

## **BEAR RIVER CHARTER SCHOOL—DRAFT 2017**

### **Discipline and Behavior Policy**

#### **Purpose**

The Bear River Charter School Discipline Policy recognizes that discipline primarily concerns itself with learning, whether that learning be intellectual, social, interpersonal, emotional, or physical. The school and classroom settings provide a unique forum for opportunities and challenges to students.

The Bear River Charter School seeks to create an environment in which students are willing to test intellectual, physical, and other boundaries in the process of discovery. Such an environment requires that all students be physically safe and free from harassment. The school anticipates that students will, at times, make mistakes and poor decisions in the course of their educational experiences. The Bear River Charter School recognizes that these mistakes are opportunities for learning and that the discipline measures of the school can act to support the correction of these behaviors. The Bear River Charter School also recognizes that some behaviors require the school to dismiss a student permanently from the school community.

This policy represents the Bear River Charter School approach to discipline for all students. Except in the case of special circumstances involving weapons, drugs, or serious bodily injury, students with disabilities have additional protections after ten (10) cumulative and/or consecutive days of removal (including partial days). When a student with disabilities is removed for more than ten (10) days, Bear River Charter School will follow the steps outlined in the Special Education Policies, Procedures, and Practices manual.

#### **Objectives and Assumptions**

The discipline policy has four main objectives:

- The creation and maintenance of a safe, healthy, and nurturing environment.
- The support of productive teaching and learning.
- The teaching and reinforcement of appropriate conduct.
- The development of students' self-discipline and self-management.

The discipline policy and procedures aim to support students in their efforts to become productive, innovative, cooperative, and high-achieving students. The discipline policy makes the following assumptions about student behavior:

- Each student has the responsibility to manage his/her own academic and social behavior.
- Each student must acknowledge his/her personal responsibility for his/her words and deeds.
- Each student has the responsibility to develop the motivation to learn and to realize goals through effort and reflection.
- Each student has the responsibility to develop and utilize organizational, interpersonal, and intellectual skills to solve, resolve or manage academic, social, and personal problems.
- Each student has the responsibility to contribute positively to the safety and ethos of the school community.
- Each student must respect others by acknowledging his/her own and others' dignity.

- The Administration, teachers, and staff at the Bear River Charter School have a responsibility to give significant support to help students achieve their academic and behavioral goals, and to cultivate the safety and ethos of the Bear River Charter School community.
- The Administration has the responsibility to provide training for its teachers, staff, and volunteers specific to the disciplinary policies and procedures of BRCS.
- The Administration has the responsibility to provide training for its teachers, staff, and volunteers related to overtly aggressive student behavior, bullying, hazing, harassment, the development of students' social skills, and constructive interventions and strategies.
- The Administration has the responsibility to instruct teachers, staff, and volunteers on the reporting and documentation of disciplinary incidents and on the discipline or actions that may result if teachers, staff, and volunteers fail to do so.
- Parents have a responsibility to teach students appropriate conduct and to support the disciplinary measures of the school.

#### **Authority to Suspend, Rusticate, Expel or Change Placement**

- The Administration has the authority to suspend a regular education student for up to ten (10) school days per incident, to rusticate students for up to one school year, and to expel students for an indeterminate period of time or permanently according to the Discipline Policy.
- The Administration 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 to impose additional removals of not more than ten (10) cumulative school days in that same school year for separate incidents of misconduct, as long as these removals do not constitute a pattern resulting in a change of placement. The Bear River Charter School may not provide services during these periods of removal if services are not provided to a student without disabilities who has been similarly removed.
- The Administration has the authority to take long-term disciplinary actions or to change the placement of students receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA but only after prior written notice to parents/guardians regarding their procedural due process rights (as outlined in the State of Utah Special Education Rules).
- The governing board will review yearly the Bear River Charter School's suspensions, rustications, and expulsions, and the general disciplinary philosophy, policies, and procedures of the school.

#### **Discipline Policy Compliance**

The Bear River Charter School Discipline Policy complies with state and federal laws requiring suspension or expulsion of students for specific infractions.

