

APPENDIX J

SPECIAL EDUCATION AND SECTION 504 POLICIES

Montgomery Flex Charter School

Board of Trustees Policy

Exceptional Student Records Confidentiality Policy

The Montgomery Flex Charter School ("Charter School") recognizes the need to protect the privacy rights of Charter School's exceptional students and their parents. The classification, collection, use, maintenance and dissemination of any information about a student or his or her family raises issues regarding the privacy of that information. Thus, Charter School shall adhere to the provisions of federal and state laws pertaining to those privacy rights, including but not limited to the Family Educational Rights and Privacy Act of 1974 ("FERPA"), as amended, and its accompanying regulations; the applicable provisions of the Individuals with Disabilities Education Improvement Act (2004) ("IDEA"), as amended, and its implementing regulations; the applicable provisions of the Pennsylvania Public School Code of 1949, and the applicable provisions of Chapters 12 and 711 of the Pennsylvania Administrative Code containing the regulations of the Pennsylvania State Board of Education and other provisions applicable to charter schools. The Chief Executive Officer ("CEO") or his/her designee is designated as the administrator responsible for the maintenance, access, use and release of exceptional student records. This policy is to be used in combination with Charter School's Student Records Policy.

The CEO or his/her designee shall be responsible for the implementation of this policy.

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/legal guardian consent under FERPA, the student's parent's/legal guardian's consent (or student's consent if the student has reached the age of majority and is otherwise eligible to have record rights transferred to him or her) must be obtained before personally identifiable information about that student is disclosed to parties other than officials of Charter School. Except under the circumstances specified below, parental consent is not required before personally identifiable information is released to officials of Charter School for purposes of meeting a requirement of Part B of IDEA 2004.

A parent's (legal guardian's) 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) A child's name, a parent's name, or the name of another family member;
 - 2) A child's address;
 - 3) A personal identifier, such as a 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 a child with reasonable certainty.

2. Access Rights (34 CFR §300.613)

a. Parent Access

Charter School must permit a parent to inspect and review any education records relating to the parent's child that are collected, maintained, or used by the charter school under Part B of the IDEA. The charter school must comply with a parent's request to inspect and review any education records on the parent's child without unnecessary delay or 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 the parent has made a request.

A Parent's right to inspect and review education records includes:

- 1) A parent's right to a response from Charter School to reasonable requests for explanations and interpretations of the records;
- 2) A parent's right to request that Charter School provide copies of the records if the parent cannot effectively inspect and review the records unless the parent receives those copies; and
- 3) A parent's right to have a representative inspect and review the records.
 - a) Charter School may presume that a parent has authority to inspect and review records relating to the parent's child unless advised that the parent does 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 the parent 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 2004 (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 for copies of records (34 CFR §300.617) that are made for a parent under Part B of the IDEA, if the fee does not effectively prevent the parent from exercising the 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 IDEA 2004.

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

If a parent believes that information in the education records regarding the parent's child collected, maintained, or used under Part B of IDEA 2004 is inaccurate, misleading, or violates the privacy or other rights of the child, the parent may request the charter school that maintains the information to change the information.

Charter School must decide whether to change the information in accordance with the parent's request within a reasonable period of time of receipt of the parent's request.

If Charter School refuses to change the information in accordance with the parent's request, it must inform the parent of the refusal and advise the parent 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 the parent an opportunity for a hearing to challenge information in education records regarding the parent's child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the 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):

- 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 change the information accordingly and inform the parent in writing. If, as a result of the hearing, the Charter School decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the parent's child, the parent may place in the records that it maintains on the parent's child a statement commenting on the information or providing any reasons the parent disagrees with the decision of the participating agency.

Such an explanation placed in the records of the parent's child must:

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

c. Safeguards (34 CFR §300.623)

Each charter school must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

The CEO or his/her designee 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 Pennsylvania's policies and procedures regarding confidentiality under Part B of IDEA 2004 and FERPA.

