

Under normal circumstances, Anthony Charter School endorses a policy of progressive discipline in which it attempts to provide employees with notice of deficiencies and an opportunity to improve. If corrective action is warranted, the type of discipline will normally be determined on a case-by-case basis by the nature of the circumstances surrounding the problem. ACS will follow these guidelines as a minimum. Set forth below are some *Examples* of misconduct which should result in discipline. This list is not intended to be all-inclusive:

- * Possession of weapons, firearms or explosives on the premises.
- * Threatening, intimidating, coercing or abusing students, staff, visitors or others.
- * Acts of conduct detrimental to student care that result in abuse of any student.
- * Possession, consumption or under the influence of intoxicants, or drugs on the premises.

- * Breach of confidentiality.
- * Omit or falsify information on official school documents or verbally insult management.
- * Intentional violation of ACS policies.
- * Failure to report an on-the-job accident.
- * Failure to observe safety standards and rules.
- * Theft
- * Failure to follow instructions.
- * Not performing job duties (sleeping on the job).
- * Excessive tardiness.
- * Failure to use time reporting system in prescribed manner.
- * Damage to facility property.
- * An act of harassment.
- * Negligence, including leaving students unattended
- * An unexcused absence.
- * Interfering with, another employee in the performance of their work.
- * Use of demeaning, vulgar or abusive language.
- * Failure to wear prescribed uniforms or apparel.
- * Creating or contribution to unsanitary conditions.
- * Gambling on facility premises.
- * Work performance not up to established standards.
- * Conviction of a felony.

2) Administrative Leave

Suspension may be utilized in disciplinary measures:

An Investigative Suspension with pay is to be employed when the offense may be serious; the employee is not to remain on school premises, but may be allowed to go to the Principal to provide any information to be included in the investigation. Suspension allows

ACS an opportunity to review the case. **If** circumstances are found to excuse the employee's actions, the employee may be brought back to work; or, if allegations of misconduct are unfounded or unsubstantiated, the suspended employee will be brought back *to* work All cases of suspension must be determined by the Principal. The disposition of a suspension will normally be within five working days.

3) Employee Problem-Solving

- **It** is the policy of ACS that its employees are entitled to prompt, fair review of their work-related problems. Employees are encouraged to discuss problems with their supervisors first because they can usually resolve the problem. Employees who have differences with their supervisors or co-workers may seek help through ACS resolution process. This informal "open-door" process gives employees an opportunity to explore other

internal problem-solving resources. Employees are guaranteed that there are no penalties for using the process and it will not affect their standing in any way.

- **Appeal to the Governance Council**

- Community members, parents or staff may appeal a principal's decision to the governance council for final resolution

Student Discipline Policy

The primary goal of discipline in Anthony Charter School is to provide and maintain a safe, nurturing, affirmative, and appropriately challenging environment that promotes learning and positive personal growth.

While participating in any activities with the Gadsden Public Schools, ACS activity policies will be in effect.

4) Discipline Procedures for General Education Students

- Disciplinary measures will be aimed toward assisting each student in the development of self-control, social responsibility, and the acceptance of appropriate consequences for his or her actions.

- The ACS Principal will utilize the appropriate discipline procedures and options specified in State and Federal regulations and as outlined in the *ACS Student Behavior Handbook*. A copy of the full Handbook draft is attached as an Appendix to this application. It will be reviewed, amended and approved by the Interim Governing Council.

- The school Principal and faculty are responsible for developing, with students and parents, standards for day-to-day conduct in the classroom. The disciplinary measures to be employed will be determined by the Principal, the classroom teachers, and appropriate

education staff members. Any act of violence or destruction will be considered as an offense of the highest priority, as will offenses concerning drugs, tobacco or alcohol.

- Parental involvement in matters of school discipline is encouraged. Parents will be advised of disciplinary measures taken in order to elicit their understanding and support. A record of disciplinary actions taken by the Principal will be kept at the school. Once a disciplinary matter has been elevated to the Principal, parental involvement will be required, including an action plan for prevention of future incidents. A record of all disciplinary actions taken and plans will be kept on file in the ACS office. An annual report of disciplinary trends will be incorporated in the school's assessment measures.

- Corporal punishment, which is defined as any disciplinary action taken by school personnel with the intention of producing physical pain, will not be used as a disciplinary measure in ACS.

5) Interviews by School Administrators

In cases where a violation of school rules occurs, the Principal may question potential student victims and witnesses without prior consent of the parent, guardian, or legal custodian. If a school official is investigating a report of child abuse regarding the student and the suspected perpetrator is a member of the student's family, no contact with the student's family

will be made.

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culpability, the student will have the opportunity to present his or her side of the story, orally or in writing.

6) Interviews and Interrogations by Law Enforcement Officers

Law enforcement officers may wish to interview students regarding their knowledge of suspected criminal activity and may wish to interrogate students who are themselves suspected of engaging in criminal activity. Except when law enforcement officers have a warrant or other court order, or when an emergency exists, such interviews and interrogations are discouraged during the students' class time. The Principal has the right and the obligation to take reasonable steps to prevent disruption of school operations and

the educational process while at the same time cooperating with law enforcement efforts.

Accordingly, the Principal shall work together with law enforcement officers to coordinate efforts and minimize or prevent such disruption in cases of student interviews and interrogations. In the event of disagreement, the Principal or designee shall immediately school legal counsel for assistance.

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may be used against him in court, that he or she may be represented by a lawyer, and that a lawyer will be supplied free of charge if the student cannot afford one.

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7) Long-Term Suspension of Students

All students have due process procedures available to them under the *ACS Student Behavior Handbook*. This Handbook will delineate ACS' expectations for student behavior or Code of Conduct including the dress code, the student's rights, the ACS disciplinary standards and process, as well as any other guidelines for student behavior deemed necessary by the School's Governing Council. Any student for whom the school is requesting long-term suspension has the right to a suspension hearing held before a ACS hearing officer, or other party selected by the student.

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A long-term suspension is defined as the removal of a student from school and all school-related activities for more than ten (10) days and up to the balance of the semester.

A student with an identified disability may not be suspended in excess of ten school days, cumulative, without an IEP review to determine whether the student's IEP is appropriate and whether the behavior(s) in question is a manifestation of the student's disability.

The burden of proving that the student violated a provision of the *ACS Student Behavior Handbook* to the degree a student must be suspended is the responsibility of school authorities.

8) Student Expulsion

An expulsion is a disciplinary exclusion (suspension) from school that is at least two semesters in length. It may be longer or even permanent. Generally ACS wishes to limit exclusion from school to no longer than the end of the current semester. In some cases, there is a need to implement an expulsion as an **extreme** last resort for disciplining students who exhibit unacceptable behaviors such as drug possession, drug sales, acts of extreme violence, vandalism, weapons possession, weapons use, and other felonies. ACS **may** also recommend for expulsion any student who has been suspended long-term two or more times.

To Recommend Expulsion, ACS must follow the same due process procedures outlined for long-term suspension. In addition, school officials must be prepared to justify to the hearing officer the request for the most severe disciplinary action possible. The following special requirements will apply when the hearing officer elects to uphold the school's recommendation for expulsion. Unlike long-term suspension actions, the due process hearing for an "expulsion" cannot be waived. Even if the student and parents do not appear, the school must present its case to the hearing officer.

The Principal will review for affirmation all cases in which the hearing officer decides upon expulsion prior to final imposition of the discipline. Any student who has been expelled may petition for re-entry to ACS after one calendar year from the date of expulsion. Students desiring re-entry should submit a request in writing to the Principal requesting a reconsideration hearing.

9) Student Possession of a Firearm

Students found to be in possession of a firearm while at school, at any school-related event, or at any time when the *ACS Student Behavior Handbook* is in force, will be expelled from the school for a minimum of one calendar year and the offender(s) will be referred to law enforcement or appropriate juvenile authorities.

The definition of "firearm" from *18 U.S. C. 92* is summarized as, "... any weapon which will propel a projectile by the action of an explosive."

This policy will comply with the Gadsden Public Schools Weapons in School policy.

10) Students and Off-Campus Violent Acts

Any student identified to ACS as having been formally charged with committing a violent act or having illegally possessed a firearm in the community, may be assessed by the school district administration as to whether the student, 1) may reasonably present a danger to himself or others, and/or 2) would likely significantly disrupt the school environment by returning to the school campus. As a result of such an assessment process, ACS may

require the student to be placed in an alternative program placement within ACS for the safety of the student and others. ACS may also require that the student be placed in an alternative program placement within ACS during the duration of the assessment process.

11) Student Smoking and/or Tobacco Use

The use of tobacco or tobacco products at all ACS sites is prohibited for students, faculty, and staff.

12) Discipline Procedures for Special Education Students

- Pursuant to Special Education Regulations, the following special procedures shall be followed at ACS:
- Change of placement for disciplinary removals

For purposes of removal of a child with a disability from the child's current educational placement under §§300.520-300.529, a change of placement occurs if-(a) The removal is for more than 10 consecutive school days; or (b) The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. (Authority: 20 U.S.C. 1415(k))

(1) To the extent removal would be applied to children without disabilities, the removal of a child with a disability from the child's current placement for not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.519(b)).