The Bear River Charter School prohibits discrimination and provides equal educational opportunities for all individual. Specifically, the school prohibits discrimination on the basis of race, color, religion, gender, age, national origin, or disability. Complaints of discrimination or unfair application of this discipline policy should be filed promptly with the Administration.

#### **Definitions**

- **Suspension:** Suspension is a temporary interruption of school services and activities (10 or fewer

consecutive school days).

- **Suspended Student Status:** A suspended student may, at the discretion of the Administration, have access to homework, tests, and other schoolwork through a home study program, but will not be allowed to attend classes or participate in any school activities during the period of suspension.
- **Rustication:** Rustication is the temporary removal of a student from the school of attendance for a period of longer than ten (10) consecutive school days, including a removal of an indeterminate period. Rustication is a form of expulsion.
- **Rusticated Student Status:** During the period of rustication, the school will work with parents to provide alternative educational placement and programs for the student when such support is appropriate and feasible. However, the Administration retains the authority to exclude the students from all programs or activities for the period of rustication.
- **Expulsion:** Expulsion is a long-term or permanent removal of a student from the school and/or the denial of meaningful services to a student.
- **Expelled Student Status:** In cases of a student's expulsion from the School, the legal obligation of complying with state compulsory education laws becomes the sole responsibility of the student's parents or legal guardians.
- **Change of Placement for Students with Disabilities** (under IDEA and Section 504): A change of placement for a student with a disability is defined as a removal of more than ten (10) consecutive school days, or an accumulated pattern of removal of more than ten (10) school days in a school year constituting a pattern of removal as defined by the Administration. Note: Any "Change of Placement" requires compliance with the procedures governing "Change of Placement for Students with Disabilities."
- **Firearm, Explosive, Noxious or Flammable Material:** The terms "firearm," "explosive," and "noxious or flammable material" include but are not limited to guns, starter pistols, cap guns, bombs, bullets and ammunition, gasoline or other flammable liquids, mace, pepper spray, matches, and lighters.
- **Gangs:** A gang is any ongoing organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of criminal acts, which has a unique name or identifiable signs, symbols, or marks, and whose members individually or collectively engage in criminal or violent behavior to persons or property, or who create an unreasonable and substantial disruption or risk of disruption to a class, activity, program, or other function of a school.
- **Gang Activity:** Gang activities include, but are not limited to, any of the following:
  - Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, apparel, emblems, badges, tattoos or manner of grooming, accessories, symbols, signs, or other things that are evidence of membership in or affiliation with any gang;
  - Committing any act or omission or using any speech, either verbal or nonverbal (flashing signs, gestures, handshakes, etc.) that demonstrates membership in or an affiliations with a gang;
  - Soliciting others for membership in a gang;
  - Requesting any person to pay for "protection," the claiming of "turf," or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;
  - Possessing a weapon, controlled substances, drug paraphernalia, or other contraband;

- Committing any illegal act;
  - Encouraging or inciting another person to act with physical violence upon any other person;
  - The causing of damage to property.
- **Bullying:** Bullying is defined as, but not limited to, endangerment to the physical health or safety of a student or school employee, any brutality of a physical nature, any forced or unwilling consumption, any forced or coerced activity of a sexual nature, physically obstructing the freedom of movement of a student or school employee, hazing, or cyber-bullying (hazing and cyber bullying as defined by the Utah Administrative Code, R277-613). BRCS considers bullying a major infraction, in most cases, subject to the discretion of the Administration.
  - **Minor Infractions:** Minor infractions can include disrespectful behavior, non-compliance, minor altercations between students, dress code violations, infrequent tardiness, and the like. The Administration will determine whether an action constitutes a minor or major infraction when the action does not fall neatly into defined categories or when no specific legal or policy definition seems applicable.

