room or part of the school building.

1.5 Violating the Dress Code: Parents must pick up children who are not properly dressed for school or bring the missing Dress Code items to the school, as students may be suspended or not be permitted to attend class.

1.6 Gum, Food, and Beverages: Students may not chew gum or eat or drink at unauthorized times or places.

1.7 Disrupting Class and Preventing Teaching: CRCS can fulfill its mission only if classrooms are safe and teaching is uninterrupted. Students may not disrupt class.

1.8 Cheating, Plagiarism, and Copying Other's Work: Cheating or copying the work of others (or allowing other students to copy work) is unacceptable.

1.9 Forgery: Students may not forge a signature.

1.10 Lying to a Staff Member: Honesty is an essential element of personal character and is needed to build a community based on trust and respect. Students are not permitted to lie or attempt to conceal the truth.

1.11 Being Disrespectful toward a Staff Member: A school cannot function properly if students are permitted to be disrespectful toward adults. For that reason, students may not be disrespectful toward a staff member, or any other adult associated with the school. This offense may result in suspension and/or other disciplinary consequences, depending on the circumstances.

1.12 Being Disrespectful toward a Student: If students do not feel physically and emotionally safe in school, teaching and learning are made more difficult. Therefore, students may not be disrespectful toward other students. This offense may result in suspension and/or other disciplinary consequences, depending on the circumstances.

1.13 Using cell phones/electronic devices on school ground: Students may not use cell phones/electronic devices on school grounds as it disrupts the learning environment. Such items will be confiscated if they are seen or heard during the school day. On the first occasion, the item will be returned to the student at the end of the day. If an item is confiscated again, a parent or guardian will need to pick it up from the office. Parents and students may communicate by phone, if needed, by using the phone in the main office.

1.14 Gambling: Gambling and betting are not tolerated.

1.15 Misbehaving Inside or Outside of Class: Misbehavior that violates this Code inside or outside of class (at School and/or on School grounds; participating in a School-sponsored activity; walking to or from School or a School-sponsored event; walking to or from, waiting for, or riding on school-

provided transportation; or walking to or from, waiting for, or riding on public transportation to and from School or a School-sponsored activity) is not permitted.

1.16 Sexting: A student may not send, receive or forward distribute pictures, video, or text messages of sexually suggestive nude or nearly nude images through the use of a cell phone or other electronic device.

## 2. ASSAULT, BATTERY, BODILY HARM, INAPPROPRIATE TOUCHING, AND/OR THREATS

2.1 Causing Bodily Harm: Students may not cause physical injury to a student, school employee, or another person. Students are not permitted to harm or attempt to harm a student, school employee, or another person including with a weapon or dangerous object. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

2.2 Committing Assault or Assault and Battery: Students may not commit assault, including sexual assault, or assault and battery on a student, school employee, or another person. Assault is an attempt or threat to physically harm another person; assault does not require physical contact. Battery is any unlawful touching of another person. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

2.3 Fighting or Unwanted Physical Contact: CRCS students may not fight with other students—from CRCS or any other school. Harassing, pushing, touching, or any form of unwanted physical contact is not tolerated. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

2.4 Play Fighting and Threatening: Play fighting and/or the use of threats threatens the safety of the community. Students may not play fight and/or threaten others. This offense may result in suspension and/or other disciplinary consequences, depending on the circumstances.

2.5 Setting off a False Alarm or Making a Threat: Students may not intentionally set off a false alarm or make a destructive threat. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

2.6 Engaging in Sexual Activity or Inappropriate Touching: A student may not engage in sexual activity of any kind or touch himself/herself or others inappropriately. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

2.7 Engaging in intimidating, or bullying behavior, including cyber-bullying: Bullying is defined as a series of acts or a single negative act (depending on severity) that involve(s) a real or perceived imbalance of power, i.e., where a more powerful (whether real or perceived) group of students, or an individual student engages in harassment of another student or students who is/are less powerful or perceived to be less powerful. Bullying can take many forms, including but not necessarily limited to the following three forms: 1. Physical (including, but not limited to, hitting, kicking, spitting, pushing, and taking personal belongings); 2. Verbal (including, but not limited to, taunting, malicious teasing, name calling, making threats); and 3. Psychological (including, but not limited to, spreading rumors; manipulating social relationships; or engaging in social exclusion, extortion, or intimidation). Cyber-bullying takes many forms and is defined as online social cruelty or electronic bullying that involves the use of information technology, including e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, and gaming systems, to



deliberately harass, threaten or intimidate students. This includes but is not necessarily limited to sending mean, vulgar, or threatening messages or images; posting sensitive, private information about another person (including but not limited to “sexting”); pretending to be someone else in order to make that person look bad. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

### 3. POSSESSION OR USE OF FIREARMS, WEAPONS, AND/OR DANGEROUS OBJECTS

3.1 Possession or Use of a Firearm: Students may not possess or use a firearm. In compliance with Gun Free Schools Act, 20 U.S.C. § 7151, the School will expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school, except that the chief administering officer of CRCS may modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

3.2 Possession or Use of a Mock Firearm: Students may not possess or use a mock firearm. This offense may result in suspension and/or other disciplinary consequences, depending on the circumstances.

