

Appendix B
Special Education and 504 Policies

Education for New Generations Charter School

Board of Trustees Policy

Access to Instructional Materials Policy

The Pennsylvania State Board of Education adopted the National Instructional Materials Accessibility Standard (NIMAS) as defined in the Education of Individuals with Disabilities Education Improvement Act of 2004 ("IDEA"), for the purpose of providing print instructional materials in alternate accessible formats or specialized formats to blind persons or other persons with print disabilities in a timely manner. Pursuant to the state regulations which incorporate the IDEA, Education for New Generations Charter School ("Charter School") will adopt NIMAS to ensure the timely provision of high quality, accessible instructional materials to children who are blind or other persons with print disabilities. The NIMAS refers to a standard for source files of print instructional materials created by publishers that may be converted into accessible instructional materials.

The Charter School, shall, in a timely manner, provide print instructional materials in specialized, accessible formats (that is, Braille, audio, digital, large-print, and the like) to children who are blind or other persons with print disabilities, as defined in 2 U.S.C.A. § 135a (regarding books and sound-reproduction records for blind and other physically handicapped residents; annual appropriations; and purchases).

The Charter School, shall, in a timely manner, provide instructional materials under subsection (a) if they take steps to ensure that children who are blind or other persons with print disabilities have access to their accessible format instructional materials at the same time that students without disabilities have access to instructional materials. The Charter School will not withhold instructional materials from other students until instructional materials in accessible formats are available.

Receipt of a portion of the instructional materials in alternate accessible or specialized format will be considered receipt in a timely manner if the material received covers the chapters that are currently being taught in the student's class.

If a child who is blind or other person with a print disability enrolls in the Charter School after the start of the school year, Charter School shall take steps to ensure that the student has access to accessible format instructional materials within 10 school days from the time it is determined that the child requires printed instructional materials in an alternate accessible or specialized format.

(f) The Charter School may coordinate with the National Instructional Materials Access Center (NIMAC) to facilitate the production of and delivery of accessible materials to children who are blind or other persons with print disabilities. The NIMAC refers to the central repository, established under section 674(e) of the Education of Individuals with Disabilities Education Act, which is responsible for processing, storing and distributing NIMAS files of textbooks and core instructional materials.

(g) Schools coordinating with NIMAC shall require textbook publishers to deliver the contents of print instructional materials to the NIMAC in NIMAS format files on or before delivery of the print instructional materials to the School. Schools that choose not to coordinate with NIMAC may require that publishers deliver the contents of print instructional materials to the NIMAC in NIMAS format files on or before delivery of the print instructional materials to the School.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

Board of Trustees Policy

Alternate Assessment of Students Policy

The Chief Executive Officer ("CEO") or his/her designee shall ensure that all children with disabilities are included in all general state and district-wide assessment programs, including the PSSA, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs.

Alternate assessments such as the PASA must be aligned with the state's academic content standards and student academic achievement standards or if the state has adopted alternate academic achievement standards, measure the achievement of children with disabilities against those standards.

Education for New Generations Charter School ("Charter School") must maintain information regarding the number of children who: participate in regular assessments; were provided accommodations in order to participate in those assessments; and participate in alternate assessments.

The CEO or his/her designee is directed to develop procedures to ensure that students with disabilities participate in the PSSA or PASA to the extent consistent with applicable law.

The CEO or his/her designee is directed to monitor student participation in statewide assessment to foster participation.

The CEO or his/her designee is directed to provide training opportunities to personnel regarding statewide assessment participation and PSSA and PASA requirements.

The CEO or his/her or her designee is directed to make Pennsylvania's guidelines regarding statewide assessments available to personnel.

The CEO or his/her designee is directed to develop procedures to prepare students in test-taking techniques prior to test administration.

The CEO or his/her designee is directed to review assessment data and use data to drive any needed program changes. The CEO or his/her designee is directed to report to the Board what changes are recommended and needed.

The CEO or his/her designee must maintain information regarding the performance of children with disabilities on regular assessments and on alternate assessments.

IEPs must include a description of benchmarks or short-term objectives for children who take alternate assessments aligned to alternate achievement standards.

IEPs must include a statement of any accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and district-wide assessments consistent with law.

IEPs must, if the IEP team determines that the child shall take an alternate assessment on a particular statewide or school-wide assessment of student achievement, provide a statement of why the child cannot participate in the regular assessment, and why the particular alternate assessment selected is appropriate for the child.

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ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

2012-2013 School Year

Annual Public Notice of Special Education Services and Programs and Rights for Students with Disabilities

And

Notification of Rights under the Family Educational Rights and Privacy Act

All children with disabilities residing in the Commonwealth, regardless of the severity of their disabilities, and who are in need of special education and related services, are to be located, identified and evaluated. This responsibility is required by a federal law called the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1200 *et. seq.* ("IDEA 2004").

Chapter 711 of Title 22 of the Pennsylvania Code requires the publication of a notice to parents regarding public awareness activities sufficient to inform parents of Education for New Generations Charter School ("Charter School") children of available special education services and programs and how to request those services and programs, and of systematic screening activities that lead to the identification, location and evaluation of children with disabilities enrolled in Charter School.

In addition, the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), which protects confidentiality, requires educational agencies to notify parents annually of their confidentiality rights.

Charter School fulfills its duties with this Annual Notice and has incorporated several sections of the PaTTAN Procedural Safeguards Notice and other applicable guidelines from the Pennsylvania Department of Education into the Board-approved Child Find Notice and Policies and Procedures described below. **Charter School also directs parents to the procedural safeguards notice from PaTTAN available at the School's main office for additional information regarding rights and services.** Parents may contact Charter School's **Director of Special Education, _____**, at **ADDRESS AND PHONE NUMBER** at any time to request a copy of the Procedural Safeguards Notice or with any other questions about special education services, screenings, policies, or procedures. The Procedural Safeguards Notice is provided to parents of special education students by Charter School once per school year or: (1) upon initial referral or parent request for evaluation; (2) upon filing by parents of their first State complaint under 34 CFR §§300.151 through 300.153 and upon filing by parents of their first due process complaint under §300.507 in a school year; (3) when a decision is made to take a disciplinary action that constitutes a change of placement; and (4) upon parent request. [34 CFR §300.504(a)].

The purpose of this Annual Notice is to comply with Charter School's obligations under Chapter 711 of Title 22 of the Pennsylvania Code and to describe: (1) the types of disabilities that might qualify the child for special education; (2) the special education programs and related services that are available; (3) the process by which Charter School screens and evaluates such students to determine eligibility; (4) the special rights that pertain to such children and their parents or legal guardians; and (5) the confidentiality rights that pertain to student information.

A copy of this Annual Notice is also available on the School's website at: www.

Qualifying for special education and related services

Under the federal Individuals with Disabilities Education Improvement Act of 2004, or "IDEA 2004," children qualify for special education and related services if they have one or more of the following disabilities and, as a result, need special education and related services: mental retardation; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairment; specific learning disability; deaf-blindness; or multiple disabilities.