**Suspension, Rustication, Expulsion, or Change of Placement:**

- Suspension, Rustication, or Expulsion: A student may be suspended, rusticated, or expelled from school for any of the following reasons that are considered major violations or infractions of school rules:
  - Frequent, flagrant, or willful disobedience;
  - Frequent, flagrant, or willful defiance of proper authority;
  - Disruptive behavior, including, but not limited to fighting, gang activity, noncompliance with school dress code, harassment, including sexual, racial, or religious harassment, 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;
  - Willful destruction or defacing of school property;
  - Behavior that 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;
  - Physical, verbal, or sexual harassment that is intended to physically harm a student or to create an intimidating or threatening educational environment;
  - Any sexually aggressive action or the coercion of any student to engage in sexual activity;
  - Possession, distribution, control, use, sale or arranging for the sale of an alcoholic beverage as defined in Utah Code Ann. 32A-1-105;
  - Bullying or a pattern of bullying;
  - Possession, distribution, control use, sale, or arranging the sale of cigars, cigarettes, or tobacco, as defined by Utah Code Ann. 76-10-101;
  - Possession, distribution, control, use, sale, or arranging for the sale of contraband, including but not limited to real, look-alike or pretend weapons, fireworks, matches, lighters, alcohol, tobacco, mace, pepper spray, laser pointers, pornography, illegal drugs, and controlled substances, drug paraphernalia, or any other material or item that has caused or may cause substantial disruption to school operations;

- Inappropriate use of an electronic device to access pornographic, obscene, or inappropriate sites or to access any site that interrupts and/or disrupts the educational environment—whether or not such devices have been provided by BRCS or are a student’s own device (appropriate use of electronic devices, cellular phones, etc., is defined each year by the Administration and subject to the discretion of the Administration);
- Retaliation or reprisal aimed toward a student who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted by the school;
- Criminal activity or other serious violation involving weapons, drugs, or the use of force that 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 or when it occurs.
- The repetition of minor infractions over a period of time.

**Expulsion:**

- A student may be expelled (or rusticated) for any violations or major infractions for which a student may be suspended;
- A student is likelier to be expelled or rusticated for violations or major infractions that are repeated or persistent;
- A single, egregious act or major infraction may result in expulsion or rustication regardless of a student’s prior record of appropriate behavior;
- A student who possesses, controls, uses, or threatens use of a real weapon, explosive, noxious or flammable material, or a student who uses or threatens to use a look-alike or pretend weapon with the intent to intimidate another person or to disrupt normal school activities will be expelled or rusticated from all school programs and activities for a period of not less than one year, subject to the following: (Utah Code Ann. 53a-11-904(2)(b))
  - Within forty-five (45) days after the expulsion or rustication for a weapons violation, the student will appear before the Administration, accompanied by a parent or legal guardian;
  - The Administration will determine what conditions must be met by the student and the student’s parents for the student to return to school, if the student should be placed on probation in a regular 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 at faculty at the school;
  - The Administration will determine if it would be in the best interest of both the school and the student to modify the expulsion or rustication to a term less than a year. The Administration will give the highest priority to providing a safe school environment for all students.
- Students with disabilities under IDEA and Section 504 who have carried a weapon to school or to a school function will be governed by the procedures outlined in the “Change of Students with Disabilities” Section.

**Additional Grounds for Suspension, Rustication, or Expulsion:**

- A student will be suspended or expelled from the Bear River Charter School for the following reasons: (Utah Code Ann. 53A-11-904(2)(a))
  - Use, control, possession, distribution, sale, or arranging for the sale of an illegal drug or controlled substance (including alcohol), an imitation of a controlled substance, drug paraphernalia in a school building, in a school vehicle, on school property, or in conjunction with any school activity;
  - Misuse or abuse, distribution, sale or arranging for the sale of prescription medication at school or a school function;
  - 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 and not to exceed the recommended daily dose including, but not limited to, aspirin, ibuprofen, Tylenol/acetaminophen, cough drops, allergy medication, cough syrup, and mouthwash);
  - Students with disabilities under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act that engage in the illegal use of drugs or alcohol will be suspended or expelled to the same extent as non-disabled students for the possession, use, control, distribution, sale, or arrangement of the sale of illegal drugs, alcohol, or controlled substances on school property or in conjunction with any school activity.
  - Students receiving special education and related services under IDEA that knowingly possess or use illegal drugs or that sell or solicit the sale of a controlled substance while at school or a school function will be governed by the procedures outlined in the “Change of Placement for Students with Disabilities” Section.

Note: Any student that is reasonably suspected of violating the above controlled substance code may be subject to a drug test for cause, arranged and paid for by the school as well as independent or district-related drug counseling and education programs, paid for by the parents, as a condition of readmission to the school. Students who refuse to submit to required drug testing and counseling or education programs, or who refuse to cooperate with the Administration with respect to the sharing of appropriate information, may be expelled from the school.