(2) After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal must provide services to the extent required under §300.121(d); and

(3) A change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability

would be subject to discipline, but for not more than 45 days, **if-**

(4) The child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or

(5) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function under the jurisdiction of a State

or local educational agency.

(6) Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year or commencing a removal that constitutes a change of placement under §300.519, including the action described in paragraph (a)(2) of this section-

If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph (a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.

If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.

As soon as practicable after developing the plan described in paragraph (b)(I)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child's current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement under §300.519, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

1. Authority of hearing officer

A hearing officer under section 615 of the Act may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting within ACS for not more than 45 days if the hearing officer, in an expedited due process hearing -

(a) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, meets the requirements of §300.522(b).

(e) As used in this section, the term **substantial evidence** means beyond a preponderance of the evidence.

Determination of setting

(a) The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the IEP team.

(b) Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must-

(1) Be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(2) Include services and modifications to address the behavior described in §§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring. (Authority: 20 U.S.C. 1415(k)(3))

2. Manifestation determination review

If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under §300.519 for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children:

(1) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and provided the procedural safeguards notice described in §300.504; and

(2) Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified personnel in a meeting. In carrying out a review described in paragraph (a)

of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel:

First consider, in terms of the behavior subject to disciplinary action, all relevant information, including:

- (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;
- (ii) Observations of the child; and
- (iii) The child's IEP and placement; and

(2) Then determine that:

- (i) In relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
- (ii) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
- (iii) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

Decision

If the IEP team and other qualified personnel determine that any of the standards in paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child's disability.

The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under §300.520(b). If, in the review in paragraphs (b) and (c) of this section, a public agency identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

Determination that behavior was not manifestation of disability

If the result of the review described is a determination, consistent with § 300.523(d),

that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in § 300.121(d).

If the ACS initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability

are transmitted for consideration by the persons making the final determination regarding the disciplinary action.

Except as provided in §300.526, §300.514 applies if a parent requests a hearing to challenge a determination, made through the review described in §300.523, that the behavior of the child was not a manifestation of the child's disability.

Parent appeal

If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement under §§300.520-300.528, the parent may request a hearing. The State or local educational agency shall arrange for an expedited hearing **if** a hearing is requested by a parent.

Review of decision.

(1) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements of §300.523(d).

(2) In reviewing a decision under §300.520(a) (2) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in §300.521.

3. Placement during appeals

If a parent requests a hearing or an appeal regarding a disciplinary action described in §300.520(a)(2) or 300.521 to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in §300.520(a)(2) or 300.521, whichever occurs first, unless the parent and the State agency or local educational agency agree otherwise.

If a child is placed in an interim alternative educational setting pursuant to §300.520(a)(2) or 300.521 and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the child must remain in

the current placement (the child's placement prior to the interim alternative educational setting).

Expedited hearing

(1) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education

setting) during the pendency of the due process proceedings, the LEA may request an expedited due process hearing.

(2) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §300.521.

(3) A placement ordered pursuant to paragraph (c)(2) of this section may not be longer than 45 days.

(4) The procedure in paragraph (c) of this section may be repeated, as necessary.

4. Protections for children not yet eligible for special education and related services

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in

§§300.520 or 300.521, may assert any of the protections provided for in this part if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

Basis of knowledge

An LEA is deemed to have knowledge that a child is a child with a disability if:

- (1) The parent of the child has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational agency that the child is in need of special education and related services;
- (2) The behavior or performance of the child demonstrates the need for these services, in accordance with §300.7;
- (3) The parent of the child has requested an evaluation of the child pursuant to §§300.530-300.536; or
- (4) The teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of the agency or to other personnel in accordance with the agency's established child find referral system.

A public agency would **not** be deemed to have knowledge under paragraph (b) of this section if, as a result of receiving the information specified in that paragraph, the agency either conducted an evaluation and determined that the child was not a child with a disability under this part; or determined that an evaluation was not necessary; and provided notice to the child's parents of its determination.

Conditions that apply if there is no basis of knowledge

If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors.

Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.520 or 300.521, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined

to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, including the requirements of §§300.520-300.529 and section 612(a)(1)(A) of the Act.

5. Expedited due process hearings

Expedited due process hearings under must meet the requirements of §300.509, except that a State may provide that the time periods identified in §§300.509(a)(3) and

§300.509(b) for purposes of expedited due process hearings are not less than two business days; and be conducted by a due process hearing officer who satisfies the requirements of §300.508.

Each State shall establish a timeline for expedited due process hearings that results in a written decision being mailed to the parties within 45 days of the public agency's receipt of the request for the hearing, without exceptions or extensions. The timeline established under this section must be the same for hearings requested by parents or public agencies.

A State may establish different procedural rules for expedited hearings under §§300.521-300.526 than it has established for due process hearings under §300.507. The decisions on expedited due process hearings are appealable.

6. Referral to law enforcement and judicial authorities

Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime. An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

(See also, Appendices B and C)

**42. Personnel policies and procedures that comply with the
School Personnel Act.**

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- A background check will be required for all ACS employees, as well as volunteers.
- (See Appendices B, K and M)

43. Evaluation process for staff that conforms with specific sections of School Personnel Act.

All teaching staff will participate in annual PDP process in compliance with NM three tier licensure guidelines and NCLB. The Principal and Governing Council will establish further detailed guidelines based on Appendix B.

44. Proposed salary schedule in alignment with 3-tier process.

Salary schedule will be in alignment with three-tier process. See Appendix J for clerical pay scale.

45. Job descriptions of staff and proposed pupil-teacher ratio.

The ACS school Principal will be licensed per New Mexico's Administrative Licensing laws. All other personnel are hired during the school year only. It is the intent of ACS to consider negotiation with the local district for financial oversight in which case the district would be the central processing office. Internal procedures and duties of the part time financial assistant will develop with the district representative. If the district is not willing to contract with ACS, other arrangements will be made. ACS may hire a licensed business manager or contract with

a reputable school business management organization to reconcile bank statements and provide separation of duties. Internal controls will be adopted by the governance council to outline the management of fiscal responsibilities in accordance with all federal and state laws including

the adoption of state rules and regulation pursuant to State Procurement Code. Year-long contracts are for 12 months.

- Keeping class size and overall school enrollment small is one of the key foundations of the school. The experience of charter schools indicates that small school size and small class size both make significant contributions to the success of "at risk" students. In addition, research has pinpointed that a smaller school size lends itself to improved standardized test scores and a decline in disciplinary actions. Class ratio will be 15:1.

- All teachers at ACS will be educational professionals with appropriate certification to meet the "highly qualified" requirements of No Child Left Behind and the State of NM (NCLB). An effort will be made to hire teachers with multiple licensure endorsements in order to meet the requirements of "highly qualified" teachers under NCLB. Individuals who have expertise and credentials in special areas, including Special Education and Bilingual Education,

as defined by the NM Public Education Department, will be hired in addition to core content teachers. State-of-the-art educational technology makes it possible to utilize highly qualified teachers from throughout New Mexico to deliver instruction and support for ACS. Social Workers and Counselors will be licensed and highly qualified, with broad experience working with at-risk youth and accessing resources. ACS recognizes the difficulty in contracting with highly qualified special education and bilingual teachers. ACS is committed to providing highly qualified teachers and will recruit teachers from out of district, contract with part-time teachers employed within the district and consider paying an additional differential to provide highly qualified teachers and staff.

- . Teachers and staff will
 - o have a pay and benefit package that is competitive in the marketplace;
 - o enjoy a well-supported professional development program;
 - o have access to services of independent employee assistance professionals;
 - o feel secure and challenged,
 - o work in an environment that encourages creativity and mutual respect;
 - o and be evaluated in accordance with the PED Three-Tiered Licensure requirements.

(See Appendix G and H)

K. Employment and student discipline policies

46. Employment policies for staff and procedures that comply with the School Personnel Act as set forth in Section J above.

(See Appendix C)

47. Discipline policy for students that address the State Board of Education's regulation on student's rights and responsibilities.

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The burden of proving that the student violated a provision of the *ACS Student Behavior Handbook* to the degree a student must be suspended is the responsibility of school authorities.

b) Student Expulsion

An expulsion is a disciplinary exclusion (suspension) from school that is at least two semesters in length. It may be longer or even permanent. Generally ACS wishes to limit exclusion from

school to no longer than the end of the current semester. In some cases, there is a need to implement an expulsion as an **extreme** last resort for disciplining students who exhibit unacceptable behaviors such as drug possession, drug sales, acts of extreme violence, vandalism, weapons possession, weapons use, and other felonies. ACS **may** also recommend for expulsion any student who has been suspended long-term two or more times.