IDEA 2004 provides legal definitions of the disabilities that qualify a student for special education and related services, which may differ from those terms used in medical or clinical practice or common usage.

Section 504 Services

Under Section 504 of the federal Rehabilitation Act of 1973, some school-age children with disabilities who do not meet the eligibility criteria outlined above might be eligible for special protections and for adaptations and accommodations in instruction, facilities, and activities. Children are entitled to such protections, adaptations, and accommodations if they have a mental or physical disability that substantially limits or prohibits participation in or access to an aspect of the school program and otherwise qualify under the applicable state and federal laws, including Chapter 711 of Title 22 of the Pennsylvania Code and Section 504.

Charter School must ensure that qualified handicapped students have equal opportunity to participate in the School program and activities to the maximum extent appropriate for each individual student. In compliance with applicable state and federal laws, Charter School provides to each qualifying protected handicapped student without discrimination or cost to the student or family, those related aids, services or accommodations which are needed to provide equal opportunity to participate in and obtain the benefits of the school program and activities to the maximum extent appropriate to the student's abilities and to the extent required by the laws.

These services and protections for "protected handicapped students" may be distinct from those applicable to eligible or thought-to-be eligible students. Charter School or the parent may initiate an evaluation if they believe a student is a protected handicapped student. For further information on the evaluation procedures and provision of services to protected handicapped students, parents should contact the school [INSERT CONTACT INFORMATION FOR SECTION 504 COORDINATOR].

Least Restrictive Environment ("LRE")

Charter Schools ensure that children with disabilities are educated to the maximum extent possible in the regular education environment or "least restrictive environment". To the maximum extent appropriate, students with disabilities are educated with students who are not disabled. Special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only when the nature or severity of the disability is such that education in general education classes, even with the use of supplementary aids and services, cannot be achieved satisfactorily. Programs and services available to students with disabilities might include: (1) regular

class placement with supplementary aides and services provided as needed in that environment; (2) regular class placement for most of the school day with itinerant services by a special education teacher either in or out of the regular classroom; (3) regular class placement for most of the school day with instruction provided by a special education teacher in a resource classroom; (4) part time special education class placement in a regular public school or alternative setting; and (5) special education class placement or special education services provided outside the regular class for most or all of the school day, either in a regular public school or alternative setting. This is a team decision.

Depending on the nature and severity of the disability and least restrictive environment consideration, Charter School could provide special education programs and services as determined appropriate by the IEP team, in locations such as: (1) the classroom/building the child would attend if not disabled; (2) an alternative regular class either in or outside the school; (3) a special education center operated by an Intermediate Unit; (4) an approved private school or other private facility licensed to serve children with disabilities; (5) a residential school; (6) approved out-of-state program; or (7) the home. This is a team decision.

Special education services are provided according to the educational needs of the child, not the category of disability. Types of services that may be available, depending upon the child's disability and needs might include, but are not limited to: (1) learning support; (2) life skills support; (3) emotional support; (4) deaf or hearing-impaired support; (5) blind or visually-impaired support; (6) physical support; (7) autistic support; (8) multiple disabilities support; (9) speech and language support; (10) extended school year support; and (11) vision support. This is a team decision.

Related services are designed to enable the child to participate in or access his or her program of special education. Examples of related services that a child may require include, but are not limited to: speech and language therapy; transportation; occupational therapy; physical therapy; school nursing services; audiology counseling services; parent counseling or training; certain medical services for diagnostic or evaluation purposes; social work; recreation; and transition. Some students may also be eligible for extended school year services if determined needed by their IEP teams in accordance with Chapter 711 regulations.

Charter School, in conjunction with parents, determines the type and intensity of special education and related services that a particular child needs based on the unique program of special education and related services that the School develops for that child. The child's program is described in writing in an individualized education program, or "IEP," which is developed by an IEP team. The participants in the IEP team are dictated by IDEA 2004. The parents of the child have the right to be notified of and to be offered participation in all meetings of their child's IEP team. The IEP is revised as often as circumstances warrant, but reviewed at least annually. The law requires that the program and placement of the child, as described in the IEP, be reasonably calculated to ensure meaningful educational benefit to the student. In accordance with IDEA 2004, there may be situations in which a Charter School may hold an IEP team meeting if the parents refuse or fail to attend the IEP team meeting.

IEPs generally contain: (1) a statement of the student's present levels; (2) a statement of measurable annual goals established for the child; (3) a statement of how the child's progress toward meeting the annual goals will be measured and when periodic reports will be provided; (4) a statement of the special education and related services and supplementary aids and services, and a statement of the

program modifications or supports for School personnel that will be provided, if any; (5) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in activities; (6) a statement of any individual appropriate accommodations that are necessary to measure the performance of the child on State and School assessments; and (7) the projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services or modifications.

Beginning not later than the first IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include appropriate measurable postsecondary goals and transition services needed to assist in reaching those goals. Charter School must invite the child to the IEP team meeting at which the transition plan is developed.

Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights, if any, that will transfer to the child on reaching the age of majority.

Screening and Evaluation Procedures for Children to Determine Eligibility

Screening

Charter School has established a system of screening which may include pre-referral intervention services to accomplish the following:

- (1) Identification and provision of initial screening for students prior to referral for a special education evaluation.
- (2) Provision of peer support for teachers and other staff members to assist them in working effectively with students in the general education curriculum and special education curriculum.
- (3) Identification of students who may need special education services and programs.

The screening process includes:

Hearing and vision screening in accordance with Section 1402 of the Public School Code of 1949 (24 P. S. § 14-1402) for the purpose of identifying students with hearing or vision difficulty so that they can be referred for assistance or recommended for evaluation for special education.

Screening at reasonable intervals to determine whether all students are performing based on grade-appropriate standards in core academic subjects.

Charter School has established and implements procedures to locate, identify, and evaluate children suspected of being eligible for special education. These procedures involve screening activities which may also include, but are not limited to: review of data and student records; motor screening; and speech and language screening. The School assesses the current achievement and performance of the child, designs school-based interventions, and assesses the effectiveness of interventions. If the concern can be addressed without special education services, or is the result of limited English proficiency or appropriate instruction, a recommendation may be made for

interventions other than a multidisciplinary team evaluation. Parents have the right to request a multidisciplinary team evaluation at any time, regardless of the outcome of the screening process.

Except as indicated above or otherwise announced publicly, screening activities take place on-going at periods throughout the school year. Screening is conducted at Charter School, unless other arrangements are necessary or arranged.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not to be considered an evaluation for eligibility for special education and related services.

If parents need additional information regarding the purpose, time, and location of screening activities, they should call or write _____, Director of Special Education of Charter School at:

Education for New Generations Charter School
ADDRESS
PHONE NUMBER

Screening or pre-referral intervention activities may not serve as a bar to the right of a parent to request an evaluation, at any time, including prior to or during the conduct of screening or pre-referral intervention activities.

