



***“Mastering the  
Suspension/Expulsion Process  
for Charter Schools ”***

**8:30am-10:00am**

**Presented by:**

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**&**

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## *Overview*

- **Introduction**
- **Goals**
  - **Ounce of Prevention**
  - **Improve Issue Spotting Skills**
  - **Provide Ideas for Systematic Change**
  - **Limit Disruption/Liabilities**
- **Disclaimers**
  - **Real Problems are Fact Specific & Complex**
  - **Cookie-Cutting can be Dangerous**
  - **Non-Attorney Advice and the Attorney-Client Privilege**
- **Keep Your Questions Hypothetical**



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# *I. Basic Legal Requirements for Student Expulsions*



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## *A. Right to a Public Education*

- **“Disenrollment” label is irrelevant if disenrollment is involuntary**
- **Due process is required**
- **Detailed/legal procedures & policy are critical**



## ***B. Disciplinary Jurisdiction Over Offense(s)***

- **“Related to school activity or attendance”**
- **Occurring “at any time”**
- **Truancy, tardiness or absences**

## *C. The Education Code Framework*

- **Detailed timelines and “due process” requirements**
- **A word on the suspension process**
- **Mandatory expulsions**
- **“Quasi-mandatory” expulsions**
- **“Permissive offenses”**

## *C. The Education Code Framework (contd)*

- **“Secondary findings” requirement for non-mandatory offenses:**
  1. **“Other means of correction”**
  2. **“Continuing danger”**

## *D. Distinguishing the Education Code From Federal Due Process*

- **Constitution requires procedural/substantive due process**
- **Less restrictive regarding actual timelines**
- **No need for secondary findings**

## ***E. Expulsion of Special Education Pupils***

- **IEP or 504 meeting required within 10 days of initial suspension**
- **Manifestation of disability?**
- **Is conduct a direct result of failure to implement the student's IEP?**
- **Interim alternative educational setting**

## ***F. Audit Your Process***

- **Review charter/discipline policies**
- **Allow for board or panel process**
- **Plan for periodic reviews**
- **Establish “a system” from “A-Z”**
- **Establish investigation tools & protocols**
- **Consider periodic training**



## *II. Investigation of Student Misconduct*



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## ***A. Objectively Gather Relevant Facts***

- **Obtain signed written statements from percipient witnesses**
- **Speak with as many relevant witnesses as possible**
- **Keep basic search & seizure rules in mind**
- **Cooperate with law enforcement**
- **Know when you are working for law enforcement**

## ***A. Objectively Gather Relevant Facts (contd)***

- **When to notify parents**
- **Document admissions of guilt**
- **Collect any relevant physical evidence**
- **Obtain any necessary third party reports**
- **Create a written summary of the investigation**

## ***B. Analyze the Evidence to Determine Consequences***

- **Determine what, if any, offenses were committed**
- **Report the incident to law enforcement if required**
- **Analyze nexus between misconduct and school**
- **Recognize truancy/academic performance issues**
- **Review pupil's disciplinary history**

## *C. Consider Alternatives to Expulsion if Case is Weak*

- **Determine if pupil has special education or 504 status**
- **Be careful of setting precedent**
- **Use of behavior contracts**
- **Pros and cons of counseling out (“bluffing”)**
- **Use of stipulated expulsion orders**
- **Other punitive or deterrent measures to consider**

## *D. Extension Of Suspension Issues*

- **Follow procedural suspension rules**
- **Extension of suspension procedure**
- **Consider and anticipate all applicable timelines**
- **Requirements for expulsion recommendation**

*III. The Charter School  
Board's Use of Administrative  
Panels to Conduct Expulsion  
Hearings*

**SMY&M**

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## *A. Board Options for Conducting Expulsion Hearings*

- **Hearing before board**
- **Administrative hearing panel**
- **Hearing officer**
- **Use of legal counsel**

## ***B. The Evidentiary Hearing Process***

- **Mechanics of the process**
- **Administrative panel members**
- **Purpose of the panel**
- **Evidentiary standards**
- **Exclusionary rule/Miranda rights**
- **Evidentiary support for findings of fact limited to evidence adduced at hearing**

## *C. Due Process Requirements for Hearings*

- **Timely notice**
- **Fair hearing**
- **Right to closed or open hearing**
- **Right to counsel or non-attorney advisor**
- **Right to present evidence**
- **Right to cross examine witnesses**
- **Right to a copy of all documentary evidence to be used**
- **No automatic right to subpoenas**

## ***D. Review Your Process***

- **Logistics of using an administrative panel**
- **Importance of consistency and disciplinary policies**
- **Panel chair responsibilities**
- **Post-hearing panel responsibilities**
- **Use of “script” and “check list”**



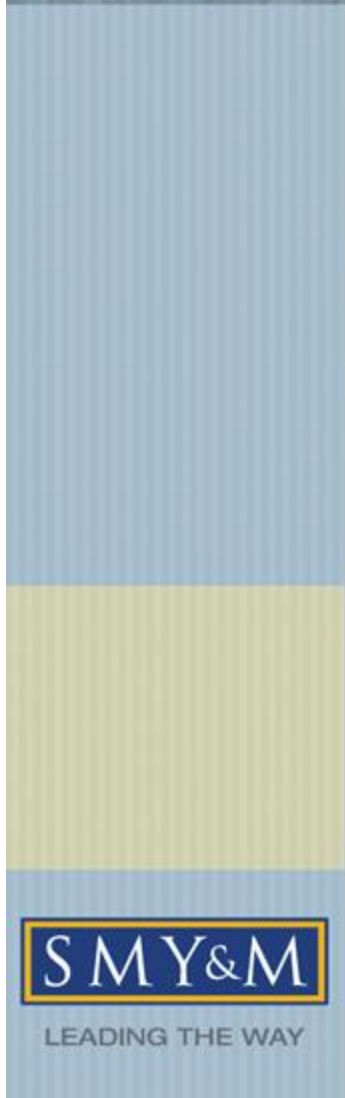
## ***E. Right to Suspend Expulsion Order***

- **May suspend enforcement of any order**
- **Probationary terms**
- **Mechanics of reinstatement of order**

## ***F. Stipulated Expulsion Orders***


- **Usually executed to avoid hearing**
- **Right to hearing is waived**

## *IV. Expulsion*



## *A. Appeal Rights for Pupils*

- **Review is limited to the written record**
- **County has no jurisdiction over charter school expulsions unless in charter**
- **The court's focus: procedure, procedure, procedure**
- **Problems with establishing an appeal process**



## ***B. Future Student Admission Issues***

- **Right to enroll elsewhere**
- **Right of expelled pupil to enroll at charter school**
- **“Rehabilitation” plan requirements**
- **Readmission procedures**
- **Potential pitfalls of allowing voluntary disenrollment in lieu of expulsion**

*Questions  
&  
Answers*