To Recommend Expulsion, ACS must follow the same due process procedures outlined for long-term suspension. In addition, school officials must be prepared to justify to the hearing officer the request for the most severe disciplinary action possible. The following special

requirements will apply when the hearing officer elects to uphold the school's recommendation for expulsion. Unlike long-term suspension actions, the due process hearing for an "expulsion" cannot be waived. Even if the student and parents do not appear, the school must present its case to the hearing officer.

The Principal will review for affirmation all cases in which the hearing officer decides upon expulsion prior to final imposition of the discipline. Any student who has been expelled may petition for re-entry to ACS after one calendar year from the date of expulsion. Students desiring re-entry should submit a request in writing to the Principal requesting a reconsideration hearing.

c) Student Possession of a Firearm

Students found to be in possession of a firearm while at school, at any school-related event, or at any time when the *ACS Student Behavior Handbook* is in force, will be expelled from the school for a minimum of one calendar year and the offender(s) will be referred to law enforcement or appropriate juvenile authorities.

The definition of "firearm" from *18 U.S.C. 92* is summarized as, "... any weapon which will propel a projectile by the action of an explosive."

This policy will comply with the Gadsden Public Schools Weapons in School policy.

d) Students and Off-Campus Violent Acts

Any student identified to ACS as having been formally charged with committing a violent act or having illegally possessed a firearm in the community, may be assessed by the school district administration as to whether the student, 1) may reasonably present a danger to himself/herself or others, and/or 2) would likely significantly disrupt the school environment by returning to the school campus. As a result of such an assessment process, ACS may

require the student to be placed in an alternative program placement within ACS for the safety of the student and others. ACS may also require that the student be placed in an alternative program placement within ACS during the duration of the assessment process.

e) Student Smoking and/or Tobacco Use

The use of tobacco or tobacco products at all ACS sites is prohibited for students, faculty, and staff.

2. Discipline Procedures for Special Education Students Page 144 of 156

- Changes made to the law in 2004 are to be included as part of these procedures. The updated changes are attached via Appendix M. Pursuant to Special Education Regulations, the following special procedures shall be followed at ACS:

- Change of placement for disciplinary removals

For purposes of removal of a child with a disability from the child's current educational placement under §§300.520-300.529, a change of placement occurs if-(a) The removal is for more than 10 consecutive school days; or (b) The child is subjected to a series of removals that constitute a pattern because they cwnulate to more than 10 school days in a school year, and

because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. (Authority: 20 U.S.C. 1415(1<))

(1) To the extent removal would be applied to children without disabilities, the removal of a child with a disability from the child's current placement for not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under §300.519(b)).

(2) After a child with a disability has been removed from his or her current placement for more than 10 school days in the same school year, during any subsequent days of removal must provide services to the extent required under §300.121(d); and

(3) A change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days, if-

(4) The child carries a weapon to school or to a school function under the jurisdiction of a State or a local educational agency; or

(5) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function under the jurisdiction of a State or local educational agency.

(6) Either before or not later than 10 business days after either first removing the child for more than 10 school days in a school year or commencing a removal that constitutes a change of placement under §300.519, including the action described in paragraph (a)(2) of this section-

If the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal described in paragraph (a) of this section, the agency shall convene an IEP meeting to develop an assessment plan.

If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and, modify the plan and its implementation as necessary, to address the behavior.

As soon as practicable after developing the plan described in paragraph (b)(1)(i) of this section, and completing the assessments required by the plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall

implement those interventions.

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If subsequently, a child with a disability who has a behavioral intervention plan and who has been removed from the child's current educational placement for more than 10 school days in a school year is subjected to a removal that does not constitute a change of placement under §300.519, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

3. Authority of hearing officer

A hearing officer under section 615 of the Act may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting within ACS for not more than 45 days if the hearing officer, in an expedited due process hearing-

(a) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, meets the requirements of §300.522(b).

(e) As used in this section, the term **substantial evidence** means beyond a preponderance of the evidence.

Determination of setting

(a) The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the IEP team.

(b) Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must-

(1) Be selected so as to enable the child to continue to progress in the general

curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(2) Include services and modifications to address the behavior described in

§§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring.
(Authority: 20 U.S.C. 1415(k)(3))

4. Manifestation determination review

If an action is contemplated regarding behavior described in §§300.520(a)(2) or 300.521, or involving a removal that constitutes a change of placement under §300.519 for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the LEA that applies to all children:

(1) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and provided the procedural safeguards notice described in §300.504; and

(2) Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

A review described in paragraph (a) of this section must be conducted by the IEP team and other qualified personnel in a meeting. In carrying out a review described in paragraph (a) of this section, the IEP team and other qualified personnel may determine that the behavior of the child was not a manifestation of the child's disability only if the IEP team and other qualified personnel:

First consider, in terms of the behavior subject to disciplinary action, all relevant information, including:

- (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parents of the child;
- (ii) Observations of the child; and
- (iii) The child's IEP and placement; and

(2) Then determine that:

- (i) In relationship to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
- (ii) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
- (iii) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

Decision

If the IEP team and other qualified personnel determine that any of the standards in paragraph (c)(2) of this section were not met, the behavior must be considered a manifestation of the child's disability.

The review described in paragraph (a) of this section may be conducted at the same IEP meeting that is convened under §300.520(b). If, in the review in paragraphs (b) and (c) of this section, a public agency identifies deficiencies in the child's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

Determination that behavior was not manifestation of disability

If the result of the review described is a determination, consistent with §300.523(d), that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities, except as provided in §300.121(d).

If the ACS initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the persons making the final determination regarding the disciplinary action.

Except as provided in §300.526, §300.514 applies if a parent requests a hearing to challenge a determination, made through the review described in §300.523, that the behavior of the child was not a manifestation of the child's disability.

Parent appeal

If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement under

§§300.520-300.528, the parent may request a hearing. The State or local educational agency shall arrange for an expedited hearing if a hearing is requested by a parent.

Review of decision.

(1) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's

behavior was not a manifestation of the child's disability consistent with the requirements of §300.523(d).

(2) In reviewing a decision under §300.520(a) (2) to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in

§300.521.

5. Placement during appeals

If a parent requests a hearing or an appeal regarding a disciplinary action described in

§300.520(a)(2) or 300.521 to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative

educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in §300.520(a)(2) or 300.521, whichever occurs first, unless the parent and the State agency or local educational agency agree otherwise.

If a child is placed in an interim alternative educational setting pursuant to § 300.520(a)(2) or 300.521 and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the child must remain in the current placement (the child's placement prior to the interim alternative educational setting).

Expedited hearing

(1) If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the LEA may request an expedited

due process hearing.

(2) In determining whether the child may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards in §300.521.

(3) A placement ordered pursuant to paragraph (c)(2) of *this* section may not be longer than 45 days.

(4) The procedure in paragraph (c) of this section may be repeated, as necessary.

6. Protections for children not yet eligible for special education and related services

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of the local educational agency, including any behavior described in §§300.520 or 300.521, may assert any of the protections provided for in this part if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

Basis of knowledge

An LEA is deemed to have knowledge that a child is a child with a disability if:

(1) The parent of the child has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational agency that the child is in need of special education and related services;

(2) The behavior or performance of the child demonstrates the need for these services, in accordance with §300.7;

(3) The parent of the child has requested an evaluation of the child pursuant to §§300.530-300.536; or

(4) The teacher of the child, or other personnel of the local educational agency, has expressed concern about the behavior or performance of the child to the director of special education of the agency or to other personnel in accordance with the agency's established child find referral system.

A public agency would **not** be deemed to have knowledge under paragraph (b) of this section if, as a result of receiving the information specified in that paragraph, the agency either conducted an evaluation and determined that the child was not a child

with a disability under this part; or determined that an evaluation was not necessary; and provided notice to the child's parents of its determination.

Conditions that apply if there is no basis of knowledge

If an LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as measures applied to children without disabilities who engaged in comparable behaviors.

Limitations

If a request is made for an evaluation of a child during the time period in which the

child is subjected to disciplinary measures under §300.520 or 300.521, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with the provisions of this part, including the requirements of §§300.520-300.529 and section 612(a)(1)(A) of the Act.

7. Expedited due process hearings

Expedited due process hearings under must meet the requirements of §300.509, except that a State may provide that the time periods identified in §§300.509(a)(3) and

§300.509(b) for purposes of expedited due process hearings are not less than two

business days; and be conducted by a due process hearing officer who satisfies the requirements of §300.508.

Each State shall establish a timeline for expedited due process hearings that results in a written decision being mailed to the parties within 45 days of the public agency's

receipt of the request for the hearing, without exceptions or extensions. The timeline established under this section must be the same for hearings requested by parents or

public agencies.

A State may establish different procedural rules for expedited hearings under

§§300.521-300.526 than it has established for due process hearings under §300.507.

The decisions on expedited due process hearings are appealable.