Note: Any student who is suspended or expelled for violating the above controlled substance code may be subject to random drug testing, at any time and for any reason, for a period of one year from the date of offense. If the student tests positive, he/she may be expelled from all school programs or activities at the discretion of the Administration.

- Students that engage in any form of gang activity on or about school property, or at any school activity may be suspended, rusticated, or expelled under the terms of this policy.

**Consequences for Minor Infractions:**

- The Bear River Charter Administration may impose any number of consequences for minor

infractions or repeated minor infractions as defined by the Administration.

- Consequences for minor infractions may include but are not limited to admonishment, work projects, classroom or administrative detentions, temporary removal from the classroom, in-school half or full-day suspensions, community enrichment, etc.
- Consequences for minor infractions or repeated minor infractions may also include mandatory meetings between students and Administrators, mandatory meetings between students, parents, and Administrators, as well as the establishment of a contract of behavior whose content will be that deemed appropriate by the Administration.

**Discretionary Privilege of the Administrators and Faculty of the Bear River Charter School:**

In the interest of their students' development and growth, the Administration and Faculty of the Bear River Charter School retain the privilege and acknowledge the obligation to determine disciplinary consequences based on the following factors related to student infractions:

- The age of the child or children involved;
- The degree of harm inflicted;
- The surrounding circumstances;
- The nature and severity of the behavior/s/;
- The relationship between the parties involved;
- The context in which the alleged incident/s occurred;
- The pattern of behavior demonstrated by an individual student.

**Disciplinary Procedures**

**General Procedures**

- The Bear River Charter School seeks first address to academic and behavioral issues with a student and to invite him/her into any discussion of academic or behavioral struggles
- The Bear River Charter School will implement reasonable supports and strategies to help students whose behavior in school falls short of expectations and rules prior to any suspension, rustication, or expulsion unless the behavior is extreme, violent, or constitutes a major infraction (Utah Code Ann. 53A-11-906).
- A remedial discipline plan may include, but not be limited to, any of the following actions:
  - Meetings and discussions between Administrators and students;
  - Meetings and discussions between Administrators, teachers, and students;
  - Meetings and discussions between Administrators and parents;
  - Meetings and discussions between Administrators, parents, and students;
  - Phone conversations with parents or legal guardians;
  - Evaluation of behavior by qualified individuals;
  - Behavioral contracts;
  - After-school or in-school detention;
  - In-school suspensions (ISS);
  - Suspensions out of school;
  - Rustication (temporary expulsion);
  - Relevant education programs;

- Counseling;
- Home study;
- Alternative programs;
- Law enforcement or state assistance as appropriate.
- Administrators and teachers contact parents at scheduled and formal times throughout the year (Parent Teacher Conferences, Report Cards), but do not contact parents about each minor infraction or failure.
- Parents are contacted about any serious infraction of the disciplinary code or when a student's progress shows sign of stagnation.
- Administrators and teachers implement specific and appropriate supports for students experiencing unique difficulties.
- Administrators and teachers use a combination of discussion and consequences to help a student understand the type of community we seek to become, and to help students understand how they can contribute to the making of that community.
- Administrators and teachers measure a student's progress regularly and by a consideration of a student's overall progress during the course of a year along with the student's own evaluation of his/her progress.
- Parents may contact Administrators or teachers with any concerns, questions, needs, or recommendations.
- Parents are solely responsible for the alternative education of a student due to a student's suspension, rustication, or expulsion beyond education services that the school can reasonably provide.
- The Administration shall contact the parent/guardian of students who have been rusticated or temporarily expelled on a monthly basis to determine the student's progress.
- The parent/guardian and designated officials may enlist the cooperation of the Division of Family Services, the juvenile court, law enforcement, or other appropriate government agencies in determining how to meet the education needs of a student.
- Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA, procedures outlined in the State of Utah Special Education Rules shall be followed, including prior written notice to parents or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement occurs.