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

Persons who have access to personally identifiable information at the charter school will include members of the child's IEP team, Charter School's records custodian and the CEO or his/her designee. Any individual accessing a student's personally identifiable information must sign a sheet evidencing review of the records. The sheet will be maintained with the student records.

5. Destruction of Information (34 CFR §300.624)

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

However, a permanent record of the 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.

Charter School must comply with record maintenance requirements in accordance with FERPA and Chapters 711 and 12 of Title 22 of the Pennsylvania Code, together with directives of PDE with regard to record maintenance. Special Education records must also be maintained in accordance with PDE 6-year cyclical monitoring period guidelines established by PDE.

TRANSFER OF RECORDS BETWEEN SCHOOLS

When the education records for a child with a disability are transferred from a public agency, private school, approved private school or private agency, to a charter school, the public agency, private school, approved private school or private agency from which the child transferred shall forward all of the child's educational records, including the most recent IEP, within 10 days after the public agency, private school, approved private school or private agency is notified in writing that the child is enrolled in a charter school.

When the educational records for a child with a disability are transferred to a public agency, private school approved private school or private agency from a charter school, the charter school shall forward the child's educational records, including the most recent IEP, within 10 school days after the charter school is notified in writing that the child is enrolled at another public agency, private school, approved private school or private agency.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES AND RECORD TRANSMITTAL

Charter School reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child

are transmitted for consideration by the appropriate authorities to whom the crime is reported. A charter school reporting a crime may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by FERPA.

ELECTRONIC TRANSMISSIONS

Charter School will ensure that any records kept or transmitted electronically are subject to high standards of electronic security. Charter School uses electronic firewalls and encryption systems, and monitors and tests the system regularly to ensure its stability and integrity. All the Charter School electronic mail correspondence shall include the following:

CONFIDENTIALITY NOTICE

The information in this transmission is intended only for the individual or entity named above. It may be legally privileged and confidential. If you have received this information in error, notify us immediately by calling Charter School at PHONE NUMBER. Send the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited.

ADMINISTRATIVE PROCEDURES:

The CEO or his/her designee shall be responsible for ensuring that the education records, confidentiality policies and procedures established under IDEA 2004 (relating to confidentiality of education records of exceptional students) are enforced and administered. This official shall:

Notify parents on an annual basis of the policies and procedures regarding exceptional student education records and the rights of parents under both Federal and State Law concerning the confidentiality of education records of exceptional students;

Develop a system of safeguards which will protect the confidentiality of personally identifiable information at the point of collection, storage, use, maintenance, release and destruction;

Provide training and instruction in the implementation of records policy requirements for all educational agency personnel who collect or use exceptional student personally identifiable information; and

Maintain a current listing of the names and positions of those agents and employees of Charter School who are authorized by the school to have access to personally identifiable information of exceptional students.

An education record shall not be destroyed by Charter School if there is an outstanding request to inspect and review it by the parent or eligible student.

Charter School will inform the parents of an exceptional student when personally identifiable information collected, maintained, or used in the records of the exceptional student is no longer needed to provide educational services to the exceptional student.

Upon request of the parents, information no longer relevant to and necessary for the provision of educational services to the exceptional student must be destroyed by Charter School. However, a written record of an exceptional student's name, address, phone numbers, grades, attendance records, classes attended, grade level completed, and year completed will be maintained for 100 years.

Prior to the destruction of the information referred to in the above paragraph, Charter School shall send written notification to the parents which shall inform the parents of their right to receive a copy of the material to be destroyed.

Charter School shall not destroy education records containing information necessary for the education of an exceptional student who is enrolled or has been enrolled in an education program operated by the school.

Except as is stated in the above paragraph of this subsection, nothing in this section shall be construed to mean that Charter School is required to destroy education records and the Charter School Administration is directed to implement any procedures necessary to maintain student records consistent with this policy and applicable state and federal laws and regulations.