Disproportionality

In accordance with Chapter 711, in the event that Charter School would ever meet the criteria in 34 CFR § 300.646 (relating to disproportionality), as established by the State Department of Education, the services that would be required would then include:

- (1) A verification that the student was provided with appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act (ESEA) (20 U.S.C.A. § 6368(3)), and appropriate instruction in math.
- (2) For students with academic concerns, an assessment of the student's performance in relation to State-approved grade-level standards.
- (3) For students with behavioral concerns, a systematic observation of the student's behavior in the school environment where the student is displaying difficulty.
- (4) A research-based intervention to increase the student's rate of learning or behavior change based on the results of the assessments under paragraph (2) or (3), or both.
- (5) Repeated assessments of achievement or behavior, or both, conducted at reasonable intervals, reflecting formal monitoring of student progress during the interventions.
- (6) A determination as to whether the student's assessed difficulties are the result of a lack of instruction or limited English proficiency.
- (7) A determination as to whether the student's needs exceed the functional ability of the regular education program to maintain the student at an appropriate instructional level.
- (8) Documentation that information about the student's progress as identified in paragraph (5) was periodically provided to the student's parents.

Evaluation

An evaluation under IDEA 2004 involves the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining whether the child is a child with a disability and the content of the child's IEP. Charter School does not use any single measure or assessment as a sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. Technically sound instruments are used to assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

Parental consent must be obtained by Charter School prior to conducting an initial evaluation to determine if the child qualifies as a child with a disability, and before providing special education and related services to the child. Parental consent for an evaluation shall not be construed as consent for their child to receive special education and related services. The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services; therefore, parental consent is not required in this instance.

The law contains additional provisions and due process protections regarding situations in which parental consent for an initial evaluation is absent or refused discussed more fully below and in the PaTTAN Procedural Safeguards Notice. If you have any questions about where to obtain a copy of the PaTTAN Procedural Safeguards Notice, kindly contact the **Director of Special Education**, _____, at **ADDRESS AND PHONE NUMBER**.

The evaluation process is conducted by a Multi-Disciplinary Team ("MDT"), which includes a teacher, other qualified professionals who work with the child, the parents and other members as required by law. The Multi-Disciplinary Evaluation ("MDE") process must be conducted in accordance with specific timelines and must include protective procedures. For example, tests and procedures used as part of the Multi-Disciplinary Evaluation may not be racially or culturally biased.

The MDE process culminates with a written report called an Evaluation Report ("ER"). This report makes recommendations about a student's eligibility for special education based on the presence of a disability and the need for specially designed instruction.

Parents who think their child is eligible for special education may request, at any time, that Charter School conduct a Multi-Disciplinary Evaluation. **Requests for a Multi-Disciplinary Evaluation must be made in writing to the Director of Special Education**, _____, at **CHARTER SCHOOL ADDRESS**.

If a parent makes an oral request for a Multi-Disciplinary Evaluation, Charter School shall provide the parent with a form(s) for that purpose. If the public school denies the parents' request for an evaluation, the parents have the right to challenge the denial through an impartial hearing or through voluntary alternative dispute resolution such as mediation.

Reevaluations are conducted if Charter School determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation. A reevaluation may occur not more than once a year, unless the parent and Charter School agree; and must occur once every 3 years, unless the parent and Charter School agree that a reevaluation is unnecessary. Students with mental retardation must be reevaluated every two years under State law.

Educational Placement

The determination of whether a student is eligible for special education is made by an Individualized Education Program (IEP) team. The IEP team includes: the parents of a child with a disability; not less than one regular education teacher, if the child is, or may be, participating in the regular education environment; not less than one special education teacher, or when appropriate, not less than one special education provider; a representative of the School who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of Charter School; an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described above; other individuals, at the discretion of the parent or the agency, who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and whenever appropriate, a child with a disability. IEP team participation is directly addressed by the regulations. If the student is determined to be eligible for special education, the IEP team develops a written education plan called an IEP. The IEP shall be based in part on the results of the Multi-Disciplinary Evaluation. When the IEP team decides that a student is not eligible for special education, recommendations for educational programming in regular education may be developed from the ER.

Placement must be made in the "least restrictive environment", as described more fully above, in which the student's needs can be met with special education and related services. All students with disabilities must be educated to the maximum extent appropriate with children who are not disabled.

Parents and Surrogate Parents

For purposes of this Notice, Charter School considers parents to be biological or adoptive parents of a child; a foster parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child; an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent.

A surrogate parent must be appointed when no parent can be identified; a public agency, after reasonable efforts, cannot locate a parent; the child is a ward of the State under the laws of Pennsylvania, or the child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11434a(6). A person selected as a surrogate parent must not be an employee of the SEA, Charter School, or any other agency that is involved in the education or care of the child; has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and has knowledge and skills that ensure adequate representation of the child. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. Reasonable

efforts must be made to ensure the assignment of a surrogate parent not more than 30 days after it is determined that the child needs a surrogate parent.

Prior Written Notice

Charter School will notify the parent whenever Charter School:

- a. Proposes to initiate or to change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education ("FAPE") to the child; or
- b. Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to the child.
- c. Change of placement for disciplinary reasons.
- d. Due process hearing, or an expedited due process hearing, initiated by Charter School.
- e. Refusal of Charter School to agree to an independent educational evaluation ("IEE") at public expense.

In Pennsylvania, prior written notice is provided by means of a Prior Written Notice Form/Notice of Recommended Educational Placement ("NOREP"). You should be given reasonable notice of this proposal or refusal so that if you do not agree with Charter School you may take appropriate action. Reasonable Notice means ten (10) days.

The prior written notice must:

Describe the action that Charter School proposes or refuses to take:

1. Explain why Charter School is proposing or refusing to take the action;
2. Describe each evaluation procedure, assessment, record, or report Charter School used in deciding to propose or refuse the action;
3. Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;
4. Tell how you can obtain a description of the procedural safeguards if the action that Charter School is proposing or refusing is not an initial referral for evaluation;
5. Include resources for you to contact for help in understanding Part B of the IDEA;
6. Describe any other choices that your child's IEP Team considered and the reasons why those choices were rejected; and
7. Provide a description of other reasons why Charter School proposed or refused the action.

The notice must be:

- 1) Written in language understandable to the general public; and
- 2) Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.
- 3) If your native language or other mode of communication is not a written language, Charter School will ensure that:
 - a) The notice is translated for you orally or by other means in your native language or other mode of communication;
 - b) You understand the content of the notice; and

- c) There is written evidence that 1 and 2 have been met.

Native language, when used with an individual who has limited English proficiency, means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
2. In all direct contact with a child (including evaluation of a child), the language normally used by the child in the home or learning environment.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

Parental Consent

WHEN IS PARENTAL CONSENT NEEDED?

Initial Evaluations (34 CFR §300.300)

Charter School cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of the IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent as described under the heading Parental Consent.

We will make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability. Your consent for initial evaluation does not mean that you have also given your consent to start providing special education and related services to your child. If you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, we may, but are not required to, seek to conduct an initial evaluation of your child by utilizing mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. We will not violate our obligations to locate, identify and evaluate your child if we do not pursue an evaluation of your child in these circumstances.