8. Referral to law enforcement and judicial authorities

Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability. An agency reporting a crime committed by a child with a disability shall ensure that copies of the

special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime. An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

ii. Special Student Management Practices

Individual Crisis Management Plan (ICMP) An ICMP is both a planning document and a living document which provides a functional analysis of each student's crisis behavior and a plan that will eliminate the need for external controls or physical restraints. At a minimum the ICMP should include: a basic screening for any pre-existing medical conditions that would be

exacerbated if the young person were involved in a physical restraint, a basic screening for medications which the client might be taking which would effect the respiratory or cardiovascular system, a functional analysis of crisis behavior, a screening to determine if there is a history of physical or sexual abuse, a plan for specific behavioral interventions, a plan for specific physical interventions, and a review process that allows for update of the ICMP.

Life Space Interview (LSI) An LSI is a behavioral intervention designed to help young people understand how feelings result in behaviors and how those behaviors affect themselves and others. A long-term goal of the LSI is to help teach better and more effective ways of dealing with stressful situations.

Physical Escort: Defined by the state of New Mexico as the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purposes of inducing a student who is acting out to walk to a safe location.

Time-Away: A behavior management technique requiring students to go to a quiet area when they are upset and being stimulated by others.

Clients may return to the class once they have completed a Life Space Interview (LSI) with a staff member. Time-Away is designed to be used when a young person needs *time* to regroup and think about his or her behavior. The student behavior is usually outside of the norms and rules expected. Time-Away may be taken in a designated time-out room located in the school. Time-Away may also be taken in other areas as designated by staff. Time-Away must never be used as a punishment. Time-Away is a behavior management intervention for agitated and potentially aggressive students. Students may not be physically escorted to a

Time-Away place.

Time-Out Room: A time-out room is devoid of furniture and usually carpet. The time-out room door is never locked. Students who voluntarily go to the room as a place for a Time-Away intervention must be continually monitored by milieu staff for safety. Time-Away is designed to be used when a young person/client needs time to regroup/think about his or her behavior. The student's behavior should be above and beyond the norms of expected behavior. This behavior may include yelling, cussing, making threats, potential physical aggression and fighting. When a staff member chooses to direct a Time-Away intervention, the staff member should follow through on the directive to have the student use Time-Away.

The major criteria for return to the general environment should be the student's demeanor (i.e. being calm) and the student's ability to process about what happened (i.e. completing a Life Space Interview). When time limits are placed on Time-Away, the Time-Away becomes a punishment. A student should rejoin the school when: **1.)** they are calm and in control, and **2.)** they have completed a Life Space Interview (LSI) with a member of their staff.

Students placed on a Time-Away intervention for extended periods of time (defined as more than 15 minutes) should be offered bathroom use, water, and possibly food if the Time-

Away occurs at mealtime. The Time-Away intervention must be monitored by the staff. 155 8155

Time-Away may be initiated by request of a student. However, the intervention must be staff directed. A student who initiates the Time-Away intervention is still expected to complete a Life Space Interview with their staff member prior to returning to the school.

L. Legal liability and applicable insurance coverage

48. An agreement between the charter school and the local school board regarding their respective legal liability and applicable insurance coverage, that includes participation in the Public Schools Insurance Authority and compliance with any applicable rules of authority.

Legal liability and insurance coverage agreements of the Anthony Charter School will be in accordance with the *1999 Charter Schools Act* and New Mexico Revised Statutes Section 22-2-6.3 NMSA 1978. ACS will apply for and secure all applicable insurance through NMPSIA and will contact Poms and Associates regarding quotes and insurance coverage once the Charter is approved and facilities are identified.

Legal Liability

ACS understands that the local Board of Education is not liable under the *1999 Charter Schools Act* for any and all acts or omissions made by ACS or its Governing Council.

Faith and Credit

ACS agrees that it will not extend the faith and credit of the District to any third person or entity. The School is limited in its authority to contract by the amount of funds obtained from the District, as provided hereunder, or from other contracts to which the ACS is a party.

Insurance Coverage

ACS will participate in the Public Schools Insurance Authority. Coverage will include both Employee Health and Benefits and Risk Insurance Program. To the extent permitted by the State PED and the District, ACS will arrange for a Risk Insurance Program that encompasses property, liability, automobile, Governing Council liability, crime and workers compensation Insurance. Coverage will extend to the Governing Council, employees and school activities.

M. Transportation and food services

49. Specific description or plan of how the charter school and school district plan to meet the transportation needs of students in the charter school.

Transportation of students to and from school will be the responsibility of parents/guardians, unless the student's Individualized Educational Program (IEP) specifies special transportation requirements. ACS will work with GISD on transportation issues as they fit the GISD transportation schedule.

ACS will utilize operational, IDEA-Band Medicaid funds as appropriate, annually for continuation or modification dependent on feasibility and need.

Reimbursement for the transportation of a student as specified by an IEP is available and will be sought as Per Capita Feeder (PCF) income, per 6NMAC9.4.1 (12/31/98).

Activity Transportation

- ACS will contract with a state-approved provider on an as needed basis for activity buses when 10 or more students will be traveling to a school-related activity.

50. Specific description or plan of how the charter school and school district plan to meet the food service needs of students in the charter school.

ACS is committed to providing an environment for students that is conducive to learning. Catered lunches will be available on contract from a contract provider for all students. ACS intends to negotiate for lunches with GISD, or will initiate an RFP process to contract with other providers, such as *Canteen Food Services*. Free and Reduced Lunch eligibility forms will be completed by parents of all entering students. Eligible students will generate PED funds that will cover the costs. Students or staff who are not eligible, will be charged a nominal fee for their meals. There will be no overt identification of those students eligible for Federal Free or Reduced Lunch, Breakfast, and Milk subsidies and/or any other students and staff who choose to use this service.

ACS will review this policy annually for continuation or modification dependent on feasibility and need.

Free or Reduced School Lunch Compliance:

ACS will keep all necessary records for students eligible for free or reduced school lunches in compliance with Federal law.

N. Waivers

51. List the specific waivers by number and title that are requested from local school board policy

ACS will apply for waivers on an as-needed basis to meet goals and objectives consistent with the mission and vision of the school. The *1999 Charter Schools Act* stipulates that Charter Schools challenge the system by providing innovative methods of teaching and assessment. In accord with that direction, ACS will employ a full range of options for staffing and accountability.

The following waivers are requested:

- 1) Budget
- 2) Community
- 3) Governance Council
- 4) Instruction
- 5) Personnel
- 6) Student
- 7) Principal

(Requested waivers are included as an Addendum to this document and include an explanation for each request)

52. Describe how the charter school will address these waivers from local school board policy.

ACS has used Gadsden Board of Education policies and regulations as a benchmark, as well as all applicable federal state laws, rules and regulations. Waivers will be requested in writing, providing the rationale for the waiver. As specified in the Charter Schools Act, denial of waiver by the Gadsden Board of Education may be appealed to the State PED.

ACS shall not charge tuition, have admission requirements. ACS will accept any and all students who are eligible as provided in the Public School Code and are selected in ACS lottery process. ACS will advertise and hold public information meetings to inform parents and students, recruit staff, community volunteers and Governance Council members. ACS will advertise all lotteries and will conduct lotteries at a public meeting with witnesses.

53. List the specific waivers that are requested from the Secretary of Education requirements, rules, and provisions of the Public School Code pertaining to graduation requirements, school principal duties and driver education.

No waiver is requested related to graduation requirements and driver education. The following waiver is requested pertaining to school principal duties and driver education:

1. Principal Duties

54. Describe how the charter school will address these waivers from the Secretary of Education.

Waivers will be requested in writing, providing the rationale for the waiver. As

specified in the Charter Schools Act, denial of waiver by the Gadsden Board of Education may be appealed to the State PED.

0.Facilities

- 55. Description of the facilities the charter school plans to use, taking grade-by-grade and five-year student count projections into account. Include total projected number of students. Include final capacity of the facility. If**

construction is to be phased, provide a five-year projection and associated capital costs.

Facilities will be identified early on in the planning year and will meet adequacy standards as defined by the PSFA. Custodial and building maintenance services will be negotiated as part of the lease. Building will house no more than 200 students at any given time, as that is the total projected number of students ACS will accommodate.

Our plan is to lease appropriate classroom space within the community. We have discussed with the Home Education Livelihood Program the possibility of their building suitable educational space for ACS to lease. This is still in the very early stages of discussion and may not be done in time for us to use during our first year of operation, if ever. Our plan is to work in close communication with the Gadsden Independent School District in identifying and preparing suitable school facilities.

All buildings leased will meet ADA requirements for safety and accommodation of those students, staff or public requiring such need.

56. Provide proposed site and building plan that complies with current state-adopted life, health and safety codes for E (educational building) Occupancy and provide a capital budget plan that will ensure compliance. Submit lease, purchase or contractual arrangements for the facility or a plan for locating a facility with sites being considered.

None are available at this time. The buildings will be sought and leased once ACS Charter has been approved.

57. Plan for addressing code, accessibility requirements and any other health and safety requirements, if necessary with documentation from SFA if considering a specific site (if known).