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

Montgomery Flex Charter School

Board of Trustees Policy

Evaluation and Reevaluation Policy

In accordance with applicable state and federal regulations, the Board of Trustees of the Montgomery Flex Charter School ("Charter School") recognizes that in order to properly identify a student as eligible, the Charter School must have a process and procedures in place and therefore, directs as follows:

That the Charter School adopts this policy which sets forth procedural requirements for Evaluations and Reevaluations which are necessary to identify specific learning disabilities in accordance with its application for charter. To determine that a child has a specific learning disability, the Charter School shall address whether the child does not achieve adequately for the child's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and scientifically based instruction appropriate for the child's age or State-approved grade-level standards:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving.

(2) Use one of the following procedures:

(i) A process based on the child's response to scientific, research-based intervention, which includes documentation that:

(A) The student received high quality instruction in the general education setting.

(B) Research-based interventions were provided to the student.

(C) Student progress was regularly monitored.

(ii) A process that examines whether a child exhibits a pattern of strengths and weaknesses, relative to intellectual ability as defined by a severe discrepancy between intellectual ability and achievement, or relative to age or grade.

(3) Have determined that its findings under this section are not primarily the result of:

(i) A visual, hearing or orthopedic disability.

(ii) Mental retardation.

(iii) Emotional disturbance.

(iv) Cultural factors.

(v) Environmental or economic disadvantage.

(vi) Limited English proficiency.

(4) Ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics by considering documentation that:

(i) Prior to, or as a part of, the referral process, the child was provided scientifically-based instruction in regular education settings, delivered by qualified personnel, as indicated by observations of routine classroom instruction.

(ii) Repeated assessments of achievement were conducted at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

The IEP Team, which consists of a group of qualified professionals and the student's parents, reviews the evaluation materials to determine whether the child is a child with a disability. The Team shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury. Other professionals include hearing or visual specialists, a medical doctor, and occupational, physical or speech therapists. The evaluation must include information from the child's teacher(s), such as the results of informal tests and narrative statements describing the

student's strengths and needs and also verbal and written input from the parent(s) as to the student's medical, social and academic history and observations from the home.

The initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60-calendar days after the agency receives written parental consent for evaluation, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted. The evaluator shall prepare and sign the full report of the evaluation containing information such as: a clear explanation of the testing and assessment results; a complete summary of all test scores, including, for all standardized testing administered, all applicable full scale or battery scores, domain or composite scores, and subtest scores reported in standard, scaled, or T-score format; a complete summary of all information obtain or reviewed from sources other than testing conducted by the evaluator; and specified recommendations for educational programming and/or placement, if necessary.

Parents may request an evaluation at any time, and the request must be in writing. The Charter School shall make the Permission to Evaluate form readily available for that purpose. If a request is made orally to any professional employee or administrator of the Charter School, that individual shall provide a copy of the Permission to Evaluate form to the parents within 10-calendar days of the oral request.

Copies of the Evaluation Report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP Team, unless this requirement is waived by a parent in writing.

Reevaluations

Once the child has been identified as being eligible for special education, the child must be reevaluated to determine whether the child's needs have changed. A Reevaluation must be conducted every three years. An exception to this is if a child has mental retardation. For students who have been determined to have mental retardation, reevaluations must occur every two years.

The Reevaluation process begins with a review of existing evaluation data by the IEP Team, which once more includes the parents. The IEP Team shall also include a certified school psychologist when evaluating a child for autism, emotional disturbance, mental retardation, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.

The information the IEP Team must review includes, but is not limited to, existing evaluation data, evaluations and information provided by the parents, current classroom-based assessments and observations, observations by teachers and services

providers, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals in the IEP and to participate as appropriate in the general curriculum.

At the end of the review, the IEP Team concludes either that no additional data are needed to determine continued eligibility for special education and related services, or that there is a need for additional data.