Special rules for initial evaluation of wards of the State

Under Pennsylvania law, if a child is designated a ward of the state, the whereabouts of the parent are not known or the rights of the parent have been terminated in accordance with State law. Therefore, someone other than the parent has been designated to make educational decisions for the child.

For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

1. Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
2. The rights of the parents of the child have been terminated in accordance with State law; or

3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

Consent for an initial evaluation should, therefore, be obtained from the individual so designated to make educational decisions for the child.

Ward of the State, as used in the IDEA, encompasses two other categories, so as to include a child who is:

1. A foster child who does not have a foster parent;
2. Considered a ward of the State under State law; or
3. In the custody of a public child welfare agency.

Consent for Initial Placement in Special Education (34 CFR §300.300)

We must obtain your informed consent before providing special education and related services to your child for the first time. We must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, we may not use the procedural safeguards (i.e. mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services as recommended by your child's IEP Team may be provided to your child without your consent.

If you refuse to give your consent for your child to start receiving special education and related services, or if you do not respond to a request to provide such consent and we do not provide your child with the special education and related services for which consent is sought, Charter School:

1. Is not in violation of the requirement to make FAPE available to your child for its failure to provide those services to your child; and
2. Is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Consent for Reevaluations (34 CFR §300.300)

We must obtain your informed consent before your child is reevaluated, unless:

1. Charter School took reasonable steps to obtain your consent for your child's reevaluation; and
2. You did not respond.

What is Documentation of Reasonable Efforts to Obtain Parental Consent? (34 CFR §300.300, §300.322)

We will maintain documentation of reasonable efforts to obtain parental consent for initial evaluations, to provide special education and related services for the first time, to reevaluation and to locate parents of wards of the State for initial evaluations. The documentation will include a record of attempts in these areas, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; and
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

When is Consent Not Required Related to Evaluate?

1. Review existing data as part of your child's evaluation or a reevaluation; or
2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

When there is Refusal to Consent to a Reevaluation?

If you refuse to consent to your child's reevaluation, we may, but are not required to, pursue your child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, we do not violate obligations under Part B of the IDEA if we decline to pursue the reevaluation in this manner.

We may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

Disagreements with an Evaluation

a. Independent Educational Evaluations (34 CFR §300.502)

1) General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by Charter School. If you request an IEE, Charter School must provide you with information about where you may obtain an IEE and about Charter School's criteria that apply to IEEs.

2) Definitions

- a) *Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by Charter School and responsible for the education of your child.
- b) *Public expense* means that Charter School either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of the IDEA, which allow each State to use whatever State, local, Federal and private sources of support are available in the State to meet the requirements of Part B of the Act.

3) Parent right to evaluation at public expense

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by Charter School, subject to the following conditions:

- a) If you request an IEE of your child at public expense, Charter School must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an IEE at public expense, unless Charter School demonstrates in a hearing that the evaluation of your child that you obtained did not meet Charter School's criteria.
- b) If Charter School requests a hearing and the final decision is that Charter School's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
- c) If you request an IEE of your child, Charter School may ask why you object to the evaluation of your child obtained by Charter School. However, Charter School may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend Charter School's evaluation of your child.
- d) You are entitled to only one IEE of your child at public expense each time Charter School conducts an evaluation of your child with which you disagree.
- e) Charter School criteria

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that Charter School uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).

Except for the criteria described above, Charter School may not impose conditions or timelines related to obtaining an IEE at public expense.

b. Parent-initiated evaluations

If you obtain an IEE of your child at public expense or you share with Charter School an evaluation of your child that you obtained at private expense:

- 1) Charter School must consider the results of the evaluation of your child, if it meets Charter School's criteria for IEEs, in any decision made with respect to the provision of FAPE to your child; **and**
- 2) You or Charter School may present the evaluation as evidence at a due process hearing regarding your child.

c. Requests for evaluations by hearing officers

If a hearing officer requests an IEE of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

ANNUAL NOTICE OF RIGHTS REGARDING STUDENT RECORDS:

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION
(34 CFR §300.622)

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the

circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of the IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

ACCESS TO CONFIDENTIAL INFORMATION RELATED TO STUDENT (34 CFR §300.611)

1. Related to the confidentiality of information, the following definitions apply:

- a. *Destruction* means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- b. *Education records* means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).
- c. *Participating agency* means any Charter School, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.
- d. *Personally identifiable (34 CFR § 300.32)* means information that has:
 - 1) Your child's name, your name as the parent, or the name of another family member;
 - 2) Your child's address;
 - 3) A personal identifier, such as your child's social security number or student number; or
 - 4) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

2. Access Rights (34 CFR §300.613)

a. Parent Access

Charter School must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by Charter School under Part B of the IDEA. Charter School must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

- 1) Your right to inspect and review education records includes:
- 2) Your right to a response from Charter School to your reasonable requests for explanations and interpretations of the records;
- 3) Your right to request that Charter School provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; and
- 4) Your right to have your representative inspect and review the records.
 - a) Charter School may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.
 - b) If any education record includes information on more than one child, the parents of those children have the right to inspect and review only

the information relating to their child or to be informed of that specific information.

- c) On request, each Charter School must provide you with a **list of the types and locations of education records** collected, maintained, or used by Charter School.

b. Other Authorized Access (34 CFR §300.614)

Charter School must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

2. Fees

Charter School may charge a fee or copies of records (34 CFR §300.617) that are made for you under Part B of the IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records. Charter School may not charge a fee to search for or to retrieve information under Part B of the IDEA.

3. Amendment of Records at Parent's Request (34 CFR §300.618)

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request Charter School to change the information. Charter School must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If Charter School refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose.

4. Opportunity for a Records Hearing (34 CFR §300.619)

Charter School must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

a. Hearing Procedures (34 CFR §300.621)

A hearing to challenge information in education records must be conducted according to the following procedures for such hearings under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1233g ("FERPA"), 34 CFR § 99.22:

- 1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.
- 2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.
- 3) The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.
- 4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

- 5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.
- 6) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

b. Result of Hearing (34 CFR §300.620)

If, as a result of the hearing, Charter School decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and inform you in writing. If, as a result of the hearing, Charter School decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, Charter School must inform you of the right to place in the records that Charter School maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. Be maintained by Charter School as part of the records of your child as long as the record or contested portion is maintained by Charter School; **and**
2. If Charter School discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

c. Safeguards (34 CFR §300.623)

Charter School must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at Charter School must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding State policies and procedures regarding confidentiality under Part B of the IDEA and FERPA.

Charter School must maintain, for public inspection, a current listing of the names and positions of those employees within Charter School who have access to personally identifiable information.

5. Destruction of Information (34 CFR §300.624)

Charter School must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child, and the information must be destroyed at your request.

However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

PROCEDURES FOR DISCIPLINARY EXCLUSION OF CHILDREN WITH DISABILITIES.

There are special rules in Pennsylvania for excluding children with disabilities for disciplinary reasons:

AUTHORITY OF SCHOOL PERSONNEL (34 CFR §300.530)

1. Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

2. General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 consecutive school days**, remove a child with a disability (other than a child with mental retardation) who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child 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 (see *Change of Placement Because of Disciplinary Removals* for the definition, below) or **exceed 10 cumulative school days in a school year**. Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, Charter School must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading *Services*.

3. Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see *Manifestation determination*, below) and the disciplinary change of placement would exceed **10 consecutive school days**, Charter School may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under *Services*. The child's IEP Team determines the interim alternative educational setting for such services. Under PA special education regulations, a disciplinary exclusion of a student with a disability for **more than 10 cumulative school days** in a school year can be considered a pattern so as to be deemed a change in educational placement (explained under *Change of Placement Because of Disciplinary Removals*). Charter School is required to issue a NOREP/Prior Written Notice to parents prior to a removal that constitutes a change in placement (removal for more than 10 consecutive days or more than 10 cumulative days).

4. Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided to an interim alternative educational setting. A Charter School is only required to provide services to a child with a disability who has been removed from his or her current placement for **10 school days or less** in that school year, if it provides services to a child without disabilities who has been similarly removed. Students may have the responsibility to make up exams and work missed while being disciplined by suspension and may be permitted to complete these assignments within guidelines established by their Charter School.

A child with a disability who is removed from the child's current placement for **more than 10 consecutive school days** must:

- a. Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; **and**
- b. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **more than 10 school days** during one school year, or **if** current removal is for **10 consecutive school days** or less, **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see definition below), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

5. Manifestation Determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, Charter School, the parent, and relevant members of the IEP Team (as determined by the parent and Charter School) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
- b. If the conduct in question was the direct result of Charter School's failure to implement the child's IEP.

If Charter School, the parent, and relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If Charter School, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of Charter School's failure to implement the IEP, Charter School must take immediate action to remedy those deficiencies.

6. Determination that behavior was a manifestation of the child's disability

If Charter School, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

- a. Conduct a functional behavioral assessment, unless Charter School had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; **or**
- b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading **Special circumstances**, Charter School must return the child to the placement from which the child was removed, unless the parent and Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

7. Special circumstances

Whether or not the behavior was a manifestation of the child's disability, School personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

- a. Carries a weapon (see the **Definitions** below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of Charter School;

- b. Knowingly has or uses illegal drugs (see the Definitions below), or sells or solicits the sale of a controlled substance, (see the Definitions below), while at school, on school premises, or at a school function under the jurisdiction of Charter School; or
- c. Has inflicted serious bodily injury (see the Definitions below) upon another person while at school, on school premises, or at a school function under the jurisdiction of Charter School.

8. Definitions

- a. *Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- b. *Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- c. *Serious bodily injury* has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- d. *Weapon* has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

9. Notification

On the date it makes the decision to make a removal that is a change of placement of the child with a disability because of a violation of a code of student conduct, Charter School must notify the parents of that decision, and provide the parents with a Procedural Safeguards Notice.

Change Of Placement Because Of Disciplinary Removals (34 CFR §300.536)

A removal of a child with a disability from the child’s current educational placement is a **change of placement** requiring a NOREP/prior written notice if:

- 1. The removal is for more than 10 consecutive school days; or
- 2. The removal is for more than 15 cumulative school days; or
- 3. The child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The child’s behavior is substantially similar to the child’s behavior in previous incidents that resulted in a series of removals; and
 - c. Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by Charter School and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting (34 CFR §300.531)

The IEP must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings *Additional authority* and *Special circumstances*, above.

1. **General**

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

- a. Any decision regarding placement made under these discipline provisions; or
- b. The manifestation determination described above.

Charter School may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

2. Authority of hearing officer

A hearing officer that meets the requirements described under the sub-heading *Impartial Hearing Officer* must conduct the due process hearing and make a decision.

The hearing officer may:

- a. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading Authority of School Personnel, or that the child's behavior was a manifestation of the child's disability; or
- b. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if Charter School believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a Charter School files a due process complaint to request such a hearing, a hearing must be held in accordance with the following:

1. Charter School must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is filed and must result in a determination within 10 school days after the hearing.
2. Unless the parents and Charter School agree in writing to waive the resolution meeting, or agree to use mediation, a resolution meeting must occur within 7 calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings.

When, as described above, the parent or Charter School has filed a due process complaint related to disciplinary matters, the child must (unless the parent and Charter School agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading *Authority of School Personnel*, whichever occurs first.

Special Rules for Students with Mental Retardation

The disciplinary removal of a child with mental retardation attending either a Charter School for any amount of time is considered a change in placement and requires NOREP/prior written notice (if the disciplinary event does not involve drugs, weapons and/or serious bodily injury). A removal from school is not a change in placement for a child who is identified with mental retardation when the disciplinary event involves weapons, drugs, and/or serious bodily injury.

According to certain assurances the Commonwealth entered into related to the PARC consent decree, a Charter School may suspend on a limited basis a student with mental retardation who presents a danger to himself or others upon application and approval by the Bureau of Special Education and only to the extent that a student with a disability other than mental retardation could be suspended.

Protections For Children Not Yet Eligible For Special Education and Related Services (34 CFR §300.534)

1. General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but Charter School had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

2. Basis of knowledge for disciplinary matters

Charter School must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- a. The parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel of Charter School, or a teacher of the child;
- b. The parent requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; **or**
- c. The child's teacher, or other Charter School personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to Charter School's Director of Special Education or to other supervisory personnel of Charter School.

3. Exception

A Charter School would not be deemed to have such knowledge if:

- a. The child's parent has not allowed an evaluation of the child or refused special education services; **or**
- b. The child has been evaluated and determined to not be a child with a disability under Part B of the IDEA.

4. Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, Charter School does not have knowledge that a child is a child with a disability, as described above under the sub-headings *Basis of knowledge for disciplinary matters* and *Exception*, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors. However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, 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 Charter School and information provided by the parents, Charter School must provide special education and related services in accordance with Part B of the IDEA, including the disciplinary requirements described above.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES (34 CFR §300.535)

1. The state and federal regulations do not:

- a. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
- b. 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.

Subsequent to a referral to law enforcement, an updated functional behavior assessment and positive behavior support plan are required.

2. Transmittal of records

If Charter School reports a crime committed by a child with a disability, Charter School must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom Charter School reports the crime and may transmit copies of the child's special education and disciplinary records only to the extent permitted by FERPA.

THIS ANNUAL NOTICE AND STATEMENT OF POLICY AND PROCEDURES HAS BEEN WRITTEN IN ACCORDANCE WITH CHAPTER 711 OF TITLE 22 OF THE PA CODE AND INCORPORATED INFORMATION FROM APPLICABLE PDE AND STATE FORMS AND SOURCES INCLUDING THE PATTAN PROCEDURAL SAFEGUARDS NOTICE.