E Occupancy addresses ADA compliance. Once a building is leased, all items related to safety and accessibility will be addressed pursuant to laws.

58. Proposed plan for operation, maintenance and repair of a facility.

A leased facility is being sought which will include operation, maintenance and repair of the facility as part of the lease contract.

59. Proposed plan for use of a school district facility by a conversion

This item is not applicable at this time.

60. Prior to opening, charter school must provide documentation to local school board on meeting health, safety, and code issues

Leased property will meet E Occupancy and as such, will include meeting health, safety and code issues. Documentation of said occupancy will be provided to the local school board prior to opening the doors.

61. Does the application include a request for capital outlay?

At this time, this application does not include a request for capital outlay.

P. Enrollment procedures

62. Description of procedures to be used by the charter school that complies with 22-88-4.1NMSA, 1978 and addresses how the charter will enroll using the lottery selection process.

- Pursuant to the Charter School Act of 1999, any student, regardless of locale, may attend ACS. Initial enrollment will occur based on a lottery. All student applicants over the

projected enrollment of 200 total students, or from sources other than ACS will be maintained on a waiting list, from which enrollment will be accepted through a lottery. Initially all students applying will be placed in a suspense file and on July 1st 160 names will be drawn at a public lottery. These will be the initial enrollees in the school. In the event fewer than 160 names are in the pool, a new suspense file will be begun containing the names of all new applicants. Each month thereafter another public lottery will be held to select the names of additional enrollees to bring the school enrollment to its approved capacity

Enrollment Requirements

Students must provide proof of age and residency as well as a complete immunization record. A transcript from a student's previous school will be required. Information for interested parents will be available on an ongoing basis. Parents will be encouraged to visit ACS and talk to parents of enrolled students as well as staff

ACS shall not charge tuition, have admission requirements. ACS will accept any and all students who are eligible as provided in the Public School Code and are selected in ACS lottery process. ACS will advertise and hold public information meetings to inform parents and students, recruit staff, community volunteers and Governance Council members. ACS will advertise all lotteries and will conduct lotteries at a public meeting with witnesses.

Lottery process is as follows:

P. Other – Plan of action in the event that enrollment goals are not met.

ACS intends to meet enrollment goals, but in the event goals are not met, the following Action Plan will be in effect.

It is with the understanding that student success is at the center of all ACS endeavors. To that end, informed and engaged citizens of the community are essential to the creation of a sustainable school. Diversity is our source of renewal and vitality. The Governing Board and ACS staff will promote a new effort to work with the district and establish a method of addressing the lack of enrollment.

An evaluation of all enrollment and marketing functions are necessary for continuous improvement processes. Based on the idea that connected knowing, independent learning and collaborative learning are basic to our education goals, we will attempt to recruit students in the following ways:

1. Increase the transfer-in student population by working closely with the district to identify those students who would benefit from our alternative school programs. This action will positively impact student enrollment.
2. Re-evaluate and design marketing and recruiting efforts to prioritize geographic, quality, programmatic and psychographic target markets. This action will positively impact student enrollment.
3. Develop and implement a comprehensive enrollment management system.
 - As part of this enrollment management system, implement a comprehensive data collection and analysis system to inform the board about marketing, recruitment and retention efforts.
 - Aggressively brand and market the institution as a school of choice within the district for those students who meet the criteria established.
 - Construct enrollment management plans that emphasize diversity in the student body.

- Increase retention and graduation rates to a minimum of those goals stated in the performance goals.

63. Plan on how the charter school will be advertised so that there is equal opportunity for all parents and students to learn about the school and apply.

ACS will advertise and hold public information meetings to inform parents and students, recruit staff, community volunteers and Governance Council members. ACS will advertise all lotteries and will conduct lotteries at a public meeting with witnesses. Advertising may include local television, newspaper and radio. The ACS, as an alternative program

school, will not duplicate efforts of the district, but will complement the district's current programs.

64. Documentation that the charter school shall not charge tuition, have admission requirements, or state that they will only accept a certain population of students, except as otherwise provided in the Public School Code.

ACS shall not charge tuition, have admission requirements. ACS will accept any and all students who are eligible as provided in the Public School Code and are selected in ACS lottery process. ACS will advertise and hold public information meetings to inform parents and students, recruit staff, community volunteers and Governance Council members. ACS will advertise all lotteries and will conduct lotteries at a public meeting with witnesses.

Q. In the best interest of students, the school district, and the community.

65. Explanation of how the charter school is in the best interest of students, the school district, and the community and evidence that the charter school serves a purpose in the community.

The research on New Mexico speaks to the need of programs to work together in order to support, educate and transform students families and communities. In 2002, the percent of teens who are high school dropouts was 11%; ranking 35 among the states.

Children living in families where no parent has full-time, year-round employment was 30%, ranking 45. A family with children headed by a single parent was 34%, ranking 48. The percent of children living in poverty was 26%, ranking 48. Additionally, teens 16-19 who were not in school and not working were 11%, with a state ranking of 45.

According to the 2000 US Census, Dona Ana County is the fifth poorest metropolitan

area in the nation. Demographic data from US Census in 1999 show that 32.9% of the population and 26.4% of the children in Dona Ana County live below the poverty level.

Profile/County	DOÑA ANA
POPULATION (U.S. CENSUS 2002 EST.)	178,664
YOUTH POPULATION (U.S. CENSUS 2002)	
15 – 19 YEARS OF AGE	15,456
20 – 24 YEARS OF AGE	17,053
UNEMPLOYMENT RATE	7.6%
STATE RANKING (NMDOL 1/04)	(#9)
PERSONS BELOW POVERTY LEVEL (U.S. CENSUS 1999)	45,381
	(25.4%)
YOUTH BELOW POVERTY LEVEL (NMDOH 2002)	33.8%
# OF MONTHLY SUBSISTENCE CASES (NMDOH 2002)	
TANF	2,874
FOOD STAMPS	9,428
HIGH SCHOOL DROP-OUT AVERAGE RATE FROM 1995-2002 (NMDOH 2002)	7.4%
HIGH SCHOOL DROP-OUTS OVER AGE 25 (NMDOH 2002)	30.0%
TEEN PREGNANCY (AGES 15-19) (NMDOH 2002)	
NUMBER OF PREGNANCIES	600
RATE PER 1000 TEENS	73.4
TEEN (15-19) BIRTH RATE PER/1000	77.1
(NM TEEN PREGNANCY COALITION 2002)	
BIRTHS TO MOTHERS UNDER 20 YEARS OF AGE AS % (NMDOH 2002)	19.3%
	39.9%
	48%
	8.7%

BIRTHS TO LESS THAN HIGH SCHOOL DIPLOMA
AS % (NMDOH 2002)

BIRTHS TO SINGLE MOTHERS AS % (NMDOH 2002)

DWI ARRESTS UNDER AGE 19 AS % OF ALL OWI ARRESTS (NMDOH
2002)

The intent of ACS is to meet a perceived gap in Middle School and High School programs currently available for students in Anthony for whom traditional or daily academic approaches or schedules are not convenient or feasible. ACS will provide classroom instruction, of course, but also provide computer-based (Internet) education, experiential education, project-based learning, service learning and tutorials, during the day, in the evening, on weekends or during summer hours, times when Middle School and High School instruction is not traditionally available.

It is our philosophy that the effectiveness of these diverse efforts stems largely from the fact that personal involvement and commitment is enhanced in the small school, personal relationship-based learning setting. In addition, many of the Middle School and High School reform practices that have been developed around the country and that are described in the Carnegie Report will be possible at ACS due to the small size of our school. These include practices such as: personal student mentors, flexible hours, small classes and small campus size.

We expect our program to attract adolescent and adult learners who are currently juggling employment, family duties and transportation issues with the completion of their secondary education goals.

Because ACS is designed to meet the educational needs of the dropout, this school addresses a serious need in this community to provide productive, educated members of society back to the community.

66. The charter school is non-sectarian in its programs, admissions policies, employment practices, and all other operations and is not affiliated with a sectarian or religious institution

- ACS will operate as a non-sectarian, non-religious, public school and will comply with all applicable federal, state and local laws, rules and regulations including, without limitation, the Constitutional provisions prohibiting discrimination on the basis of race, color, national and ethnic origin, disability, age, creed, gender, religion or ancestry.

- The ACS curriculum is designed to ensure knowledge is attained in the core academic areas of language arts, language development, math, science, history, geography, art, physical

education and health. In addition, each graduate from ACS will be expected to have earned 15 credits in service learning or experiential learning while enrolled.

- Our curriculum reflects our vision of the school. While addressing the standards and benchmarks established by the New Mexico Board of Education, it also maintains focus on the goals and standards set for the students. The curriculum also reflects the unique process of educating each student with emphasis on the total individual. Our curriculum takes into consideration the protective factors that have been shown to influence the decrease of at risk behaviors in young people. In addition to the development of intellectual skills, focus is also on increasing interpersonal skills, understanding and respecting the perspective of others, building

self-esteem through accelerated academic progress, setting high expectations and clear standards as well as providing a caring, safe and supportive environment.