#### **Specific Procedures**

- Students are subject to search and seizure provisions of this policy: the Administration and its designees may search for and confiscate gang paraphernalia, apparel, weapons, contraband, illegal substances, etc. at any time that they judge such searches and seizures to be reasonable and required to maintain a safe school environment.
- The Administration and its designees will not perform unreasonable or excessive searches and seizures.
- School officials shall consult with local law enforcement authorities and gang detectives whenever they have questions regarding illicit activity on campus.
- The BRCS governing board has delegated to the Principal the authority to suspend a student at BRCS for up to ten (10) school days (in accordance with Utah Code 53A-11-905).

- The BRCS governing board delegated to the Principal the authority to suspend a student from BRCS for up to one year (in accordance with Utah Code 53A-11-905).
- The Board, through a member of its Executive Committee, may expel a student for a fixed period of time or indefinitely at the recommendation of the BRCS Principal/Superintendent. The BRCS Principal/Superintendent will report to the governing board at least yearly concerning expulsions, rustications, and suspensions (in accordance with Utah Code 53A-11-905).
- The Administration will notify the custodial parent or guardian of any student facing suspension of ten (10) school days or less without delay regarding the suspension, the grounds for the suspension, the duration of the suspension, and the time and place for a meeting between the Administration and the parent/guardian in order to review the suspension.
- The Administration may also notify the non-custodial parent, if requested in writing, of the suspension of his/her student unless the release of such information is prohibited by a court order (in such cases, the custodial parent must provide a certified copy of such an order to the school).
- The Administration will notify the custodial parent or guardian of any student facing rustication or expulsion regarding the charges against the student and the proposed discipline.
- The Administration may also notify the non-custodial parent of potential rustication or expulsion of his/her student, if requested in writing, unless the release of such information is prohibited by a court order (in such cases, the custodial parent must provide a certified copy of such an order to the school).
- The Administration shall document the charges, evidence, and action taken relative to any suspension, rustication, or expulsion of a student.
- In any meeting between the Administration and a student from which disciplinary action may reasonably follow, a designated advocate (teacher, advisor) for the student will attend and ensure that the student has been provided an explanation of the evidence and an opportunity to respond, rebut, or to explain the evidence.
- In the case of the rustication or expulsion of a student, the Administration will attempt in good faith to hold a meeting with a parent/guardian of the student in which written statements, evidence produced in informal and formal meetings, decisions of the Administration, and parental recommendations and concerns are produced and discussed.
- When the Administration decides to rusticate or expel a student, the Administration will send a written notice by certified mail, return receipt requested, to the student's parent/guardian that includes the following:
  - A description of the alleged violations or reasons for disciplinary action, the penalty imposed;
  - A notice that a due process hearing may be requested in writing within ten (10) working days of the receipt of the notice;
  - A statement that describes the Board's authority to appoint an impartial Hearing Officer or Officers, who may be employees of the school, to review the situation;
  - A statement that the expulsion will take effect immediately and will continue for the stated period unless a hearing is requested in a timely manner and the unless the Hearing Officer determines otherwise;
  - The mailing date of the notice;
  - A statement explaining that, in the absence of a written request for a hearing, the

School's decision will be final and the parent's right for an additional hearing waived.

- The Board shall determine hearing procedures that will include but not be limited to a written notice of the Hearing Officer chosen, the date, place, and time of the hearing, the issues and evidence to be discussed at the hearing, and the rights of all parties to examine relevant records. (Note: Formal rules of evidence do not apply to the hearing, no discovery is permitted, and hearings shall be closed to the press and public; the Hearing Officer may also suspend or terminate a hearing if persons involved are abusive or disorderly). Any decision of the Hearing Officer is subject to the final approval of the Board President. Such approval constitutes a final decision.