THE CONTENT OF THIS NOTICE HAS BEEN WRITTEN IN STRAIGHTFORWARD, SIMPLE ENGLISH LANGUAGE. IF A PERSON DOES NOT UNDERSTAND ANY OF THIS NOTICE, HE OR SHE SHOULD ASK _____, DIRECTOR OF SPECIAL EDUCATION OF CHARTER SCHOOL FOR AN EXPLANATION. CHARTER SCHOOL WILL ARRANGE FOR AN INTERPRETER FOR PARENTS WITH LIMITED ENGLISH PROFICIENCY. IF A PARENT IS DEAF OR BLIND OR HAS NO WRITTEN LANGUAGE, THE SCHOOL WILL ARRANGE FOR COMMUNICATION OF THIS NOTICE IN THE MODE NORMALLY USED BY THE PARENT (E.G., SIGN LANGUAGE, BRAILLE, OR ORAL COMMUNICATION).

THIS NOTICE IS ONLY A SUMMARY OF THE SPECIAL EDUCATION SERVICES, EVALUATION AND SCREENING ACTIVITIES, AND RIGHTS AND PROTECTIONS PERTAINING TO CHILDREN WITH DISABILITIES, CHILDREN THOUGHT TO BE DISABLED, AND THEIR PARENTS AND IS ONLY A SUMMARY OF THE CONFIDENTIALITY RIGHTS REGARDING STUDENT INFORMATION.

FOR MORE INFORMATION OR TO REQUEST EVALUATION OR SCREENING OF A CHARTER SCHOOL STUDENT CONTACT _____, DIRECTOR OF SPECIAL EDUCATION OF CHARTER SCHOOL AT CHARTER SCHOOL NAME ADDRESS, PHONE NUMBER.

NOTHING IN THIS NOTICE IS INTENDED TO CONFLICT WITH OR SUPPLANT THE INFORMATION CONTAINED IN THE PENNSYLVANIA DEPARTMENT OF EDUCATION'S CURRENT "PROCEDURAL SAFEGUARDS NOTICE" WHICH IS AVAILABLE THROUGH THE SCHOOL FOR YOUR REVIEW OR WITH APPLICABLE STATE AND/OR FEDERAL LAWS.

Education for New Generations Charter School

Board of Trustees Policy

Assistive Technology (AT) Policy and Procedures

As defined in federal and state law, **assistive technology device** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities. Assistive technology devices range from a simple switch for a child with particular physical limitations to a sophisticated vocal output augmentative communication device for a child with severe speech impairment.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

By virtue of these expansive definitions, an exhaustive yet specific list of what constitutes assistive technology devices and/or services would be impossible to create.

By way of example:

Hearing aids worn in school by children with hearing impairments, including deafness, must be functioning properly.

External components of surgically implanted medical devices must be functioning properly.

The Board of Trustees (the "Board") of Education for New Generations Charter School recognizes that assistive technology devices and/or services may be essential factors in meeting the educational needs of children with disabilities. Both federal and state special education laws explicitly include assistive technology devices and/or services among those services which must be provided for a child with a disability, at no cost to parents, if determined by the Individualized Education Program (IEP) team to be necessary for the student to receive a free appropriate public education (FAPE). Such services may be required as part of special education, related services, or supplementary aids and services required to enable a child to be educated in the least restrictive environment.

The Board further recognizes that, as with every other special education service, the IEP team is responsible for determining if an assistive technology device and/or service is necessary for a child with a disability to receive FAPE. It is important to remember that assistive technology devices and/or services are not ends in themselves. The IEP team should focus on whether or not assistive technology devices and/or services are necessary for the eligible child to meet educational demands and therefore receive FAPE.

THEREFORE

To the extent that assistive technology devices and/or services may be required as part of special education, related services, or supplementary aids or services, a child's IEP must include a statement describing the full extent of devices (e.g., no, low, and high technology and back-up strategies) and service(s) as well as the amount of such service(s). The provision of assistive technology devices and/or services may not be made conditional on subsequent approval by entities outside the IEP process (i.e., IU availability, Medical Access Reimbursement, etc.).

All procedural safeguards and time lines set forth in federal and state laws for completing multidisciplinary evaluations, reevaluations, and developing and implementing IEPs are fully applicable to assistive technology devices and/or services when they are necessary to ensure eligible children receive FAPE. Assistive technology devices should be secured on loan or leased if manufacturer delay is anticipated.

It is Charter School's responsibility to provide assistive technology devices and services when included as part of a student's IEP. Charter School is responsible for the maintenance and repair of assistive technology devices used to implement a child's IEP.

The CEO or his/her designee is directed to seek any necessary assistance from the Commonwealth regarding the purchase and payment for Assistive Technology. According to PDE, the CEO or his/her designee should inform the family not to assume the device will be billed to Medical Assistance (MA), even if a child's MA number is provided on an equipment acquisition form. If the device is billed to MA, the CEO or his/her designee will notify the parents by sending a transfer of ownership letter. When the parents are in receipt of the transfer of ownership letter, the billing process has begun. If the billing is ultimately rejected by MA, the parents will be informed by letter. The CEO or his/her designee may not delay or deny a student's receipt of assistive technology while it attempts to secure MA funding and is directed to comply with any applicable procedures as modified by PDE.

Additional Administrative Procedures: The CEO or his/her designee is charged with implementing procedures to ensure that devices are properly maintained and functioning, including hearing aids and surgically implanted medical devices.

Routine checks and tests of those devices will be administered and results logged or otherwise noted when necessary. The CEO or his/her designee is directed to implement a process to address: the need for AT, effective maintenance of all AT devices, the selection of age and developmentally appropriate AT devices, review of recommendations from qualified personnel including speech language pathologists regarding AT, and the maintenance of AT by the charter school. All AT devices are to be maintained in a manner deemed appropriate for their intended use and purpose as directed by the manufacturer to the maximum extent possible.

The need for AT services and devices are to be identified with specificity in students' IEPs and AT services and devices are to be reviewed at least annually in the course of an IEP team meeting, or as requested by the IEP team and/or parent.

The CEO or his/her designee is directed to have AT devices promptly repaired when needed and in the interim a device or back up plan is to be in place while the device is being repaired/maintained.

The CEO or his/her designee is further directed to have a plan in place to provide AT services without interruption.

The CEO or his/her designee is charged with making personnel aware of the availability of AT resources.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

Board of Trustees Policy

Child Find Policy and Public Outreach Awareness System

In accordance with Chapter 711 of Title 22 of the Pennsylvania Code, the Chief Executive Officer ("CEO") designee shall ensure that children with disabilities, regardless of the severity of their disabilities, and who are enrolled at the charter school and are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

Child Find includes children who are suspected of having a disability under Section 300.8 of the federal regulations that implement IDEA 2004 and in need of special education, even though they are advancing from grade to grade; and highly mobile children, including migrant children and homeless youth, as appropriate.

Public Awareness

The CEO or his/her designee shall ensure that the following public awareness activities occur concerning programs and services for children with disabilities who are enrolled at the Education for New Generations Charter School ("Charter School").

Charter School shall publish annually a written notice (attached hereto), in means accessible to the Charter School families. Such notice must be included in the Charter School's Handbook and on the Charter School's website. The Notice may also be made available in means accessible to the public, such as: at the Charter School's main office, in the Charter School's special education office, through local Intermediate Units and/or through other generally accessible print and electronic media deemed appropriate, and with the Board meeting minutes a description of: child identification activities, of the Charter School's special education services and programs, of the manner in which to request services and programs, and of the procedures followed by the Charter School to ensure the confidentiality of student information pertaining to students with disabilities pursuant to state and federal law.

