

Adopted: October 15, 2002
Revised: December 18th 2019

NCA 506, based on
MSBA/MASA Model Policy 506
Orig. 1995
Rev. 2003

*TO BE REVIEWED ANNUALLY

506 STUDENT DISCIPLINE

I. PURPOSE

The purpose of this policy is to ensure that students are aware of and comply with New Century Academy's expectations for student conduct. Such compliance will enhance New Century Academy's ability to maintain discipline and ensure that there is no interference with the educational process. New Century Academy will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

II. GENERAL STATEMENT OF POLICY

The school board recognizes that individual responsibility and mutual respect are essential components of the educational process. The school board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making and responsibility. Schools can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. It is the position of the school district that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56.

In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the school board, with the participation of New Century Academy director, educators, employees, students, parents, community members, and such other individuals and organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the school district.

III. AREAS OF RESPONSIBILITY

- A. The School Board. The school board holds all school personnel responsible for the maintenance of order within New Century Academy and supports all personnel acting within the framework of this discipline policy.
- B. Director. The director shall establish guidelines and directives to carry out this policy, hold all school personnel, students and parents responsible for conforming to this policy, and support all school personnel performing their duties within the framework of this policy. The director shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents. Any guidelines or directives established to implement this policy shall be submitted to the school board for approval and shall be attached as an addendum to this policy.

The director is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final school board approval. The director shall give direction and support to all school personnel performing their duties within the framework of this policy. The director shall consult with parents of students conducting themselves in a manner contrary to the policy. The director shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. A director, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

- C. Educators. All educators shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All educators shall enforce the Code of Student Conduct. In exercising the educator's lawful authority, an educator may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- D. Other School District Personnel. All school district personnel shall be responsible for contributing to the atmosphere of mutual respect within the school. Their responsibilities relating to student behavior shall be as authorized and directed by the director. A school employee, school bus driver, or other agent of New Century Academy, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.
- E. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with school authorities and to participate regarding the behavior of their children.
- F. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.

- G. Community Members. Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled.

IV. STUDENT RIGHTS

All students have the right to an education and the right to learn.

V. STUDENT RESPONSIBILITIES

All students have the responsibility:

- A. For their behavior and for knowing and obeying all school rules, regulations, policies and procedures;
- B. To attend school daily, except when excused, and to be on time to all classes and other school functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state and local school authorities;
- D. To make necessary arrangements for making up work when absent from school;
- E. To assist the school staff in maintaining a safe school for all students;
- F. To be aware of all school rules, regulations, policies and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. To assume that until a rule or policy is waived, altered or repealed, it is in full force and effect;
- H. To be aware of and comply with federal, state and local laws;
- I. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with school staff as appropriate;
- J. To respect and maintain the school's property and the property of others;
- K. To dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable school district policy;
- L. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. To conduct themselves in an appropriate physical or verbal manner; and

- N. To recognize and respect the rights of others.

VI. CODE OF STUDENT CONDUCT

- A. The following are examples of unacceptable behavior subject to disciplinary action by New Century Academy. These examples are not intended to be an exclusive list. Any student who engages in any of these activities shall be disciplined in accordance with this policy. This policy applies to all school buildings, school grounds, and school property or immediately adjacent to school grounds; school-sponsored activities or trips; school bus stops; school buses, school vehicles, school contracted vehicles, or any other vehicles approved for school district purposes; the area of entrance or departure from school premises or events; and all school-related functions, school-sponsored activities, or trips. School district property also may mean a student's walking route to or from school for the purposes of attending school or school related activities, or events. While prohibiting unacceptable behavior, subject to disciplinary action, at these locations and events NCA does not represent that it will provide supervision or will assume liability at these locations and events. This policy also applies to any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of New Century Academy or the safety or welfare of the student, other students, or employees.
 - 1. Violations against property including, but not limited to, damage to or destruction of school property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
 - 2. The use of profanity or obscene language, or the possession of obscene materials;
 - 3. Gambling, including, but not limited to, playing a game of chance for stakes;
 - 4. ~~Hazing~~—Violation of NCA's Hazing Prohibition Policy (School Policy #526).
 - 5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving school grounds without permission;
 - 6. Violation of NCA's attendance policy;
 - 7. Opposition to authority using physical force or violence;
 - 8. Using, possessing, or distributing intending to distribute, making a request to another person for (solicitation), tobacco or tobacco paraphernalia;
 - 9. Using, possessing, distributing intending to distribute, making a request to another person for (solicitation), or being under the influence of alcohol or

other intoxicating substances or look-alike substances; or a look alike substances (these prohibitions include medical marijuana or medical cannabis, even when prescribed by a physician and one student sharing prescription medication with another student).