When additional data is needed to complete a Reevaluation to determine whether the child continues to be a child with a disability and still in need of special education, Charter School officials must also obtain written permission through a formal Permission to Re-Evaluate form. However, if the Charter School has made "reasonable attempts" to get permission and has failed to get a response, it may proceed with the Reevaluation.

Reasonable attempts must consist of:

- Documented Telephone calls
- Registered (return receipt required) and First Class Mail letters to the parents
- Visits to the home or parents' place of business

The reevaluation time line will be 60-calendar days, except that the calendar days from the day after the last day of the spring school term up to and including the day before the first day of the subsequent fall school term will not be counted.

Copies of the reevaluation report shall be disseminated to the parents at least 10 school days prior to the meeting of the IEP team, unless this requirement is waived by a parent in writing.

All evaluations (whether an initial evaluation or a reevaluation) needed to determine a child's eligibility for special education services must be provided by the Charter School at no charge to the parents. If a child needs special education, the special programs and related services as determined by the IEP Team will be provided free by the Charter School.

The CEO or his/her designee is directed to implement all procedures in accordance with this policy.

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

Montgomery Flex Charter School

Board of Trustees Policy

Extended School Year Services ("ESY ") Policy

The Board of Trustees directs that the Montgomery Flex Charter School ("Charter School") comply with the requirements incorporated by reference in 34 CFR §300.106 (relating to extended school year services).

The Chief Executive Officer ("CEO") is directed to ensure that the Charter School uses the following standards for determining whether a student with disabilities requires ESY as part of the student's program:

(1) At each IEP meeting for a student with disabilities, the charter school shall determine whether the student is eligible for ESY services and if so, make subsequent determinations about the services to be provided.

(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors, however, no single factor will be considered determinative:

(i) Whether the student reverts to a lower level of functioning as evidenced by a measurable decrease in skills or behaviors which occurs as a result of an interruption in educational programming (Regression).

(ii) Whether the student has the capacity to recover the skills or behavior patterns in which regression occurred to a level demonstrated prior to the interruption of educational programming (Recoupment).

(iii) Whether the student's difficulties with regression and recoupment make it unlikely that the student will maintain the skills and behaviors relevant to IEP goals and objectives.

(iv) The extent to which the student has mastered and consolidated an important skill or behavior at the point when educational programming would be interrupted.

(v) The extent to which a skill or behavior is particularly crucial for the student to meet the IEP goals of self-sufficiency and independence from caretakers.

(vi) The extent to which successive interruptions in educational programming result in a student's withdrawal from the learning process.

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe mental retardation, degenerative impairments with mental involvement and severe multiple disabilities.

Reliable sources of information regarding a student's educational needs, propensity to progress, recoupment potential and year to year progress may include the following:

- (1) Progress on goals in consecutive IEPs.
- (2) Progress reports maintained by educators, therapists and others having direct contact with the student before and after interruptions in the education program.
- (3) Reports by parents of negative changes in adaptive behaviors or in other skill areas.
- (4) Medical or other agency reports indicating degenerative-type difficulties, which become exacerbated during breaks in educational services.
- (5) Observations and opinions by educators, parents and others.
- (6) Results of tests, including criterion-referenced tests, curriculum-based assessments, ecological life skills assessments and other equivalent measures.

The need for ESY services will not be based on any of the following:

- (1) The desire or need for day care or respite care services.
- (2) The desire or need for a summer recreation program.
- (3) The desire or need for other programs or services that while they may provide educational benefit, are not required to ensure the provision of a FAPE.

Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe mental retardation; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

- (1) Parents of students with severe disabilities shall be notified by Charter School of the annual review meeting to ensure their participation.
- (2) An IEP review meeting must occur no later than **February 28** of each school year for students with severe disabilities.

(3) The notice of recommended educational placement (NOREP) shall be issued to the parent no later than **March 31** of the school year for students with severe disabilities.

(4) If a student with a severe disability transfers into Charter School after the dates in paragraphs (2) and (3), and the ESY eligibility decision has not been made, the eligibility and program content must be determined at the IEP meeting.