#### **Change of Placement for Students with Disabilities**

- Functional behavioral assessments and behavioral intervention plans will precede any disciplinary actions for students with disabilities. Such plans are subject to review and modifications in the face of inappropriate behavior and in an effort to address specific behavioral issues.
- The Administration will follow procedures outlined in the Utah State Board of Education Special Education Rules when a student who is receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA is facing a long-term disciplinary action or a change of placement. These include a prior written notice to a parent/guardian regarding his/her procedural due process rights.
- When the conduct of a 504 or ADA student has been determined not to be 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.
- A school need not provide services during periods of removal to a student with a disability under IDEA who has been removed from his/her current placement for ten (10) school days or less in that school year if services are not provided to a student without disabilities who has been similarly removed.
- If a student with a disability under IDEA has been removed from his/her current placement for more than ten (10) school days in the same school year, the school will provide services to the extent necessary for the remainder of the removals for the student to progress in the general curriculum in order to achieve goals set out in the student's IEP.
- Under the above circumstances of removal, school personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and to achieve goals set out in the student's IEP.
- The Administration, in consultation with a student's teacher, may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than forty-five (45) days under the following circumstances:
  - The student carries a weapon to school or to a school function;
  - The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function;

- The student has been shown by substantial evidence to pose likely injury to himself/herself or others should he/she remain in his/her current placement;
- The current placement has been demonstrated to be inappropriate after reasonable efforts have been made to minimize the risk of harm in the student's current placement (including the use of supplementary aids and services, as needed);
- The interim alternative educational setting recommended by school officials has been selected to enable a student to continue to progress in the general curriculum, although in another setting, and to receive services and modifications as described in the student's current IEP that enable the student to meet the goals set out in that IEP, as long as services and modifications designed to address the behavior issues have been put in place so that such behavior does not recur.
- The Administration must notify parents of students with a disability as soon as possible about a decision to remove a student with a disability from his/her current placement for more than ten (10) school days according to all procedural safeguards outlined by law and Bear River Charter School Policy.
- The Administration must review with qualified personnel and within ten (10) school days the relationship between the student's disability and the behavior subject to disciplinary action; the Administration and qualified personnel must use all available and relevant information in reviewing this relationship.
- If the result of the manifestation review is a determination that the behavior of a student with a disability was not a manifestation of the student's disability, disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities.
- In the above case, a free and appropriate public education must still be made available to the student with a disability even if the student is suspended or expelled from school.
- Parents may request a due process hearing to challenge the interim alternative education setting or the manifestation determination. The student will remain in the alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day period, whichever occurs first, unless the parent and school officials agree otherwise.
- If a student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after expiration of the interim alternative placement, and while a challenge to the proposed change in placement is pending, the student must remain in the current placement (the student's placement prior to the interim alternative educational setting), unless the school officials succeed in getting an order through an expedited hearing.

**Commented [JJH1]:** These do not fit the special circumstances that allow unilateral placement in an IAES. This is only allowed if the student:

- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;
- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
- (3) Has inflicted **serious bodily injury** upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA. (300.530(g)).

Threat of injury, likely injury, and inappropriate placement do not qualify for IAES. However, in these circumstances the school can certainly call and IEP meeting to consider placement. It just can't be a unilateral decision by the administration like IAES.

**Commented [JJH2]:** See 300.533 – the disciplinary placement (the IAES) is the stay put placement if challenged

#### Safe School Measures

- The Bear River Charter School will be a closed campus: students may not leave school grounds during the school day except for specific school programs or with explicit authorization from the Administration or its designees.
- A school employee may, when acting within the scope of employment, use and apply physical restraint or force as may be reasonable and necessary under the following circumstances: (see Seclusion and Restraint guidelines below)
  - To protect any person from physical injury;

