

## **DaVinci Academy of Science and The Arts**

**Policy Number: 101**

**Policy Section: 100- Administration**

**POLICY TITLE: Prohibited Conduct and Weapons Policy (SAFE SCHOOL POLICY)**

### **Revision History**

Effective Date	Action Date	Revised
17 November 2004	New Policy	December 5, 2018

## Prohibited Conduct and Weapons Policy (SAFE SCHOOL POLICY)

Effective Date: 17 Nov 2004

Revision Date: 13 May of 2015

## 1. POLICY

It is the policy of the DaVinci to promote a safe and orderly school environment for all students and employees. Criminal acts or disruptive behavior of any kind will not be tolerated. It is the goal of DaVinci to implement a Zero Tolerance Policy that truly impacts the climate of our school by making DaVinci a safe place to learn. This Zero Tolerance/Zero Expulsion philosophy will provide for thoughtful but aggressive action, which will protect students while at the same time assuring they receive the best education possible.

## 2. References

2.1 Utah Code Ann. Title 53G Chapter 8 Part 2—School Discipline and Conduct Plans

2.2 Utah Code Ann. Title 53G Chapter 8 Part 302—Physical Restraint Guidelines

2.3 Utah Code Ann. Title 536 Chapter 9 Part 6—Bullying and Hazing

2.4 Utah Code Ann. Title 78A Chapter 6 Part 11 Section 1113—Property Damage Caused by Minor

2.5 Utah Administrative Code, Rule 277-609—Standards for LEA Discipline Plans

## 3. SCOPE

This policy is primarily directed towards student behavior, however it applies to all employees, volunteers and visitors. DaVinci is strongly committed to providing a safe school environment for students, employees, and visitors. In compliance with state and federal laws, DaVinci has adopted a zero tolerance policy regarding the use or possession of weapons, real or look alike, as well as verbal and written threats of violence.

3.1 In implementing this policy, DaVinci's philosophy is one of "Zero Tolerance" coupled with "Zero Expulsion." "Zero Tolerance" means any safe school violations will not be tolerated in school settings and should a violation occur, appropriate action will be taken. "Zero Expulsion" is applied in determining what action is appropriate, each incident is considered on a case-by-case basis to determine how to best prevent any future incidents while providing support and continued educational services to the student.

3.2 There are obviously violations, which are so severe that a student or any individual may be removed from the regular school setting, perhaps permanently. However, DaVinci has access to alternative educational programs with differing degrees of supervision and support services in an attempt to continue to provide educational service to a student who has been removed for serious incidents after due process.

## 4. PROHIBITED CONDUCT & RELATED DISCIPLINE

4.1 Prohibited conduct is forbidden at school, on school property, including school use vehicles and at any school activity. A serious violation that threatens or harms a school,

school property, a person connected with school or property associated with a person connected with school is forbidden regardless of where it occurs.

4.2 You WILL be removed from school for at least 1 year for a serious violation involving:

4.2.1 A real, look alike, or pretend firearm, or

4.2.2 Explosive or flammable material.

Exceptions may be made on a case-by-case basis as determined by the Executive Administrator.

4.3 You WILL be removed from school for:

4.3.1 Possession, control, actual or threatened use of a real, look alike or pretend weapon, explosive or noxious or flammable material;

4.3.2 The sale or distribution of a drug, controlled substance, imitation controlled substance or drug paraphernalia;

4.3.3 Using or threatening to use serious force affecting a student or staff member.

4.4 You MAY be removed from school for

4.4.1 Willful disobedience or violating a school rule;

4.4.2 Defying authority;

4.4.3 Disruptive behavior;

4.4.4 Foul, profane, vulgar or abusive language;

4.4.5 Defacing or destroying school property;

4.4.6 Truancy;

4.4.7 Theft;

4.4.8 Posing a significant threat to the safety or morals of a student, school employees or school facilities;

4.4.9 Possessing, using, controlling or being under the influence of alcohol, a drug, an imitation drug or drug paraphernalia or misusing any substance;

4.4.10 Possessing or using tobacco;

4.4.11 Hazing, demeaning or assaulting someone or forcing someone to ingest a substance;

4.4.12 Inappropriate exposure of body parts;

4.4.13 Sexual or other harassment; or

4.4.14 Gang-related attire or activity.

4.5 The type and length of discipline is based on factors such as previous violations, severity of conduct and other relevant educational concerns.