10. Using, possessing, distributing, or being under the influence of narcotics, drugs, or other controlled substances, or look-alike substances, except as prescribed by a physician, including one student sharing prescription medication with another student;
11. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
12. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;
13. Violation of the school district Weapons Policy;
14. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
15. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
16. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
17. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the school;
18. Violation of any local, state or federal law as appropriate
19. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority, cheating, insolence, insubordination, failure to identify oneself, improper activation of fire alarms, or bomb threats;
20. Violation of the school district's Internet Acceptable Use and Safety Policy;
21. Possession of nuisance devices or objects which cause distractions and may facilitate cheating including, but not limited to, pagers, radios, and phones, including picture phones;

22. Violation of school bus or transportation rules or the school bus safety policy;
23. Violation of parking or school traffic rules and regulations, including, but not limited to, driving on school property in such a manner as to endanger persons or property;
24. Violation of directives or guidelines relating to ~~file cabinets~~ lockers or improperly gaining access to ~~a school file cabinets~~; lockers
25. Violation the school Search of Student Lockers, Desks, Personal Possessions, and Student's Person Policy;
26. Violation of the school district's Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches Policies.
27. Possession or distribution of slanderous, libelous or pornographic materials;
28. Violation of NCA's Bullying Prohibition Policy (School Policy #514).
29. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
30. Criminal activity;
31. Falsification of any records, documents, notes or signatures;
32. Tampering with, changing, or altering records or documents of the school district by any method including, but not limited to, computer access or other electronic means;
33. Scholastic dishonesty which includes, but is not limited to, cheating on a school assignment or test, plagiarism, or collusion, including the use of picture phones or other technology to accomplish this end;
34. Impertinent or disrespectful language toward teachers or other school district personnel;
35. ~~Sexual and/or racial abuse and/or harassment~~ Violation of NCA's Harassment and Violence Policy (School Policy 413)
36. Actions, including fighting or any other assaultive behavior, which causes

or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other school district personnel, or other persons;

37. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
38. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
39. Verbal assaults, or verbally abusive behavior, including, but not limited to, use of words, symbols, acronyms, or language whether oral or written, language that is discriminatory, abusive, obscene, threatening, intimidating or that degrades other people, or threatening to school property.
40. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;
41. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin or sexual orientation;
42. Violation of school rules, regulations, policies, or procedures;
43. Violation of the school district's one-to-one device rules and regulations
44. Violation of school rules, regulations, policies, or procedures, including but not limited to: those policies specifically enumerated in this policy.
45. Other acts, as determined by New Century Academy, which are disruptive of the educational process or dangerous or detrimental to the student or other students, New Century Academy personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the school, or which otherwise interferes with or obstruct the mission or operations of the school district or the safety or welfare of students or employees.

VII. DISCIPLINARY ACTION OPTIONS

It is the general policy of New Century Academy to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the school district. At a minimum, violation of school district rules, regulations, policies or procedures will result in discussion of the violation and a verbal warning. New Century Academy shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's

misconduct, as determined by the school district. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, principal, counselor or other school district personnel, and verbal warning;
- B. Parent contact;
- C. Parent conference;
- D. Removal from class;
- E. In-school suspension;
- F. Suspension from extracurricular activities;
- G. Detention or restriction of privileges;
- H. Loss of school privileges;
- I. In-school monitoring or revised class schedule;
- J. Referral to in-school support services;
- K. Referral to community resources or outside agency services;
- L. Financial restitution;
- M. Referral to police, other law enforcement agencies, or other appropriate authorities;
- N. A request for a petition to be filed in district court for juvenile delinquency adjudication;
- O. Out-of-school suspension under the Pupil Fair Dismissal Act;
- P. Preparation of an admission or readmission plan;
- Q. Expulsion under the Pupil Fair Dismissal Act;
- R. Exclusion under the Pupil Fair Dismissal Act; and/or
- S. Other disciplinary action as deemed appropriate by the school district.
- T. Note: Confiscation by the school district personnel and/or by law enforcement of any item, article, object or thing prohibited by, or used in the violation of any school district policy, rule, regulation, procedure, or state or federal law. If confiscated, by the school district, the confiscated item, article, object or thing will be released only to the parent/guardian following the completion of any investigation or disciplinary

action instituted or taken related to the violation.