Outreach Activities

The CEO or his/her designee shall ensure that the following outreach activities occur concerning programs and services for children with disabilities who attend the Charter School:

- Offer parents and family (including foster and surrogate parents) information regarding training activities and publicize the availability of such activities to all parents (trainings in the areas of behavior support, response to intervention, inclusive practices, transition, assistive technology, autism, and interagency coordination are important and parents may also be directed to PaTTAN training opportunities). Parent input is to be sought to determine what parent trainings are needed/desired;
- Provide to interested health and mental health professionals, daycare providers, county agency personnel and other interested professionals, including: professionals and agencies who work with homeless and migrant or other highly mobile youth, wards of the state, as well as to students attending private schools (where applicable), information concerning the types of special education programs and services available in and through the Charter School and information regarding the manner in which parents can request and access those services.
- Provide or obtain periodic training for the Charter School's regular education staff and special education staff concerning the identification and evaluation of, and provision of special education programs and services to students with disabilities.
- The public outreach awareness system utilized by the Charter School shall include methods for reaching homeless children, wards of the state, and highly mobile children, including migrant children.
- The Charter School shall conduct child find activities to inform the public of its special education services and programs and the manner in which to request them.
- The Charter School's child find effort must include information regarding potential signs of developmental delays and other risk factors that could indicate disabilities.
- Efforts must be made to identify enrolled students who have a native language other than English and to ensure that notices and other outreach efforts are

available to them in their native language as required by law and unless it is clearly and absolutely not feasible to do so.

Screening

The CEO or his/her designee shall establish a system of screening in order to:

- Identify and provide screening for students prior to referral for an initial special education multidisciplinary team evaluation;
- Provide peer support for teachers and other staff members to assist them in working effectively with students in the general education curriculum;
- Conduct hearing and vision screening in accordance with the Public School Code of 1949 for the purpose of identifying students with hearing or vision difficulty so that they can be referred for assistance or recommended for evaluation for special education if necessary;
- Identify students who may need special education services and programs.
- Maintain the confidentiality of information in accordance with applicable state and federal regulations.

Pre-Evaluation Screening

The pre-evaluation screening process shall include:

- For students with academic concerns, an assessment of the student's functioning in the curriculum including curriculum-based or performance-based assessments;
- For students with behavioral concerns, a systematic observation of the student's behavior in the classroom or area in which the student is displaying difficulty ("FBA" or functional behavior assessment);
- An intervention based on the results of the assessments conducted;
- An assessment of the student's response to the intervention, if applicable;
- A determination of whether or not the assessed difficulties of the student are the result of a lack of instruction or limited English proficiency;

- A determination of whether or not the student's needs exceed the functional capacity of the regular education program, without special education programs and services, to maintain the student at an instructional level appropriate to the level and pace of instruction provided in that program;
- Activities designed to gain the participation of parents;
- Controls to ensure that if screening activities have produced little or no improvement within the specified timeframe after initiation, the student shall be referred for a multidisciplinary team evaluation.

The screening activities shall not serve as a bar to the right of a parent to request a multidisciplinary team evaluation at any time. When the completion of screening activities prior to referral for a multidisciplinary team evaluation will result in serious mental or physical harm, or significant educational regression, to the student or others, the Charter School may initiate a multidisciplinary team reevaluation without completion of the screening process in accordance with Chapter 711. Whenever an evaluation is conducted without a pre-evaluation screening, the activities described shall be completed as part of that evaluation whenever possible.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

Board of Trustees Policy

Disciplinary Exclusions of Special Education Students Policy

There are special rules in Pennsylvania for excluding children with disabilities for disciplinary reasons as set forth in Chapter 711 of Title 22 of the Pennsylvania Code as well as the Procedural Safeguards Notice available through PaTTAN. The Board of Trustees directs compliance with these requirements and directs the Chief Executive Officer ("CEO") or his/her designee to implement procedures necessary to effectuate the following:

AUTHORITY OF SCHOOL PERSONNEL (34 CFR §300.530)

1. Case-by-case determination

Education for New Generations Charter School ("Charter School") personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

2. General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than 10 consecutive school days, remove a child with a disability (other than a child with mental retardation) who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child 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 (see **Change of Placement Because of Disciplinary Removals** for the definition, below) or exceed 15 cumulative school days in a school year. Once a child with a disability has been removed from his or her current placement for a total of 10 school days in the same school year, Charter School must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

3. **Additional authority**

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed 10 consecutive school days, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services. Under PA special education regulations, a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement (explained under Change of Placement Because of Disciplinary Removals). Charter School is required to issue a NOREP/Prior Written Notice to parents prior to a removal that constitutes a change in placement (removal for more than 10 consecutive days or 15 cumulative days).

4. **Services**

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided in an interim alternative educational setting. A charter school is only required to provide services to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who has been similarly removed. Students may have the responsibility to make up exams and work missed while being disciplined by suspension and may be permitted to complete these assignments within guidelines established by their charter school.

A child with a disability who is removed from the child's current placement for more than 10 consecutive school days must:

- a. Continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
- b. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for 10 school days during one school year, or if current removal is for 10 consecutive school days or less, and if the removal is not a change of placement (see definition below), then school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are

needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see definition below), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

5. Manifestation determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that does not constitute a change in educational placement i.e., is for 10 consecutive school days or less and not a change of placement), Charter School, the parent, and relevant members of the IEP Team (as determined by the parent and Charter School) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- a. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- b. If the conduct in question was the direct result of Charter School's failure to implement the child's IEP.

If Charter School, the parent, and relevant members of the child's IEP Team determine that either of those conditions were met, the conduct must be determined to be a manifestation of the child's disability.

If Charter School, the parent, and relevant members of the child's IEP Team determine that the conduct in question was the direct result of Charter School's failure to implement the IEP, Charter School must take immediate action to remedy those deficiencies.

6. Determination that behavior was a manifestation of the child's disability

If Charter School, the parent, and relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

- a. Conduct a functional behavioral assessment, unless Charter School had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
- b. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading *Special circumstances*, the Charter School must return the child to the placement from which the child was removed, unless the parent and Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

7. Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for up to 45 school days, if the child:

- a. Carries a weapon (see the *Definitions* below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of Charter School;
- b. Knowingly has or uses illegal drugs (see the **Definitions** below), or sells or solicits the sale of a controlled substance, (see the **Definitions** below), while at school, on school premises, or at a school function under the jurisdiction of Charter School; or
- c. Has inflicted serious bodily injury (see the **Definitions** below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a charter school.

8. Definitions

- a. *Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- b. *Illegal drug* means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- c. *Serious bodily injury* has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- d. *Weapon* has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

9. Notification

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, Charter School must notify the parents of that decision, and provide the parents with a procedural safeguards notice.