4.6 When appropriate, students will be placed on remedial discipline plans.

4.7 A school employee may not subject a student to physical restraint or secluded time out unless such action is utilized as a necessary **Emergency Safety Intervention** (ESI) in compliance with these procedures and consistent with evidence-based practices.

4.7.1 Definition: “Emergency Safety Intervention means”: The use of secluded time or physical restraint when a student presents an immediate/imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm. An emergency safety intervention shall not be used for disciplinary purposes.

4.7.2 **General Requirements For ESI:**

4.7.2.1 Licensed personnel and other personnel who may work directly with students shall be trained on the use of effective alternatives to ESI, as well as the safe use of ESI and release criteria.

4.7.2.2 An ESI may only be used for maintaining safety and may not be used as a means of discipline or punishment

4.7.3 **Students with Disabilities Receiving Special Education Services:**

4.7.3.1 Use of ESI for a student with a disability receiving specialized educational services under IDEA or Section 504 shall comply with all applicable state and federal laws, and the district policy.

4.7.4 **Physical Restraint**

4.7.4.1 A school employee may use and apply reasonable and necessary physical restraint as an ESI only:

4.7.4.1.1 to protect the student or another person from serious physical harm;

4.7.4.1.2 to take possession of a weapon, or other dangerous objects in the possession or under the control of a student; or

4.7.4.1.3 to stop the student from destroying property.

4.7.4.2 If an employee uses physical restraint as an ESI on a student, use of the following restraints are prohibited:

4.7.4.2.1 prone, or face-down physical restraint;  
supine, or face-up physical restraint;

4.7.4.2.2 physical restraint which obstructs the airway or adversely affects the student’s primary mode of communication;

4.7.4.2.3 mechanical restraint, except for protective, stabilizing, or legally required mechanical restraints, such as seatbelts or safety equipment used to secure students during transportation; or

4.7.4.2.4 chemical restraint, except as prescribed by a licensed physician, or other qualified health professional, for the standard treatment of a student’s medical or psychiatric condition, and implemented in compliance with a student’s approved Health Care Plan.

4.7.4.3 All physical restraint shall:

4.7.4.3.1 be applied for the minimum time necessary to ensure safety and a release criteria must be implemented;

4.7.4.3.2 be discontinued as soon as the imminent danger of physical harm to self or others has dissipated;

- 4.7.4.3.3 be discontinued if the student is in severe distress; and
- 4.7.4.3.4 never be imposed for more than 30 minutes.
- 4.7.5 Seclusionary Time Out: A school employee may, when acting within the scope of employment, place a student in seclusionary time out as an ESI only under the following circumstances:
  - 4.7.5.1 the student presents an immediate danger of serious physical harm to self or others;
  - 4.7.5.2 the employee uses the minimum time necessary to ensure safety and uses a release criteria;
  - 4.7.5.3 any door remains unlocked;
  - 4.7.5.4 the student is within line of sight of an employee at all times; and
  - 4.7.5.5 the student is not placed in a seclusionary timeout for more than 30 minutes.
- 4.7.6 Parent Notification
  - 4.7.6.1 If a crisis situation occurs requiring an ESI be used, the school or employee shall notify the student's parent, the school administrator, and the executive administrator as soon as possible and no later than the end of the school day.
  - 4.7.6.2 If the ESI is applied for longer than fifteen minutes, the school shall immediately notify the student's parent and school administration.
  - 4.7.6.3 Parent notifications made under this section shall be documented in the student information system, as required by Utah Admin. Code R277-609-6(C)(4).
  - 4.7.6.4 Within 24 hours of using ESI, the school shall notify the parent that they may request a copy of any notes or additional documentation taken during the crisis situation.
  - 4.7.6.5 Upon request of a parent, the school shall provide a copy of any notes or additional documentation taken during a crisis situation.
  - 4.7.6.6 A parent may request a time to meet with school staff and administration to discuss the crisis situation.
- 4.7.7 Emergency Safety Intervention (ESI) Committee
  - 4.7.7.1 The LEA shall establish an ESI committee which includes:
    - 4.7.7.2 at least two administrators; at least one parent of a student enrolled in the LEA appointed by the LEA; and at least two licensed personnel with behavior training and knowledge in both state rules and the board's conduct and discipline policies.
  - 4.7.7.3 The committee shall:
    - 4.7.7.3.1 meet often enough to monitor the use of ESI within the district;
    - 4.7.7.3.2 determine and recommend professional development needs;
    - 4.7.7.3.3 develop policies for dispute resolution processes to address
    - 4.7.7.3.4 concerns regarding disciplinary actions; and
    - 4.7.7.3.5 create and communicate uniform district methods for
    - 4.7.7.3.6 evaluation of the efficiency and effectiveness of each schools' rules and standards.
    - 4.7.7.3.7 The LEA shall collect, maintain, and periodically review the documentation or records regarding the use of ESI in LEA schools or programs.