VIII. REMOVAL OF STUDENTS FROM CLASS

- A. The teacher of record shall have the general control and government of the of the classroom. Educators have the responsibility of attempting to modify disruptive student behavior by such means as conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail, or when the educator determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class pursuant to the procedures established by this discipline policy. "Removal from class" and "removal" mean any actions taken by an educator, director, or other school district employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

Grounds for removal from class shall include any of the following:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including New Century Academy employees, the student or other students, or the property of the school;
3. Willful violation of any school rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the educator or administration requires removal of the student from the immediate learning environment.

Such removal shall be for at least one (1) class period or project period, and shall not exceed five (5) such periods of time.

A student must be removed from class immediately if the student engages in assault or violent behavior. "Assault" is an act done with the intent to cause fear in another of immediate bodily harm or death; or the intentional infliction of, or, attempt to inflict, bodily harm upon another. The removal from class shall be for a period of time deemed appropriate by the principal in consultation with the teacher.

- B. If a student is removed from the immediate learning environment more than ten (10) times in a school year, New Century Academy shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

C. Procedures for Removal of a Student From a Class.

1. Educator, or staff person will instruct student to leave the immediate learning environment and report to the office of the director. Educator or staff person will alert director, either by phone call, direct contact or by messenger. If the director is busy, the student will report to any staff member present in the office area.
2. Removal of student is at the discretion of staff member.
3. Staff member will document removal of student in writing, and submit written summary to the director.

D. Responsibility for and Custody of a Student Removed From Class.

1. Whenever appropriate, student will be accompanied by a classmate when removed from class. If students in immediate learning environment are supervised, staff member should accompany student to the office of the director.
2. The director or designee is responsible for supervision of student upon receipt of said student.

E. Procedures for Return of a Student to a Class From Which the Student Was Removed.

1. A student who was removed from class will return to immediate learning environment upon approval of director or designee.
2. Director or designee is responsible for speaking with staff member who initiated removal of student from classroom.

F. Procedures for Notification.

1. Staff member who initiated removal of student will contact parent or guardian of student the day of removal.
2. If a conference is warranted, the staff member will schedule the conference with the appropriate parties.

G. Disabled Students; Special Provisions.

1. Should consideration of whether there is a need for further assessment be

warranted, the director will initiate the process by contacting the licensed special educator on staff.

2. Should consideration of whether there is a need for a review of the adequacy of the current Individual Education Plan (IEP) of a disabled student who is removed from class or disciplined be warranted, the educator, staff member, director, parent, or guardian may initiate the process by contacting the licensed special educator on staff.
3. Determine other services deemed appropriate to assist student/family.

H. Procedures for Detecting and Addressing Chemical Abuse Problems of Students While on School Premises.

1. The chemical abuse preassessment team, pursuant to Minn. Stat. § 121A.26, will be assembled to address chemical abuse problems of students while on school premises.
2. The school and community advisory team will address chemical abuse problems in the district pursuant to Minn. Stat. § 121A.27; and
3. Educators and/or staff members must report either verbally or in writing their suspicions regarding the detection of chemical abuse problems of students while on the premises to the chemical abuse preassessment team pursuant to Minn. Stat. § 121A.29.

I. Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct will be addressed by the discipline committee, as outlined in the New Century Academy *Family Guidebook*.

J. The Personal Learning Agreement (PLA), as outlined in New Century Academy *Family Guidebook* will serve as a tool for prevention regarding potential student behavior concerns.

K. The school/family conference to establish the PLA may serve as a tool to help school staff and families to identify early detection of behavioral problems.

IX. DISMISSAL

- A. “Dismissal” means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

New Century Academy shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

New Century Academy shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

B. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:

1. Willful violation of any reasonable school board regulation, including those found in this policy;
2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including school district employees, or property of the school.

C. Suspension Procedures

1. “Suspension” means an action by the school administration, under rules promulgated by the School Board, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the director shall provide a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less, except as may be provided in federal law for a student with a disability.
2. If a student’s total days of removal from school exceed ten (10) cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the student and the student’s parent or guardian prior to subsequently removing the student from school. The purpose of this meeting is to attempt to determine the pupil’s need for assessment or other services.
3. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. The director may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.

4. In the case of a student with a disability, the student's individual education plan team shall meet immediately but not more than ten (10) school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team shall, at the meeting, conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action, and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when: (1) the parent requests a meeting; (2) the student is removed from the student's current placement for five (5) or more consecutive days; or (3) the student's total days of removal from the student's placement during the school year exceed ten (10) cumulative days in a school year. The director shall implement alternative educational services when the suspension exceeds five (5) days. A separate administrative conference shall be conducted for each period of suspension.

5. The director shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the pupil to progress toward meeting graduation standards under Minn. Stat. § 120B.02, although in a different setting.
6. The director shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a school administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.
7. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by e-mail or mail within forty-eight (48) hours of the conference.