3.3 Using or Possessing a Weapon or Dangerous Object: Students are not allowed to bring a weapon of any sort to school, use any object in a dangerous or threatening manner, or have a weapon on him/her or in his/her property. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

3.4 Arson: Students may not set a fire. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

### 4. POSSESSION, USE, OR DISTRIBUTION OF CONTROLLED SUBSTANCES, ALCOHOL, AND TOBACCO

4.1 Using or Possessing Drugs or Alcohol: Students may not use or possess any non-prescribed controlled substance, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind. Prescribed and over-the-counter drugs must be delivered to the designated CRCS staff person by a parent or guardian with a doctor-signed medication authorization form. Students may not be in possession of prescribed or over-the-counter drugs. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

4.2 SELLING OR TRANSFERRING DRUGS OR ALCOHOL: Students may not sell, distribute, or possess with intent to sell or distribute a prescribed or non-prescribed controlled substance. Nor should they carry paraphernalia related to drugs or alcohol (ex: pill bottles, etc.). This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

4.3 Using, Possessing, Selling or Transferring Tobacco Products: The use of tobacco is banned. Students may not use or possess cigarettes, chewing-tobacco, or other tobacco products. This offense may result in suspension and/or other disciplinary consequences, depending on the circumstances.

## 5. HARASSMENT AND VIOLATIONS OF CIVIL RIGHTS

5.1 Violating the Civil Rights of Others: Students may not violate the civil rights of others, including, but not limited to, their freedom of religion and expression. Students may not discriminate against another student because of their race, gender, national origin, color, sexual orientation, ethnicity, religion or disability. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

5.2 Engaging in harassing behavior. Students may not engage in any form of harassing behavior. Harassment is defined as the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to bullying, cyber bullying, sexting or other conduct, verbal 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. In addition, students may not make unwanted sexual advances toward or commit sexual harassment of any members of the school community. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

5.3 Abusive or Profane Language or Treatment: Students may not use abusive, threatening, vulgar, coarse, or degrading language (including racial epithets or sexist or homophobic remarks). This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

5.4 Engaging in inappropriate use of social media: Students may not engage in conduct or communication that may harass or intimidate any members of the school community, or reasonably lead to a disruption of the educational environment. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

## 6. THEFT OR VANDALISM

6.1 Theft, Loss, or Destruction of Personal or School Property: Students may not steal, lose, or damage someone else's property or school property. In addition to facing other consequences for violation of this rule, students are expected to return property to its rightful owner in its original condition.

or to reimburse the owner and/or the school for lost, damaged, or stolen property. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

6.2 Mistreatment or Inappropriate Use of Technology or School Property: Students must treat computers, printers, and other technology with care. CRCS does not tolerate attempts to access the school's files or other inappropriate uses of technology or the Internet. Students do not have the right to use school computers to access chat rooms or email or to access web sites or files that contain profanity, sexually explicit language or pictures, excessively violent themes, and/or other material inappropriate for minors. Students must not mistreat other school property. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

7. FAILURE TO COMPLY WITH SCHOOL-IMPOSED CONSEQUENCES: Students must comply with school-imposed consequences. This offense may result in suspension and/or expulsion or other disciplinary consequences, depending on the circumstances.

8. REPEATED VIOLATIONS OF THE CODE OF CONDUCT: Progressively more serious disciplinary consequences shall be imposed upon any student who repeatedly commits one or more disciplinary offenses.

## **V. Gun Free Schools Act**

Federal and State law require the expulsion from School for a period of not less than one year of a student who is determined to have brought a firearm to the School, or to have possessed a firearm at school, except that the Director of School Culture may modify such expulsion requirement for a student 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).

“Weapon,” as used in this law means a “firearm,” as defined by 18 USC§8921, and includes firearms and explosives. (New York Education Law §3214(3)(d) effectuates this federal law.)

The following are included within this definition:

- Any device, instrument, material, or substance that is used for or is readily capable of causing death or serious bodily injury. Knives with a blade of two and half inches or more in length fall within this definition.
- 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.
- The frame or receiver of any weapon described above.
- Any firearm muffler or firearm silencer.
- 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.
- Any weapon which will, or may readily be converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter.
- Any combination of parts either designed or intended for use in converting any device into any destructive device in the two immediately preceding examples, and from which a destructive device may be readily assembled.

The Directors or their designee shall refer a student 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 except a student fourteen or fifteen years of age who qualifies for juvenile offender status under Criminal Procedure Law § 1.20(42). The Directors or their designee shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under Criminal Procedure Law § 1.20(42), who has been determined to have brought a weapon or firearm to school to the appropriate law enforcement officials.