4.7.7.3.8 The LEA shall annually provide documentation of any school, program use of ESI to the State Superintendent of Schools.

4.8 If you damage or lose school property, then your official report cards, diploma and transcripts may be withheld until payment for the damage is received or the lost property is recovered.

## 5 SEARCHES

- 5.1 School personnel can search you, your locker, your personal property and your vehicle parked on school property based on reasonable suspicion. Reasonable suspicion may be based on, but not limited to: use of dogs, ~~or~~ metal detectors, and reported violations, or other circumstantial evidence.
- 5.2 School personnel can also conduct random searches that might include all lockers and other school property.
- 5.3 School property: When using school property, such as lockers, electronic devices, or storage areas, all such school property is issued with the understanding that school officials have the right to inspect such areas at any time for any reason and the student has no expectation of privacy.

## 6 EXPULSIONS AND SUSPENSION DEFINED

- 6.1 Expulsion is a disciplinary removal from school by the School Board for more than 10 school days without an offer of alternative educational service.
- 6.2 Suspension is any other disciplinary removal from school.

## 7 READMISSION AND ADMISSION

- 6.1. If you are removed from school under section 4.2, readmission depends upon satisfactory evidence that you will not be a danger to yourself, others or school property.
- 6.2. If you are removed from school under 4.3 or 4.4, you can be readmitted after your parent/guardian meets with school officials to make a plan to correct your behavior and after you complete your days of suspension.
- 6.3. The school may deny admission to a student who has been expelled from any school in the last twelve months.

## 8 DUE PROCESS

- ~~8.1~~ The Executive Administrator or designee is granted full authority to investigate any alleged violations of this policy as set forth in paragraph 3. Further, the ~~director~~ Executive Administrator or designee makes the appropriate decision based on facts presented by witnesses and the accused individual's side of the story. The ~~director~~ Executive Administrator or designee may seek legal opinions before, taking action.
- 8.2 If the Executive Administrator or designee recommends removal for more than 10 school days, a specially appointed DaVinci Student Services Team Coordinator will

review the case. This review will be held within 10 days of your removal from school.

8.3 If you are removed from school for more than 10 school days, you can appeal the decision by writing to DaVinci Board of Directors within 10 days of the Teams decision. Your parent or guardian is responsible to plan for your education during suspension and to pay for any services not provided by DaVinci

## 9 STUDENTS WITH DISABILITIES

If you are a student with a qualified disability, your Director of Academic Services will explain the separate procedures that may apply based on the procedural safeguards under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.

## APPENDIX A

## DaVinci Student Discipline Procedure

Due process will be followed in all cases. Certain events require immediate removal of alleged violators, whether they are students, employees or visitors or volunteers. The Executive Administrator or designee will determine how to initially handle each case individually.

- Due Process

Employees, Volunteers or Visitors will be referred to authorities for appropriate resolution of violations of the law or policy related to prohibited conduct. The Executive Administrator will determine restoration of school access as circumstances permit.

In determining whether sufficient evidence exists to impose discipline, schools are held to a lesser standard of "reasonable suspicion" not the higher standard of "probable cause."

The Executive Administrator or designee has the authority to suspend you for less than 10 days for any of the listed activities. The DaVinci School Board also designates to the Executive Administrator the authority to suspend up to a year for serious violations of this policy. The DaVinci School Board may expel a student for a fixed or indefinite period, provided that the expulsion is reviewed by the Executive Administrator or designee, and the conclusions are reported to the board at least once a year.

- The type and length of the intervention or discipline will be based on such factors as the severity of the conduct, previous violations, other educational records and the recommendations of the administrator at the school. Interventions or conditions for return may include:

- completion of a drug test and drug and alcohol assessment;
- testing and evaluations;
- counseling / intervention course(s);
- risk assessment; or
- placement at an alternative school.