8. The director shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone or email as soon as possible following suspension.
9. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, a written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension.
10. Notwithstanding the foregoing provisions, the student may be suspended pending the school board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

D. Expulsion and Exclusion Procedures

1. "Expulsion" means a school board action to prohibit an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the school board.
2. "Exclusion" means an action taken by the school board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year. The authority to exclude rests with the school board.
3. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40-121A.56.
4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.
5. The student and parent or guardian shall be provided written notice of the school district's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE).

6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the school district, student, parent or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student, parent or guardian and shall be closed, unless the student, parent or guardian requests an open hearing.
8. New Century Academy shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.
9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The school district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The school board may appoint an attorney to represent the school district in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.
11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school district. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.
12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school district employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for New Century Academy.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.
16. The hearing officer shall prepare findings and a recommendation based

solely upon substantial evidence presented at the hearing, which must be made to the school board and served upon the parties within two (2) days after the close of the hearing.

17. The school board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The school board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the school board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.
18. A party to an expulsion or exclusion decision made by the school board may appeal the decision to the Commissioner within twenty-one (21) calendar days of school board action pursuant to Minn. Stat. § 121A.49. The decision of the school board shall be implemented during the appeal to the Commissioner.
19. New Century Academy shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
20. New Century Academy shall report each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report shall include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The dismissal report must include state student identification numbers of affected students.
21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, the director shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the school district.

X. ADMISSION OR READMISSION PLAN

The director shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan may include measures to improve the student's behavior and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

XI. NOTIFICATION OF POLICY VIOLATIONS

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The educator, director or other school district official may provide additional notification as deemed appropriate.

XII. STUDENT DISCIPLINE RECORDS

It is the policy of the school district that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable New Century Academy policies and federal and state law, including the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

XIII. DISABLED STUDENTS

Students who are currently identified as disabled under IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 plan specifies a necessary modification.

Where a student is dismissed for five (5) or more consecutive days, or has accumulated more than ten (10) days of dismissal over the course of the school year, the school district will convene a meeting to determine whether the student's educational program is appropriate and whether the behavior subject to discipline is a manifestation of the student's disability. Such a meeting must be held within ten (10) days of the school district's decision to remove the student from his or her current educational placement and must be held before commencing an expulsion or exclusion of the student. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the school district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team will confer on the appropriate discipline (excluding exclusion or expulsion) and take steps to alter the student's educational program, as necessary. Regardless of whether the behavior is a manifestation of the student's disability, if the team determines that the student's educational program is either not appropriate or not being properly implemented, the team will take steps to alter the program and will take any program alterations into account in determining appropriate discipline.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the school district shall continue to provide special education and related services after any period of suspension, if suspension is imposed.

XIV. OPEN ENROLLED STUDENTS

New Century Academy may terminate the enrollment of a nonresident student enrolled under an Enrollment Option Program (Minn. Stat. § 124D.03) or Enrollment in Nonresident District (Minn. Stat. § 124D.08) at the end of a school year if the student meets

the definition of a habitual truant, the student has been provided appropriate services for truancy (Minn. Stat. Ch. 260A), and the student's case has been referred to juvenile court. New Century Academy may also terminate the enrollment of a nonresident student over the age of sixteen (16) enrolled under an Enrollment Options Program if the student is absent without lawful excuse for one or more periods on fifteen (15) school days and has not lawfully withdrawn from school.

XV. DISTRIBUTION OF POLICY

New Century Academy will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in the director's office.

XVI. REVIEW OF POLICY

The director and representatives of parents, students and staff in each school building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the superintendent for consideration by the school board, which shall conduct an annual review of this policy.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch.125A (Students With Disabilities)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. §§ 121A.582 (Reasonable Force)
Minn. Stat. §§ 121A.60-121A.61 (Removal From Class)
Minn. Stat. § 124D.03 (Enrollment Options Program)
Minn. Stat. § 124D.08 (Enrollment in Nonresident District)
Minn. Stat. Ch. 260A (Truancy)
20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Act)
29 U.S.C. § 794 *et seq.* (Section 504 of the Rehabilitation Act of 1973)

Cross References: MSBA/MASA Model Policy 413 (Harassment and Violence)
MSBA/MASA Model Policy 501 (School Weapons)
MSBA/MASA Model Policy 503 (Student Attendance)
MSBA/MASA Model Policy 504 (Student Dress and Appearance)
MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)
MSBA/MASA Model Policy 526 (Student Hazing Prohibition)
MSBA/MASA Model Policy 610 (Field Trips)