- To take possession of a weapon, other dangerous objects, and/or controlled substances in the possession of a student;
- To restrain or remove a student from a situation in which that student is violent or disruptive, or is a danger to himself/herself or others;
- To protect property from serious damage.
- Any employee exercising physical restraint on a student will notify administrators and parents in accordance with Seclusion and Restraint guidelines below.
- School employees may not inflict or cause the infliction of corporal punishment upon a student.
- The Administration and teachers will make reasonable attempts to notify a parent/guardian before detaining a student after school. If such detention is necessary for the student's health or safety, the school will make an exception to the requirement of notice.
- A student may be denied admission to the Bear River Charter School if he/she has been previously rusticated or expelled from the Bear River Charter School or another school during the preceding twelve (12) months (U.C.A. 53A-11-904.3).
- The Administration has the authority to conduct reasonable searches of students and student property in order to preserve a safe environment for all students and staff. Such searches may include, but are not limited to, lockers, contents within the locker, and personal property.
- Under no conditions may school officials require students to remove any items of clothing other than a hat, coat, shoes and socks. Officials may request that pockets be turned inside out or that sleeves be rolled up. Students may not be touched during searches. Note: Law enforcement may be summoned to conduct further searches when a reasonable suspicion of hidden contraband or weapons exists.
- The Administration shall document all searches conducted of a student's property or person. Such documentation shall include the time, date, and place of the search, the reasonable suspicion giving rise to the search, the name/s and title/s of those conducting the search, any evidence found or not found as a result of the search, the official who took possession of any contraband, and notification or attempts to notify parents about the search.
- The Administration will proceed with investigations whenever school rules or policies have been broken. Whenever the Administration believes that laws have been broken or that child abuse has occurred, however, the Administration shall request the appropriate authorities to conduct the investigation.
- The Administration may invite law enforcement officials and other state officials to the school to conduct investigations of alleged criminal conduct on the school premises or during a school-sponsored activity or to investigate other criminal activity.
- School officials shall cooperate with law enforcement authorities managing official duties.
- School officials may not release students to law enforcement authorities unless the student has been placed under arrest or unless the parent or legal guardian and the student agree to the release.
- The School will make every reasonable effort to contact a student's parent/guardian immediately when a student has been removed from school for any reason by law enforcement authorities with the exception of cases of child abuse and neglect.
- The Administration, teachers, and other employees of the Bear River Charter School will immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Family Services should any administrator, teacher, or employee have reason to believe that a

child has been subject to incest, molestation, sexual exploitation, sexual abuse, physical abuse, neglect, or conditions or circumstances that would reasonably result in such abuse or neglect.

- The Administration will document all activity by law enforcement authorities and other state officials on the Bear River Charter Campus. All such activity will be reported to the Board.
- The Board will review annually the Safe School Measures, make recommendations as needed based on school data and school actions, and ensure the training of school personnel on safe school measures.

#### **Discipline Records**

- The Administration may include appropriate information in the education record of any student concerning disciplinary action taken against the student for conduct that poses a significant risk to the safety or well-being of that student, other students, or the school community.
- The Administration may disclose student discipline information as described above to teachers and other school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.
- The Administration shall not release personal and identifiable discipline records to other government agencies, including law enforcement agencies, unless the agency produces a subpoena or court order, or unless the student's parent/guardian has authorized such disclosure.

#### **Seclusion and Restraint**

BRCS recognizes that every student should have the opportunity to learn in an environment that is safe, conducive to the learning process, and free from unnecessary disruption. At times, student behavior may present an immediate danger requiring emergency safety interventions. Behavioral interventions for students should promote and facilitate their safety and dignity. This section of the policy outlines restrictions on, and allowable uses of, emergency safety interventions for all students.

#### **Definitions for Seclusion and Restraint**

- **Discipline** includes imposed discipline and self-discipline.
- **Disruptive Student Behavior** includes the grounds for suspension or expulsion described in Utah Code Ann., Section 53A- 11-904 and the conduct described in Utah Code Ann., Subsection 53A-11-908(2)(b).
- **Emergency Safety Intervention** means the use of seclusion or physical restraint when a student presents an immediate danger to self or others, and the intervention is not for disciplinary purposes.
- **Immediate Danger** means the imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm.
- **Mechanical Restraint** means the use of a device as a means of restricting a student's freedom of movement.
- **Physical Restraint** means personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.
- **School** means the Bear River Charter School (BRCS).
- **School Employee** means a School teacher, a School staff member, a School administrators, or any other person employed, directly or indirectly, by BRCS.

- **Seclusion** means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion is not timeout as that term is defined in this policy.
- In addition to the foregoing, and consistent with Utah Administrative Code R277- 609, **Seclusion** means the following:
  - that a student is placed in a safe enclosed area by School personnel and in accordance with the requirements of Utah Administrative Code R392- 200, which provides requirements for the design, construction, operation, sanitation, and safety of schools, and in accordance with R710-4-3, which provides fire safety requirements;
  - that a student is purposefully isolated from adults and peers and prevented from leaving, or reasonably considered to be prevented from leaving the enclosed area.
- **Timeout** means a behavior management technique that may be part of an approved treatment plan involving the separation of the student from the group, in a non-locked setting, for the purpose of calming. Timeout is not seclusion.