If you are a student with a qualified disability, the executive administrator or designee will explain the separate procedures that may apply based on the procedural safeguards under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.



- Special education students must meet with the School I.E.P. Team. Call DaVinci Office of Special Education if you have any questions the school cannot answer.
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DaVinci complies with the following laws:

- Title VII of the Civil Rights Act of 1964, which prohibits discrimination in federally, funded programs on the basis of race, color, or national origin. All vocational opportunities are offered without regard to race, color, or national origin, sex or disability.
- Title IX of the Education Amendments of 1972, which prohibits discrimination in federally, funded programs on the basis of sex.
- Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination for disabled students that do not require services pursuant to the Individual with Disabilities Education Act.
- The Americans with Disabilities Act of 1990 which prohibits employment discrimination and discrimination by a public entity against a qualified person with a disability.
- Safe and Gun Free Schools Act of 1994.

When a student is suspected of violating DaVinci Policy the following apply:

- The Chief Executive Officer or designee must provide the student an opportunity to hear any and all evidence and to present any information in their defense. You should present any and all information to the school administrator. This is your hearing.
- If a short-term suspension (less than 10 days) is assigned, then a written statement explaining the infraction, the length of the suspension, when the child may return to school, and a time to meet with the administrator will be sent home and needs to be returned signed at the end of the short-term suspension.
- If a suspension or expulsion of more than 10 days is recommended as mandated by the specific violation, the Chief Executive Officer will automatically review the facts as presented during the hearing. If the Chief Executive Officer presided over the initial decision to suspend or expel more than 10 days then a special case management team will be assembled, consisting of the school counselor and another administrator/director, to review the decision or recommendation. You will be notified of this review in writing within 48 hours of the decision/recommendation to suspend/expel more than 10 days. After this notification, you may elect to appeal the final decision by following the appeal process below.

### **Appeal Process**

### **What to expect after a disciplinary decision of a change of placement greater than 10 days**

After a disciplinary decision has been made, which resulted in a recommendation of change in placement greater than 10 day, your child's case will be reviewed by the ~~Chief~~ executive administrator or the DaVinci Case Management Team. This team will review the case and ensure that due process was followed. The Davinci Case Management Team will finalize all paperwork and give you a copy with 48 hours. After receiving the final paperwork from the DaVinci Case Management Team, you may decide how to proceed by following the appeal process below.

### **Formal Request to Appeal the Disciplinary Decision**

The student or his or her parents or guardian may formally appeal the disciplinary decision to the DaVinci Board of Directors within 10 days of receiving final paperwork regarding the disciplinary decision/recommendation to remove/change your student's placement greater than 10 days. To appeal please write a letter to the DaVinci Board Secretary that contains: your desire to appeal the decision/recommendation, reasons for appeal, and contact information. The DaVinci Board Secretary will ensure that your written appeal request is sent to the board. You will be contacted within 5 working days about the appeal and when to expect a board decision. The board of directors may or may not convene another hearing to make a final determination. (If you need help contacting the DaVinci Board Secretary please contact the executive administrator, (see Appendix D for specific names and forms).

### **Due Process Concerns**

Please contact the executive administrator for any due process concerns (see Appendix D for specific names and forms). The appeal must be made in writing within 10 working days of the disciplinary decision/recommendation and cite a specific problem or oversight that resulted in an inappropriate disciplinary decision. The letter to the chief executive officer must identify a problem or oversight in a) the Incident Report, b) the adjudication of the behavior as a Level 1 - 5 infraction, and/or c) the disciplinary decision.

The executive administrator will investigate the concern and make one of two decisions:

1. No due process violation occurred and the disciplinary decision may be upheld on both procedural and substantial issues, resulting in the end of the appeal process.
2. There were due process violations and the case will be sent back to the administration with a directive to review the case following the procedures and policies of the institution according to State and Federal Law.

### **Due Process**

Due process is a final administrative procedure to protect the right of the student when a problem arises. A due process review of a disciplinary decision is the final review that can

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occur and can be made for procedural reasons (a review of whether a disciplinary decision was made following the procedures and policies of the institution) or substantial reasons (a review of whether the decision was fair and consistent with previous decisions).

If you have any questions regarding the appeal process please contact the executive administrator for assistance at 801-409-0708.