The eligibility for ESY services of all students with disabilities shall be considered at the IEP meeting. ESY determinations for students other than those described above as having severe disabilities are not subject to the timelines for students with the severe disabilities described above. However, determinations for those other students shall still be made in a timely manner.

If the parents disagree with Charter School's recommendation on ESY, the parents will be afforded an expedited due process hearing in accordance with applicable laws. Parents are to be provided with the required procedural safeguards notice.

ESY programs are to be individualized with regard to the amount of services and individually appropriate goals and related services.

In cases where ESY is denied, evidence to support the denial is to be made part of the student's file.

The CEO or his/her designee is directed to develop procedures consistent with this policy and applicable laws.

TIMELINES CONTAINED IN THIS POLICY MAY BE CHANGED BY THE PENNSYLVANIA DEPARTMENT OF EDUCATION AND THE SCHOOL MUST FOLLOW.

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

Montgomery Flex Charter School

Board of Trustees Policy

Special Education Student Enrollment

Administration must not deny enrollment or otherwise discriminate in admission practices on the basis of a child's need for special education or supplementary aids or services.

Administration shall comply with the Board's Student Admissions Policy which has been adopted by the Board of Trustees. Administration is further directed to make Admissions Policy available for inspection by auditors from the Pennsylvania Department of Education during any special education cyclical monitoring audit.

Administration shall comply with Section 24 P.S. 17-1723-A of the Charter School Law regarding enrollment and shall not discriminate in its admission policies or practices on the basis of intellectual ability (except to the extent specifically allowed by law), or athletic ability, measures of achievement or aptitude, 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 or regulations.

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

Montgomery Flex Charter School

Board of Trustees Policy

English as a Second Language/Bilingual Program Policy

Purpose:

In accordance with the Montgomery Flex Charter School (the "Charter School") Board of Trustees' ("Board") philosophy to provide a quality educational program to all students, the Charter School shall provide an appropriately planned instructional program for identified students whose dominant language is not English ("English as Second Language students").

The purpose of the program shall be to increase the English language proficiency of English as Second Language students so they can attain the state academic standards within the ESL program setting as well as within the regular classroom environment, to provide equal opportunities for English as Second Language students to participate in extra curricular activities, and to provide the cultural, social and emotional supports for English as Second Language students to adapt to this new cultural setting.

The Board declares it to be their policy to provide an equal opportunity for all students, including English as Second Language students, to achieve their maximum potential through the curriculum, instruction and programs offered in the Charter School. At no time shall the Charter School, including the Board, permit, condone, encourage or facilitate discrimination against students during the course of recruitment, admissions and enrollment, instruction, counseling and daily interactions with Charter School faculty and staff. Equal Education Opportunity Act, 20 U.S.C.A. § 1703; Title VI, Civil Rights Act of 1964, 42 U.S.C.A. § 2000d, et seq.

Definition:

1. English as Second Language students ("ESL students") are from diverse linguistic and cultural backgrounds. The Charter School must equip them with the skills to function, compete, and prosper in American society. ESL students must develop academic skills along with their general program peers while also learning English. As ESL students are in transition from their native language to English, the emphasis must be on developing academic skills that comply with Pennsylvania State Standards.

Responsibility

The Charter School shall adopt an instructional program for each ESL student for the purpose of facilitating the student's achievement of English proficiency and academic standards ("ESL Program"). 22 Pa. Code. § 4.26. The Chief Executive Officer ("CEO") and the director of the ESL Program ("ESL Director") shall implement and supervise an ESL Program that meets the legal requirements for ESL Program compliance under federal and Pennsylvania law:

2. Based on an educational theory recognized as sound by some experts in the field or considered by experts as a legitimate experimental strategy;
3. Reasonably calculated, including provisions for resources and personnel, to implement the theory effectively; and
4. Evaluated and adjusted where needed to ensure language barriers are actually being overcome.