- Parents, students, teachers and the community will work together to create a safe educational environment in which students are eager to learn and have the tools and resources to achieve excellence in learning and personal development. ACS students will also be expected to become involved in the volunteer programs and activities of civic engagement available to them.

R.Assurances (includes the following signed assurances)

67. – 83. Assurances related to ACS

(See attached Anthony Charter School Assurances)

S.Petitions of support

Not Applicable

T. Revisions / Amendments

86 Any revision or amendment to the terms of the charter contract may be made only with the approval of the local school board and the governing body of the charter school.

It is clear to ACS that any revisions or amendments made to the school charter may only be made with the approval of the local school board and the governing body of ACS.

Anthony Charter School Manual

Policies and Procedures for Compliance with the Individuals with Disabilities Education Act (IDEA)

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Introduction

New Mexico has participated in the program of federal aid to special education under the Individuals with Disabilities Education Act (IDEA) and its predecessors since 1984. In 2003-04 New Mexico's 89 school districts and other state-funded educational agencies will receive more than \$65 million in federal flow through funds under Part B of the IDEA.

In exchange for the federal funds, the state and its educational agencies agree to comply with the requirements of the IDEA and its implementing regulations.¹ One regulation requires public educational agencies that serve IDEA-eligible children to file certain policies and procedures with the state educational agency. Those local policies and procedures must be aligned with the state's policies and procedures covering a specific list of IDEA regulatory requirements? The New Mexico Public Education Department (PED) has developed this manual to help New Mexico's public educational agencies comply with those requirements.

The IDEA regulations refer to local school districts as local educational agencies (LEAs).³ The regulations also require any other state-funded agency that serves IDEA-eligible children meet the same requirements as LEAs.⁴ For ease of reference, the term "ACS" is used in this manual to refer to both types of educational agencies.

State rules incorporate the IDEA regulations and add some further provisions to implement other state laws.⁵ The state special education rules also refer to other PED rules on related topics such as student discipline⁶ and professional licensure of educational staff members.⁷

This document has been prepared to help LEAs ensure that the policies and procedures the IDEA requires them to file with the PED meet the applicable requirements of the federal and state regulations. The policies are arranged into sixteen categories. Within each category are brief explanations of the federal regulations and state rules that apply to the subjects covered there. More importantly, the applicable regulations and rules are specifically cited for reference.

Many topics covered in this manual are clearly closed-ended, meaning that the requirements are set by law and ACS need only adopt and practice them as given. Others will require each LEA to supply local procedures and practices to implement the policies. After LEA procedures have been inserted as required, the manual must be formally adopted by the local school board.

Although this document is designed to assist LEAs in understanding and applying the regulations regarding the educational needs of New Mexico children who are eligible for special education and related services, it is not intended to be a substitute for a thorough understanding of the regulations themselves as they appear in the Code of Federal Regulations and the New Mexico Administrative Code. Copies of the regulations and additional help and information are readily available *online*. The IDEA regulations and other helpful resources are available through the U.S. Department of Education's Office

of Special Education and Rehabilitative Services (OSERS) Web site at www.ed.gov/offices/OSERS/IDENregs.html. The state rules, additional resources and links to other helpful sites are available through the PED at www.ped.state.nm.us.

Endnotes

¹ The regulations for Part B of the IDEA are published at Title 34, Part 300 of the Code of Federal Regulations (34 CFR Sees. 300.1 through 300.756).

² 34 CFR Sec. 300.220 requires LEAs to file policies and procedures that are consistent with the state policies and procedures established under Sees. 300.121 through 300.156. Many of those sections in turn incorporate other sections of the IDEA regulations. See, for example, 34 CFR Sec. 300.129, which requires states to ensure that the procedural requirements of Sees. 300.500-300.529 are met.

³ 34 CFR Sec. 300.18(a).

⁴ 34 CFR Sec. 300.194(b).

⁵ New Mexico Statutes Annotated 1978, Sec. 22-13-5, provides in part:

School districts shall provide special education and related services appropriate to meet the needs of all children requiring special education and related services. Regulations and standards shall be developed and established by the state board for the provision of special education in the schools and classes of the public school system in the state and in all institutions wholly or partly supported by the state. The state board [now PED] shall monitor and enforce the regulations and standards. The state special education rules are published at Title 6, Chapter 31, Part 2 of the New Mexico Administrative Code (6.31.2 NMAC).

⁶ The PED rules on student rights and responsibilities are published at 6.11.2 NMAC.

⁷ The PED licensure requirements for school staff members are published at Title 6,

Chapters 60 through 64 of NMAC.

Free Appropriate Public Education (FAPE)

It is the policy of Anthony Charter School to ensure that all eligible children with disabilities aged 3 through 21 who reside within its jurisdiction have FAPE available in accordance with 34 CFR Sec. 300.121 and 300.122. We further assure that the procedures identified in 34 CFR Sees. 300.300-300.313, 300.342(c), and 300.519–

300.524 and the provisions of 6.31.2.8 NMAC are adopted as the policy of Anthony Charter School. In addition, we ensure that the practices implementing these policies and procedures are monitored for compliance and any instance of non-compliance is corrected within one year.

FEDERAL REGULATIONS

State Policy Related to FAPE; To Whom FAPE Applies and Exceptions

34 CFR Sees. 300.121, 300.12; 300.519-300.524; 300.342(c)

FAPE applies to all children with disabilities, including those who have been suspended or expelled from school as described in 34 CFR 300.519-300.524. FAPE is made available to children no later than the child's third birthday, and an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) is in effect for the child by that date in accordance with 34 CFR 300.342 (c), which describes the options of IEP or IFSP for children, aged 3 through 5.

Children with disabilities who are being considered for a long term suspension (defined as more than ten days in a school year) or expulsion because of behavior that has led to disciplinary action by school authorities are afforded special consideration under IDEA. The FAPE aspect of this consideration is based on the concern that cessation of services will have an adverse impact on the child with disabilities ability to achieve in school and to become a self-supporting adult who is a contributing member of society (Federal Register, March 12, 1999, Analysis of Comments and Changes, 12554). An aspect of the decision making by school authorities that acknowledges FAPE includes considering which educational services are needed to enable the child with disabilities to make appropriate progress in the general curriculum and toward the goals of the IEP.

If a child's third birthday occurs during the summer, the child's IEP/IFSP team determines the date when services under the IEP or IFSP will begin.

Provision of FAPE; Methods and Payments

34 CFR Sees. 300.300-300.302

Services provided under FAPE address all the child's identified special education and related services needs and are based on the child's unique needs, not the disability. A child's IEP is implemented without delay due to cost or payment source for providing special education and related services. If residential placement is necessary for educational reasons, it is provided at no cost to parents.

Sometimes other sources of funding are accessed to pay for special education or related services for children with disabilities (e.g., public or private insurance). ACS has a mechanism in place regarding the timeframe for implementation of the IEP in those situations in which a payment source is in the process of being determined (e.g., when a non-educational entity may be involved in payment, when another school district may be involved in payment). ACS is responsible for timely implementation of the IEP and for payment for services until decisions regarding other resources are made.

Full Education Opportunity; Program Options

34 CFR Sees. 300.303-300.308

Every effort is made to provide children with disabilities access to the same educational opportunities offered to nondisabled children, including such programs as art, music, physical education, and nonacademic services. Assistive technology is provided based on the needs identified in the child's IEP as necessary for the child to receive FAPE.

Program Options and Nonacademic Services:

The table below provides detailed information regarding the availability of program options and nonacademic services to children with disabilities in ACS:

- For items that are available to ALL students with and without disabilities in the district, insert the letter A.
- For items that are available to only students without disabilities, insert the letter N.
- For items that are available to only students with disabilities insert the letter D.
- If the service is available to *only* some grades at a particular level (e.g., only to 8th graders at Middle School), please add an asterisk to the letter code (e.g., A*) and add a footnote to explain (e.g., *available only to 8th graders).
- If the service is not available to any students in the district, insert NA.

Services in		ary Students	Mid School Students	
IDEA	E	High School	A	N Students
300.305-307	l			A
	e			
	m			
	e			
	n			
	t			

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A	N	NA	N	A	A	D	A	A	A		D	A	A			
Explanatory	Footnotes(*):		Art	Music	Industrial arts	Consumer and homemaking education	Vocational	5	Athletics	Transportation	Health services	Recreational activities	Public agency-sponsored special interest groups or clubs	Referrals to agencies that provide services to individuals with disabilities	Employment of students	education

Extended School Year Services

34 CFR Sec. 300.309

Extended school year services are available as necessary to provide FAPE. If required by the child's IEP, appropriate extended school year services are offered at no cost to parents.