## **VI. Special Protections for Students with Disabilities**

CRCS shall comply with the applicable provisions of the Individuals with Disabilities Education Act (IDEA) and its regulations with regard to violations of the Code of Conduct by students who have been determined to have a disability or as to whom the Local Education Agency (LEA) or CRCS is deemed to have had knowledge prior to the violation that the student has a disability. These rules can be found in Sections 300.530-300.537 of Part 34 of the Code of Federal Regulations, and they are summarized in the New York State Education Department Procedural Safeguards Notice (Procedural Safeguards Notice). A copy of the Procedural Safeguards Notice is available in the office of the Directors and will be provided to parents or guardians when a student with an educational disability is referred for long-term suspension.

Students for whom an Individualized Education Program (IEP) includes a Behavior Intervention Plan (BIP) will be disciplined in accordance with the BIP. If the BIP appears not to be effective, or if there is a concern for the health and safety of the student or others, the student will be referred to his or her IEP Team for consideration of a change in the BIP.

A suspension from school for more than ten (10) days is considered a disciplinary “change of placement”. When the suspension or removal of a student with a disability may lead to a disciplinary change of placement, CRCS will immediately notify the Manifestation Determination Team (MDTeam) of the student’s IEP Team/Committee on Special Education (CSE), which will convene a meeting within ten (10) school days to make a “manifestation determination.”

The purpose of the manifestation determination is to decide whether the behavior that led to the referral for suspension is a manifestation of the student’s disability. To make this determination, the MDTeam will review the student’s IEP and all other relevant information to determine whether the conduct in question was caused by or had a direct and substantial relationship to the student’s disability, or whether the conduct was a direct result of a failure to implement the student’s IEP.

If the MDTeam determines that the conduct was a manifestation of the student’s disability, the IEP Team/CSE will:

- conduct a functional behavioral assessment (FBA), unless an FBA was conducted before the violation of the Code of Conduct occurred; and implement a BIP.
- or, if the child already has a BIP, review and modify the BIP, as necessary, to address the behavior.

In making the manifestation determination, preparing a BIP or considering additional services or a change of placement for students referred because of disciplinary problems, the IEP Team/CSE is expected to follow its ordinary policies with respect to parental notification and involvement. These decisions may be challenged by parents in impartial hearings conducted by an independent hearing officer appointed by the student’s district of residence. The procedures for such a hearing are described in the Procedural Safeguards Notice.

If the behavior that led to the referral for suspension is found to be a manifestation of the child’s disability, the student will be returned to the classroom immediately, unless the student’s parents or guardians agree to a change of placement. In the latter circumstance, the CSE of the student’s district of residence will make the appropriate determination. If the behavior that led to the referral for suspension is found not to be a manifestation of the student’s disability, CRCS will continue the disciplinary process applicable to students without disabilities, described in Section IV above, and the student with a disability may be disciplined to the same extent as a student without a disability.

In instances where a student with an IEP engages in dangerous behavior involving illegal drugs or other controlled substances, a weapon, or the infliction of serious bodily injury to another person, the school may seek to place the student in an interim alternative educational setting. CRCS will work with the IEP Team/CSE to remove the student to an interim alternative educational setting for up to forty-five school days.

### ***VII. Provision of Alternative Instruction During Removal***

CRCS will ensure that within 24 hours of a suspension or expulsion, alternative educational services are provided to the student. For a student who has been suspended, alternative instruction will be provided during the period of the suspension. For a student who has been expelled, alternative instruction will be provided, to the extent provided by law.

Alternative instruction will be provided in a way that meets the needs of the individual student. Instruction shall be sufficient to enable the student to make adequate academic progress and shall give the student an 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 (e.g., in the school district of residence), or a suspension room at the school. Instruction will be provided by an individual qualified for charter school instruction as provided in the New York Education Law.

### ***Alternative Instruction for Students with Disabilities***

During any suspension or removal from class for a student with a disability for fewer than ten (10) days, alternative instruction will be provided to the same extent as alternative instruction is provided to students without disabilities.

If, during the school year, subsequent removal occurs that, combined with previous removals, equal ten or more school days during the school year, but do not constitute a change in placement, services will be provided to the extent determined necessary to enable the child to appropriately progress in the general curriculum and to progress toward achieving the goals of his or her IEP. If appropriate, a functional behavioral assessment (FBA) will be provided, and behavioral intervention services and modifications will be arranged to address the behavior resulting in removal. In these cases, school personnel, in consultation with the child's special education teacher, shall make the service determinations.

During any other disciplinary removal for ten days or more, including removal for up to forty-five (45) school days as described in Section V, services will be provided to the extent necessary to enable the child to progress in the general curriculum and to achieve the goals of his or her IEP. The services to be provided and the location in which services will be provided will be determined by the IEP Team/CSE. Additional services will include a FBA, behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not recur.