No Child Left Behind Act, 20 U.S.C.A. § 6812. The ESL program will come under the direction of the ESL Director. The ESL Director will be responsible for the assurance of the implementation of the program and that proper Charter School policies and procedures are being followed. The CEO and the ESL Director will be responsible for informing Charter School staff with instructional strategies and cultural needs of students who will receive ESL instruction. ESL teaching resource materials will be obtained by the ESL Director and kept in his/her office for reference for both program and non-program teachers.

All teachers instructing within the ESL Program shall hold the requisite certification and endorsements required by Pennsylvania law. Bilingual teachers must demonstrate academic language proficiency both in English and in the language of instruction. 22 Pa. Code § 403; No Child Left Behind Act, 20 U.S.C.A. § 6826.

ESL Program

The goals of the Charter School's ESL Program are to assist the ESL students in using English, per the No Child Left Behind Act, 20 U.S.C.A. § 6812,:

1. to communicate in social settings;
2. to achieve academically in all content areas; and
3. in socially and culturally appropriate ways.

The CEO and the ESL Director shall implement and supervise the ESL Program, and further ensure that the ESL Program meets the legal requirements for ESL program compliance. The CEO and the ESL Director, in conjunction with appropriate certified

ESL teachers, shall develop and disseminate written procedures regarding the ESL Program. The procedures shall include, but will not be limited to, the following:

1. Detailed program goals;
2. Student enrollment procedures (i.e., Home Language Survey);
3. Assessment procedures for program entrance, measuring progress in gaining English proficiency, and program exiting;
4. Accommodations for ESL students in the general education classroom;
5. Grading policies; and
6. List of resources, including support agencies and interpreters.

No Child Left Behind Act, 20 U.S.C.A. § 6826. The ESL Program shall include daily instruction for ESL students, supporting the ESL Program's goals, and will receive curriculum aligned with Pennsylvania standards. 22 Pa. Code. § 4.26. Language instruction shall correspond to each ESL student's English proficiency level, which shall include both direct language instruction and adaptation of instruction in all content classes. The exact hours of direct language instruction will be determined based on each ESL student's needs. All ESL instruction shall be part of each ESL student's daily schedule, and will not interfere with or prohibit each ESL student's instruction in all grade level content classes.

ESL students will be placed in all appropriate grade level content classes. Each ESL student will receive instruction in all content areas, as other students in the class. Each ESL student will receive additional supplemental support and instruction from ESL teachers periodically for Language Arts class and for necessary content area classes. An ESL teacher will assist the classroom teacher in identifying and implementing teaching strategies that will help each ESL student achieve academic success in the classroom. During the initial period of language acquisition and development, the Charter School may grade the ESL student on a pass/fail basis.

The Pennsylvania English Language Proficiency Standards shall be incorporated in both ESL instruction and grade level content classes.

Program Goals and Objectives

5. The Charter School has developed the following goals and objectives for the ESL Program.

Goal 1: To use English to communicate in social settings.

Objective: By the end of the school year, ESL students will improve and increase their ability to use English to participate in social

interactions. This will be evidenced by observation of ESL students in cooperative learning activities, playground interactions and personal conversation.

Objective: By the end of the school year, ESL students will improve and increase their ability to interact, through and with spoken and written English for personal expression and enjoyment. This will be evidenced by personal writing journals and book choice with reading log.

Goal 2: To use English to achieve academically in all content areas.

Objective: By the end of the school year, ESL students will improve and increase their ability to use English to interact in the classroom, evidenced by conversations with ESL teachers, observations of students in cooperative group settings, and observations of students in social interactions, report cards and test results.

Objective: By the end of the school year, ESL students will improve and increase their ability to use English to obtain, construct and provide subject matter information in spoken and written form. This will be evidenced by an increase in standardized testing content area scores, a portfolio of ESL student work, and ESL teachers' observations of the ESL students' ability to pose questions and have discussions in content area classes.