Change Of Placement Because Of Disciplinary Removals

A removal of a child with a disability from the child's current educational placement is a change of placement requiring a NOREP/prior written notice if:

1. The removal is for more than 10 consecutive school days; or
2. The removal is for 15 cumulative school days total in any one school year;
3. The child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removals;
 - c. Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another; and

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by Charter School and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting

The IEP team must determine the interim alternative educational setting for removals that are **changes of placement**, and removals under the headings *Additional authority* and *Special circumstances*, above.

1. General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

- a. Any decision regarding placement made under these discipline provisions; or
- b. The manifestation determination described above.

Charter School may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

2. Authority of hearing officer

A hearing officer that meets the requirements described under the sub-heading Impartial Hearing Officer must conduct the due process hearing and make a decision.

The hearing officer may:

- a. Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading Authority of

School Personnel, or that the child's behavior was a manifestation of the child's disability; or

- b. Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if Charter School believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or charter school files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints**, except as follows:

1. The SEA must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is filed and must result in a determination within 10 school days after the hearing.
2. Unless the parents and the Charter School agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within 7 calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings.

When, as described above, the parent or Charter School has filed a due process complaint related to disciplinary matters, the child must (unless the parent and the State Educational Agency or Charter School agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading **Authority of School Personnel**, whichever occurs first.

Special Rules for Students with Mental Retardation

The disciplinary removal of a child with mental retardation attending a charter school for any amount of time is considered a change in placement and requires a NOREP/prior written notice (if the disciplinary event does not involve drugs, weapons and/or serious bodily injury). A removal from school is not a change in placement for a child who is identified with mental retardation when the disciplinary event involves weapons, drugs, and/or serious bodily injury.

According to certain assurances the Commonwealth entered into related to the PARC consent decree, a charter school may suspend on a limited basis a student

with mental retardation who presents a danger to himself or others upon application and approval by the Bureau of Special Education and only to the extent that a student with a disability other than mental retardation could be suspended.

Protections For Children Not Yet Eligible For Special Education and Related Services

1. General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but Charter School had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

2. Basis of knowledge for disciplinary matters

A charter school must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

- a. The parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel, or a teacher of the child;
- b. The parent requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; or
- c. The child's teacher, or other Charter School personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to Charter School's director of special education or to other supervisory personnel of the Charter School.

3. Exception

A charter school would not be deemed to have such knowledge if:

- a. The child's parent has not allowed an evaluation of the child or refused special education services; or
- b. The child has been evaluated and determined to not be a child with a disability under Part B of the IDEA.

4. Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a charter school does not have knowledge that a child is a child with a disability, as described above under the sub-headings **Basis of knowledge for disciplinary matters** and **Exception**, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors. However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, 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 Charter School, and information provided by the parents, Charter School must provide special education and related services in accordance with Part B of the IDEA, including the disciplinary requirements described above.

B. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

1. The state and federal regulations do not:

- a. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
- b. 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.

Subsequent to a referral to law enforcement, an updated functional behavior assessment and positive behavior support plan are required.

2. Transmittal of records

If a charter school reports a crime committed by a child with a disability, the charter school: must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and may transmit copies of the child's special education and disciplinary records **only** to the extent permitted by FERPA.

NON-DISCRIMINATION

Charter School shall not discriminate in its discipline policies or practices on the basis of intellectual ability, status as a person with a disability, proficiency in the English language or any other basis that would be illegal under applicable state and/or federal laws.

The CEO or his/her designee is directed to develop procedures and practices related to the use of positive behavioral interventions and supports, and procedural safeguards and to ensure that those policies and procedures are implemented.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

Board of Trustees Policy

Policy for the Prevention of Disproportionate Representation of Racial/Ethnic Groups in Special Education

It is the policy of the Board of Trustees of Education for New Generations Charter School ("Charter School") that there shall not be disproportionate representation of racial and/or ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. It is the policy of the Board of Trustees of Charter School to comply with Chapter 711.23 of Title 22 of the Pennsylvania Code regarding student screening and disproportionality.

It is the policy of Charter School that there shall be no disproportionality in regard to any of the following areas per 34 CFR 300.646:

- (1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of IDEA;
- (2) The placement in particular educational settings of these children; and
- (3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

Charter School directs Administration to utilize such evaluative measures that mitigate against the potential for disproportionate representation as the result of inappropriate identification.

Charter School directs Administration to appropriately identify students for special education and related services by following evaluation and reevaluation procedures mandated by IDEA 2004 and its implementing regulations.

Charter School directs Administration to appropriately identify students' disabilities by complying with the screening and child find requirements of Chapter 711 of Title 22 of the Pennsylvania Code and by conducting evaluations and reevaluations in accordance with applicable state and federal laws and regulations.

Charter School directs Administration to ensure that no evaluation or reevaluation procedures, tests or reports are culturally and/or racially biased. Tests and instruments used to identify students shall not be racially or culturally biased.

In accordance with 34 CFR 300.646(b)(2) (relating to disproportionality), as established by the State Department of Education, the services that would be required at Charter School should disproportionality be found to exist at Charter School, would then include:

(1) A verification that the student was provided with appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act (ESEA) (20 U.S.C.A. § 6368(3)), and appropriate instruction in math.

(2) For students with academic concerns, an assessment of the student's performance in relation to State-approved grade level standards.

(3) For students with behavioral concerns, a systematic observation of the student's behavior in the school environment where the student is displaying difficulty.

(4) A research-based intervention to increase the student's rate of learning or behavior change based on the results of the assessments under paragraph (2) or (3), or both.

(5) Repeated assessments of achievement or behavior, or both, conducted at reasonable intervals, reflecting formal monitoring of student progress during the interventions.

(6) A determination as to whether the student's assessed difficulties are the result of a lack of instruction or limited English proficiency.

(7) A determination as to whether the student's needs exceed the functional ability of the regular education program to maintain the student at an appropriate instructional level.

(8) Documentation that information about the student's progress as identified in paragraph (5) was periodically provided to the student's parents.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary

Education for New Generations Charter School

Board of Trustees Policy

Dispute Resolution and Alternative Dispute Resolution Policy

It is the policy of Education for New Generations Charter School ("Charter School") to ensure that disputes between parents and Charter School regarding the identification, evaluation, programming and services available to eligible students are addressed effectively and in accordance with applicable state and federal laws.

Every effort should be made to address and resolve disputes at the building/IEP team level if possible. The CEO or his/her designee is directed to be aware of alternative dispute resolution procedures and programs, including facilitated IEP team meetings and mediation, and utilize those programs when deemed appropriate.

The CEO or his/her designee is responsible for ensuring that any agreements entered into as a result of a mediation session are implemented in accordance with the state regulations and is directed to maintain evidence of implementation.

When alternative dispute resolution is not practical or otherwise appropriate, or when a due process complaint is filed, the CEO or his/her designee is directed to follow applicable state procedures regarding the filing and answering of a due process complaint, including requirements relating to dissemination of procedural safeguards.

The CEO or his/her designee is responsible for ensuring that due process decisions are implemented in accordance with the state regulations and is directed to maintain evidence of implementation.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this _____ day of _____, 2012

President

Secretary