The premise for establishing a child with disabilities' eligibility for extended school year (ESY) services is the significance of regression and the time required to recoup/regain skills addressed in IEP goals, objectives and performance levels. In making decisions regarding the need for ESY, the IEP team must consider and document a number of factors including the nature of the child's disability, past data regarding regression during school breaks and the time for recoupment of skills, past benefit from ESY services, and the appropriateness of other educational opportunities that may achieve the same result.

A student may be eligible for ESY services even though there is not documentation of past regression/recoupment problems. In analyzing a student's potential regression/recoupment, the IEP team needs to consider predictive information as well as any other appropriate factors (e.g., a student who has a recent traumatic brain injury may not have past documentation of regression, but knowledge of the disability and consultation with medical personnel may be sufficient to predict problems in regression/recoupment).

FAPE With Regard to Public Charter Schools

34 CFR Sec. 300.312, 300.241

Children in public charter schools and their parents retain their right to FAPE. Regulations for serving and funding of public charter schools apply as specified in 34

CFR Secs. 300.312 and 300.241.

Procedures for serving children with disabilities in New Mexico charter schools are addressed in 6.80.4.8 (D) NMAC which specifies that charter schools must include a specific special education plan in their application for funding and 6.31.2.11 NMAC which requires that charter schools extend all of the rights of IDEA to children with disabilities attending charter schools and their parents.

NEW MEXICO RULES

Right to a Free Appropriate Public Education

6.31.2.8 NMAC

Beyond the requirement to adhere to all federal regulations regarding FAPE, New

Mexico allows the option of offering additional services for children who do not meet the minimum requirements. However, only students meeting the federal criteria for being a child with a disability are to be included in calculating state equalization guarantee funding and IDEA Part B entitlements.

Full Educational Opportunity Goal (FEOG)

It is the policy of Anthony Charter School to align with the state's goal of providing full educational opportunity for all New Mexico children with disabilities in accordance with 34 CFR Sees. 300.123 and 300.124. Although the obligation to offer FAPE is limited to children aged 3 through 21, we adhere to the policies and procedures governing FEOG as detailed in the following federal regulations.

FEDERAL REGULATIONS

FEOG Policies, Procedures, Timetable

34 CFR Sees. 300.123-300.124

Policies and procedures are in place that lead toward the goal of providing full educational opportunity to all children with disabilities who reside in our jurisdiction.

Child Find

it is the policy of Anthony Charter School to locate and identify any child residing within its jurisdiction who may have a disability and need special education and related services in accordance with 34 CFR Sec. 300.126. We further assure that the provisions under subsections (A)-(B) of 6.31.2.10 NMAC are adopted as the policy of Anthony Charter School. The policies and procedures under Child Find apply to all children, whether enrolled in the public school system or not. In addition, we ensure that the practices implementing these policies and procedures are monitored for compliance and any instance of non-compliance is corrected within one year.

FEDERAL REGULATIONS

General Requirements of Child Find

34 CFR Sec. 300.125 (a)

All children residing within the district, including students in private schools and those not in school, are to be identified, located, and evaluated. A practical method is developed and implemented for determining which children are currently receiving special education and related services.

Child Find information is disseminated throughout the year using brochures, parent-teacher meetings, and professional organizations.

ACS submits data through the ADS system to the NM Public Education Department as per 6.31.2.10 NMAC. Reports generated from the ADS system include data on eligibility of individual pupils, services received, and other requirements.

Required Documentation Relating to Child Find

34 CFR Sec. 300.125 (b)

Names of participating agencies, description and extent of participation, methods used for accounting for and recording the number of children in each category, information on how procedures are evaluated for effectiveness, and a description of the methods being used to determine which children are currently receiving special education and related

services.

The following agencies participate in the Child Find process for ACS

Agencies Participating in the Child Find Process	Extent of Participation (insert X)			
	Makes Referrals to ACS	Accepts ACS Referrals	Conducts Evaluation /Makes Diagnosis	Provides Services
College and University Clinics				
University Hospital Child Evaluation Center	X	X	X	
Speech and Hearing Clinics; Speech and Audiology Clinics	X	X	X	
Other Child Evaluation Clinics, Rehabilitation Centers	X	X	X	
Private Health Care Providers				
Physicians	X	X	X	
Audiologists		X	X	
Speech and Hearing Clinics	X	X	X	
Optometrists		X	X	
Psychiatrists/Clinical Psychologists	X	X	X	
Other:				
State Agencies/Programs				
Early Intervention Programs (Part C), Dept. of Health				
Child Care Centers	X	X	X	
Maternal and Child Health, Dept. of Health	X	X	X	
Services for Children with Special Health Care Needs, Dept. of Health	X	X	X	
Vocational Rehabilitation	X	X	X	X
Vocational and Technical Education	X	X	X	
Job Service/Job Corps (or other Labor Dept. programs)	X	X		
Youth Correctional Centers/Juvenile Detention Centers	X	X	X	
State Mental Health Centers	X	X	X	
School for the Visually Handicapped				

School for the Deaf

State Developmental Disabilities Centers

X

Human Services Centers

X

X

X

Other: specify

Federal Programs

Head Start Programs

Bureau of Indian Affairs Special Education

X

X

X

Programs

Indian Health Service

X

X

X

Other: specify

Special Conditions for Children from Birth to Age 2

34 CFR Sec. 300.125 (c)

ACS Responsibilities for Part C to B transition are listed in this document in the section, Transition of Children from IDEA Part C to Part B Preschool Programs.

Construction and Confidentiality

34 CFR Sees. 300.125 (d)-(e)

New Mexico children with disabilities ages 3-21 meet the requirements and are identified under the categories of disability in 34 CFR 300.7 and 6.31.2.7 NMAC and 6.31.2.10

NMAC. The categories include: autism, deaf-blindness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disabilities, speech or language impairment, traumatic brain injury, vision impairment and developmental delay. Developmental delay is limited to

children ages 3-9.

Child find data are subject to the same confidentiality requirements as any other data that are governed by IDEA.

NEW MEXICO RULES

General Screening for Student Needs

6.31.2.10 (B) NMAC

Each public educational agency shall implement general screening as part of its Educational Plan for Student Success (EPSS) to identify student needs, including special education and related services.

Screening will be performed by qualified ACS personnel and may include:

- general health screening, including social/behavioral health
- vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;

- hearing screening to verify any hearing risk indicators;
- speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;
- preschool screening which typically includes vision, hearing, cognition, motor, speech-language, and health components to verify developmental delays;
- screening for home language
- academic screening for school age children to determine the significance of academic delays; and
- screening for secondary level students who are at-risk of dropping out, or who have dropped out, to verify that the reasons for dropping out are not related to a previously unidentified disability.

Procedures for Evaluations and Determinations of Eligibility

It is the policy of Anthony Charter School to ensure that procedures are in place for evaluating children and determining eligibility for special education and related services in accordance with 34 CFR Sec. 300.126. We further assure that the procedures

identified in 34 CFR Sees. . 300.531-300.536 and the provisions under subsections (C)-(F) of 6.31.2.10 NMAC are adopted as the policy of Anthony Charter School. In addition, we ensure that the practices implementing these policies and procedures are monitored

for compliance and any instance of non-compliance is corrected within one year.

FEDERAL REGULATIONS

Initial Evaluation and Evaluation Procedures

34 CFR Sees. 300.531; 300.532

Evaluation materials are not discriminatory and are provided in the child's primary language or mode of communication unless it is clearly not feasible to do so. A variety of assessment tools are used for evaluation and limited English proficiency is not used to measure need for special education and related services. No assessment or procedure is used as the sole criterion for determining the existence of a disability or the need for special education and related services. If the child is already identified as a child with a disability, assessments are given in accordance with the child's needs and abilities.

Determination of Needed Evaluation Data

34 CFR Sec. 300.533

For an initial or reevaluation, existing data is reviewed and based on that review, identification and recommendations are made for further assessment. An evaluation includes assessment of PLEP (Present Levels of Educational Performance). For a reevaluation, assessment is used to determine if the disability continues to exist, and what modifications or accommodations, if any, are needed to enable the child to meet annual measurable goals defined in the Individualized Education Program (IEP). Parents have the right to request evaluations and be notified of evaluation results.

Determination of Eligibility

34 CFR Sec. 300.534

Evaluation results are reviewed by qualified professionals and the parents, who determine together whether the child has an IDEA disability and needs special education and related services. Parents receive copies of evaluation reports and eligibility determinations.

Procedures for Determining Eligibility and Placement

34 CFR Sec. 300.535

Evaluation data is derived from a variety of sources. All information is carefully considered and documented. Children are not found to be eligible based on lack of instruction in reading or math or limited English proficiency. If a determination is made

that the child has an IDEA disability and needs special education and related services, an IEP is developed.

Required documentation for eligibility includes an explanation of how the multidisciplinary team considered factors such as lack of instruction in reading or math or limited English proficiency that might explain low student academic performance and could be mistakenly viewed as the presence of a disability.

Reevaluation

34 CFR Sec. 300.536

A reevaluation is done if conditions warrant or at the request of the parent or teacher, but at least once every three years.