Goal 3: To use English in socially and culturally appropriate ways.

Objective: By the end of the school year, ESL students will improve and increase their ability to use the appropriate language variety, register, and genre according to the audience, purpose and setting. This will be evidenced by ESL student academic presentations, observations of ESL students' social conversations with peers, and conversations with ESL teachers.

Objective: By the end of the school year, ESL students will improve and increase their ability to use nonverbal communication appropriate to audience, purpose and setting. This will be evidenced by observations of ESL students by ESL teachers.

The success of the ESL program will be measured by: ESL students increasing scores within their level of the program; ESL students testing to the next level of the program; and ESL students testing out of the program as evidenced by yearly English proficiency testing. Success will also be measured by an increase in academic scores on a content

area standardized test. 22 Pa. Code § 403; No Child Left Behind Act, 20 U.S.C.A. § 6841. The ESL Director will also look at student portfolios and ESL teacher narratives to demonstrate progress of each ESL student.

Attendance policies will be the same for ESL students as for English-speaking students.

The Student Handbook will clearly state the Charter School's policy and expectations regarding the ESL Program.

Enrollment of ESL Students:

ESL students and families shall be provided translation and interpretation services to the extent needed to assist with the enrollment process. All students seeking first time enrollment in the Charter School shall be given a Home Language Survey in accordance with requirements of the U.S. Department of Education's Office for Civil Rights. Enrollment of a student may not be delayed in order to administer the Home Language Survey. The completed survey shall be filed in each student's permanent record folder through graduation. 22 Pa. Code § 11.11(e).

Based on the Home Language Survey responses, each student shall be assessed for potential placement in an ESL Program. A student will be exempt from assessment if the student meets two of the following three criteria:

1. Final grades of B or better in core subject areas (mathematics, language arts, science and social studies);
2. Scores on Charter School assessments that are comparable to the basic performance level on the annual Pennsylvania System of School Assessment ("PSSA"); or
3. Scores of basic in reading, writing and mathematics on the PSSA or the equivalent assessment from another state.

Identification & Placement of ESL Students:

Entry Criteria

The Charter School will use the WIDA-ACCESS Placement Test (W-APT) to assess newly enrolled students for placement in the ESL program. The W-APT results will be one indicator for placement in the ESL program. Other indicators shall include current or previous grades, performance on state assessments, and Charter School-based formative or summative assessments. This ESL-Program eligibility criterion is aligned with requirements established by the Pennsylvania Department of Education.

Student placement in the ESL Program and designated instruction time (Beginner, Intermediate, Advanced) will comply with program guidelines and will be based upon the instructional need of each ESL student. Instructional placement will be age and grade appropriate.

Parents may request an ESL student to be excused from the ESL Program if the instruction conflicts with the family's religious beliefs. 22 Pa. Code § 4.4(d)(3).

All ESL students shall have access to and should be encouraged to participate in all Charter School educational programs, opportunities, and extracurricular activities available. Equal Education Opportunity Act, 20 U.S.C.A. § 1703; Title VI, Civil Rights Act of 1964, 42 U.S.C.A. § 2000d, et seq.

Exit Criteria

The exit criteria for ESL students is intended to establish valid and reliable evidence of a student's English language proficiency to exit from the ESL Program, in accordance with requirements established by the Pennsylvania Department of Education. ESL students may exit the ESL Program if they meet exit criteria provided under applicable federal and state laws and regulations.

Once an ESL student exits the ESL Program, he/she will be monitored for two years. During that time, the ESL Director will maintain bi-weekly contact with the classroom teacher to monitor the student's progress. Monitoring efforts will also include periodic review of grades. At the end of each year, the student progress will be evaluated, using the PSSA and Charter School assessments, to determine if the student is maintaining or demonstrates growth in language skills. Students will be placed back into the ESL Program if evidence does not support maintenance or growth of language skills.