#### **Training for Emergency Safety Intervention (ESI)**

Appropriate School personnel will receive ongoing training in the following:

- Crisis intervention
- Professional development for Emergency Safety Intervention
- Policies related to emergency safety interventions consistent with evidence based practices.

#### **Prohibited Practices**

Emergency Safety Interventions should not include the following:

- Physical restraint, except when a student presents a danger of serious physical harm to self or others or is destroying property of significant value, whether monetary, sentimental, or other;
- Physical restraint that obstructs the airway of a student, or any physical restraint that adversely affects a student's primary mode of communication;
- Prone, or face-down, physical restraint;
- Supine, or face-up, physical restraint;
- Mechanical restraint, except those protective, stabilizing or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, seatbelts, car seats, or any other safety equipment when used to secure students during transportation, including bus harnesses.
- **Note:** Use of a bus harness should be approved by the Director of Special Education and written into a student's Behavior Intervention Plan (BIP).
- Chemical restraint, except as prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition, and administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;
- Seclusion, except when a student presents an immediate danger of serious physical harm to self or others.

#### **Prohibited and Allowed Practices for Students with Disabilities**

- For a student with a disability, emergency safety interventions written into a student's Individualized Education Program (IEP), as a planned intervention, **are prohibited unless** School personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in Utah Admin. Code R277-608-4 have been attempted, a Functional Behavior Assessment (FBA) has been conducted, and a (BIP) based on data analysis has been written into the plan and implemented.
- **Use of ESI as a planned intervention under this paragraph requires approval** from the Director of Special Education after consultation with the School's Administration and Behavioral Specialist.

### **Physical Restraint and Seclusion**

If an employee physically restrains a student or puts a student in seclusion:

- The School or the employee shall notify the School's administration and the student's parent or guardian consistent with BRCS's *Parent Notification Policy* and State law.
- The employee must immediately terminate physical restraint or seclusion when the student is no longer an immediate danger or if the student is in severe distress.
- The use of restraint should be for the minimum time necessary and never for more than 30 minutes.
- The School shall use a release criteria.
- The School shall ensure that any door remains unlocked.
- The School shall maintain the student within line of sight of the employee.
- The School will not use physical restraint or seclusion as a means of discipline or punishment.

### **Emergency Safety Intervention (ESI) Committee**

The School shall establish and maintain an Emergency Safety Intervention (ESI) Committee. The ESI Committee shall include at least two administrators, at least one parent or guardian of a student enrolled in the School, and at least two certified educational professionals with behavior training and knowledge in both state rules and BRCS's discipline policy. The School's ESI Committee shall meet often enough to monitor the use of emergency safety intervention in the School and determine and recommend professional development needs.

### **Parent/Guardian Notification for ESI**

- When ESI is used, the School shall notify the student's parent or guardian immediately or demonstrate every effort to do so.
- The notice shall be documented within the School's student information systems records.
- The School shall provide a parent or guardian with a copy of notes and documentation taken during the use of ESI upon request of the parent or guardian.
- Within 24 hours of the use of ESI, the School shall notify a parent or guardian that the parent or guardian may request a copy of notes and documentation taken during the use of ESI.
- A parent or guardian may request a time to meet with School staff and administration to discuss the incident that required use of ESI.
- In addition, the School shall provide notice to parents and information about resources available to assist a parent in resolving the student's disruptive behavior, provide for notices of disruptive behavior to be issued by the School to qualifying minor(s) and parent(s) consistent with the

following:

- Numbers of disruptions and timelines in accordance with Utah Administrative Code Section 53A-11-910;
- School resources available; and,
- Cooperation from the appropriate juvenile court in accessing student school records, including attendance, grades, behavioral reports and other available student school data.

**Allowable Use**

Consistent with Utah Code Ann. Section 53A-11-802, nothing in this policy shall prohibit an employee from using reasonable and necessary physical restraint or force in self-defense or otherwise appropriate for the following:

- To obtain possession of a weapon or other dangerous object in the possession or under the control of a student;
- To protect a student or another person from physical injury;
- To remove from a situation a student who is violent or threatening; or,
- To protect property from being damaged.

DRAFT