NEW MEXICO RULES

Prereferral Interventions

6.31.2.10 (C) NMAC

If, through general screening, a child is suspected of having a disability, further assessment is considered in order to rule out other possible causes for the child's educational difficulty. Prior to referral for a special education evaluation, interventions

are considered, documented, and implemented, if appropriate. If pre-referral interventions are not effective within a reasonable time, the child is referred for a full special education evaluation.

Evaluations and Reevaluations

6.31.2.10 (D) NMAC

Evaluations are provided at no cost to parents. Referrals for individualized evaluations are completed within a reasonable time and are fully documented. Summary reports from all individuals evaluating the child are reported in writing and presented to the IEP team. Parents who disagree with an evaluation have the right to obtain an independent educational evaluation at public expense subject to the conditions of 34 CFR Sec.

300.502, as described in the section on "Procedural Rights of Parents and Students"

below.

ACS has designated the Special Education Director as responsible to track whether evaluations and reevaluations are conducted within required timelines.

Evaluations as Part of the Exit IEP

6.31.2.10 (J) NMAC

At the exit IEP meeting the IEP team determines whether all requirements for graduation under the final IEP have been satisfied. The IEP team will also determine whether additional evaluations, reports or documents are necessary to support a smooth and effective transition to post-secondary services for a student who will graduate on the

career readiness or ability pathway. The school will arrange for such information to be provided at no cost to the students or parents.

Assessment of CulturalJy and LinguisticaJJy Diverse Children

6.31.2.10 (E) NMAC

Assessments and other evaluative materials are provided and administered so as not to be culturally or racially discriminatory, and unless clearly not feasible to do so, are provided in the child's primary language or mode of communication. A child's language proficiency is considered when choosing and administering assessments and is not used as the determining factor for eligibility for special education and related services.

Home language status must be documented prior to any evaluation for special education.

Eligibility Determinations

6.31.2.10 (F) NMAC

In addition to the regulations required by IDEA, New Mexico allows the option of "developmentally delayed" as a classification for children aged 5 through 9 who do not qualify for special education under any other disability category. To be placed in this category, the child must meet diagnostic criteria.

Diagnostic criteria for developmental delay include: documented delays in development which are at least two standard deviations or 30 percent below chronological age; or who in the judgment of the IEP team and one or more qualified evaluators needs special education or related services in at least one of the following five areas: receptive or expressive language, cognitive disabilities, gross and/or fine motor functioning, social or emotional development or self-help/adaptive functioning.

Children classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they turn 10.

Individualized Education Programs (IEPs)

It is the policy of Anthony Charter School to provide each eligible child with a disability an appropriate IEP in accordance with 34 CFR Sec. 300.128. ACS further assures that the procedures identified in 34 CFR Sees. 300.340-300.350 and the provisions under subsection (B) of 6.31.2.11 NMAC are adopted as the policy of Anthony Charter School. In addition, we ensure that the practices implementing these policies and procedures are monitored for compliance and any instance of non-compliance is corrected within one year.

FEDERAL REGULATIONS

Definitions and General Responsibilities Regarding IEPs

34 CFR Sees. 300.340-300.341

Definitions and general responsibilities of public agencies regarding development, implementation, review, and revision of IEPs are listed here.

Implementation and Timetable for IEP

34 CFR Sec. 300.342

At the beginning of each school year, an IEP (or IFSP for children aged 3 through 5) is in effect for each child with a disability.

The IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service providers responsible for its implementation. Each provider is informed of his/her specific responsibilities for implementing the IEP and the specific accommodations, modifications and supports that are to be provided. The building administrator has responsibility for ensuring that all the provisions of the IEP are properly implemented.

IEP Meetings and Participants

34 CFR Sees. 300.343-300.345

IEP meetings are held prior to beginning any special education or related services. All

necessary participants, including parents and the student (if appropriate) are notified of and invited to the meetings.

The initial IEP meeting for a child with a disability must be conducted within 30 days of the determination that the child is a child with a disability and needs special education and related services.

Content, Development, Review, and Revision of IEPs

34 CFR Sees. 300.346-300.347

IEPs are developed, implemented, reviewed, and revised in accordance with all applicable regulations. A statement of transition service needs is developed for each

student with a disability by age 14 and a statement of transition services is developed for each student by age 16 (or younger if determined appropriate by the IEP team).

Transition Services

34 CFR Sec. 300.348

Other public agencies are involved with the IEP team in planning and providing transition services as appropriate.

ACS has designated the Special Education Director as responsible to review IEPs to assure that other agencies are participating in the IEP process. This is particularly important during the student's junior year in high school because the timeline may be critical to provision of adult services for individuals with disabilities after graduation/at the point of exiting from the high school program.

Private School Placements

34 CFR Sec.300.349

Before Anthony Charter School places a child with a disability in a private school or facility to provide a free appropriate public education (FAPE), the child will have an IEP developed in accordance with 34 CFR Sees. 300.346-300.347. After placement, it remains the responsibility of Anthony Charter School agency to ensure compliance with all applicable requirements of the IDEA.

IEP Accountability

34 CFR Sec. 300.350

Personnel hired to provide special education and related services to students with disabilities are responsible for ensuring that appropriate services are delivered. However, even when every reasonable effort is made to provide special education and related services to children with disabilities and to assist them in achieving the desired goals and benchmarks described in their IEPs, success cannot be guaranteed by any individual or public agency.

NEW MEXICO RULES

Compliance With Provisions Under IDEA; Exception

6.31.2.11 (B)(1) NMAC

An IEP is developed for each child with a disability as specified under IDEA, except as provided in Sees. 300.460-462 for children enrolled by their parents in private schools.

IEP Meeting Participants

6.31.2.11 (B)(2) NMAC

An IEP meeting is convened for initial development or review of an IEP. The parents and the child (**if** appropriate) are afforded the opportunity to attend and participate.

Signatures; Notice/Consent

6.31.2.11 (B)(3) NMAC

An initial IEP or revision has the signatures of all participants in the meeting to document their attendance. Written notice of proposed action may be provided in whole or in part at the close of the meeting. For any action requiring it, parental written consent is obtained before initiating the action.

Procedural Requirements

6.30.2.10 (J)(9) NMAC

For transition age students with disabilities, governing principles have been established as part of the State Standards for Excellence that guide the development, program of study, and granting of a diploma or certification.

The individualized education program (IEP) team is responsible for determining whether the student has completed a planned program of study making him or her eligible to receive a diploma or certificate. Upon completion of a planned program of study that meets the requirements, the student will be awarded a diploma. Three different options for the program of study (or pathway) have been established: a) a standard program of

study/pathway is based upon meeting or surpassing all requirements for graduation based on New Mexico Standards for Excellence with or without reasonable modification of delivery and assessment methods; b) a career readiness program of study/pathway is

based upon meeting the state board of education's career readiness standards with benchmarks as defined in the IEP with or without reasonable modifications of delivery

and assessment methods; c) an ability program of study/pathway is based upon meeting or surpassing IEP goals and objectives, with or without reasonable modifications of delivery and assessment methods, referencing skill attainment at a student's ability level, which may lead to meaningful employment.

A student who receives special education services may be granted a certificate when the IEP team provides documentation and justification for the use of a certificate for an individual student and a follow-up plan of action. A student who receives a certificate is eligible to continue receiving special education services until receipt of a diploma or until the end of the academic year in which the student turns 22.

Graduation plans must be a part of all IEPs: a) prior to the student entering the ninth grade or age 14 and concurrent with the development of the four-year plan; b) if a student returns to a school after an extended absence and if an IEP program of study may have been developed but needs to be reviewed; or c) at any subsequent time when evaluations warrant the need for a modified program of study. These graduation plans will follow the student in all educational settings. Receiving institutions that fall under the Public Education Department's jurisdiction will recognize these graduation plans, subject to revision by new IEP teams, if appropriate, to meet a student's changing needs.

At the exit IEP meeting the IEP team will review the exit re-evaluation and confirm and document that all requirements for graduation under the final IEP have been satisfied. A building administrator who has knowledge about the student must be a member of this team and sign specifically to verify and accept completed graduation plans, goals and objectives, or plans for a certificate and follow-up program as described in the bulleted items above. The students determined to receive the diploma through an alternate path shall be submitted to the local superintendent and the local school board by using the students' identification numbers. This information shall be treated as confidential in accordance with the Family Educational Rights and Privacy Act (FERPA).

The receipt of a diploma terminates the service eligibility of students with special education needs.

All diplomas awarded by a school district must be identical in appearance, content and effect, except that symbols or notations may be added to individual student's diplomas to reflect official school honors or awards earned by students.

Departures from standard programs of study for students receiving special education must be considered in the order of the options listed in the second bulleted item above. Any modified program of study may depart from a standard program only as far as is necessary to meet an individual student's educational needs as determined by the IEP team.

ACS has designated the Special Education Director as responsible to monitor IEPs to assure that progress toward graduation requirements is being addressed at each annual IEP for students with disabilities, beginning in 9th grade.