Assessment of ESL Students

In accordance with Pennsylvania academic standards and Charter School academic standards, the Charter School will monitor the progress of ESL students and will provide appropriate accommodations within the content areas to ensure achievement of the academic standards and curricular goals. 22 Pa. Code § 403; No Child Left Behind Act, 20 U.S.C.A. § 6842. The ESL Director will oversee the review, both annual and periodic, of ESL students.

Pennsylvania's assessments shall be administered to all ESL student annually to measure progress and determine each ESL student's English language proficiency for each language domain (Reading, Writing, Speaking and Listening/Understanding). Each designated ESL teacher will complete the annual grading and evaluation process for ESL students (English, Reading and Language Arts). Other considerations will include ESL student portfolios and teacher narratives regarding observations of each

ESL student. Students with immigrant status who have lived in the United States for less than one year are exempt from participating in the PSSA and local assessments.

Throughout the course of the year, individual student progress will be evaluated on a continuous basis with each ESL teacher and the classroom teacher. Each teacher will modify ESL students' learning plans to ensure academic success for each ESL student.

A standardized form will be kept in each ESL student's permanent record folder through graduation. The form shall identify the date, level, and English proficiency score upon entering the ESL Program; report(s) of progress toward ESL Program goals; and academic standardized test scores. A narrative from the designated ESL teacher, regarding each ESL student's progress toward satisfying the ESL Program objectives, will also be part of the data collection and review process.

An ESL student may not be retained in a grade level based solely on his/her lack of English language proficiency. Before an ESL student is retained in a grade, the ESL Director must demonstrate that all appropriate modifications were made to instruction and assessment in order to allow the ESL student's meaningful access to the grade level content curriculum as well as to promote ESL instruction.

ESL Students with Disabilities

All ESL students shall be eligible for special education services. All procedures for the screening, evaluation, IEP, and the provision of services and/or instruction for ESL students must be in compliance with governing state and federal laws and regulations.

The IEP team for an ESL student shall include either the ESL Director or an appropriate ESL teacher, or at a minimum, the IEP team shall receive input from either the ESL Director or the appropriate ESL teacher when appropriate. The IEP team for an ESL student shall consider the need for ESL instruction as it addresses the ESL student's needs related to the provision of Free Appropriate Public Education. In determining an ESL student's needs, the IEP team shall consider both special education services and ESL instruction simultaneously. Special education services do not replace ESL instruction.

ESL students receiving special education services must submit to Pennsylvania's annual assessments. Each ESL student may participate in assessments through the use of one or more state-approved accommodations appropriate to his/her disability. The IEP team may make decisions regarding assessment accommodations for ESL students with disabilities, considering the following:

1. Accommodations must not invalidate the results of the assessment;

2. Accommodations may be used for the entire assessment or only for part/parts of the assessment;
3. Determinations of any accommodation must be:
 - Based on a student's disability;
 - Made by the student's entire IEP team;
 - Properly documented in the student's IEP; and
 - Properly coded on the assessment.

Communications with ESL Parents/Guardians

Communications with ESL parents and/or guardians must be in the parents'/guardians' preferred language and mode of communication. The Charter School will provide interpretation services (written and/or oral, depending on the preferred mode of communication). No Child Left Behind Act, 20 U.S.C.A. § 7012.

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

Montgomery Flex Charter School

Board of Trustees Policy

Dispute Resolution and Alternative Dispute Resolution Policy

It is the policy of Montgomery Flex 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

Montgomery Flex 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 Montgomery Flex 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

Montgomery Flex 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

Montgomery Flex 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

Montgomery Flex 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 Montgomery Flex 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.

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ADOPTED this _____ day of _____, 2012

President

Secretary

Montgomery Flex 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 Montgomery Flex 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

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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.

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ADOPTED this _____ day of _____, 2012

President

Secretary

Montgomery Flex 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.

Montgomery Flex 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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Montgomery Flex 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, Montgomery Flex 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.

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