

The image shows the exterior of a modern brick building with large glass windows and a prominent, angular, metallic-looking architectural feature. A large white text box with a black border is centered over the image, containing the school's name. Below it, a smaller white text box with a black border contains the title of the event. The background shows a clear sky and a grassy area in the foreground.

# MANCHESTER PREPARATORY ACADEMY

**Governance Training – Protecting the Rights of  
Students and Families**

## WHY AN “INTERACTIVE” SESSION?

- Requested via feedback from last year.
- Practice makes perfect!
- Consideration of different perspectives strengthens decision-making.
- Thoughtful navigation of “hard” questions.



# PERSPECTIVE MATTERS!



School Leader –  
primary concern  
is maintaining  
order and a  
positive school  
culture



Governing Board  
member –  
accountable to  
numerous  
groups, including  
the authorizer,  
parents and the  
community



Authorizer –  
responsible for  
ensuring that  
schools act in  
accordance with  
their charter  
contract and  
established law



Parent –  
primary  
concern is  
his/her  
student

## QUESTIONS TO CONSIDER

- Consider each situation carefully and identify the issue(s). What was handled correctly and what was handled incorrectly?
- Remember that perspective matters:
  - Did the school leader utilize good judgment and decision-making?
  - Does the governing board need to take any action? What's their role in the situation?
  - Should the authorizer be concerned? Did the school potentially violate the charter contract? What should their next steps be?
  - What's the parent perspective and how can the school best address any concerns while simultaneously meeting all other obligations?



## THE SCHOOL

- Manchester Preparatory Academy (MPA) serves a diverse yet affluent student body of 700 students in grades K-5 and has a statewide attendance zone.
- Students are taught utilizing a rigorous STEM-infused PBL curriculum.
- The school touts parent involvement and few discipline issues as evidence of its positive school culture.

## SCENARIO #1:

- Hadley is a new student at MPA. She is in second grade and does not have a documented IEP or 504 plan. Additionally, her records from her previous school do not show any previous discipline or academic challenges.
- By the second week of school, Hadley's teacher is troubled by her behaviors. Specifically, Hadley has twice told her teacher that she wants to kill herself, frequently causes disruptions in class, and her grades are dropping.
- After Hadley first told her teacher she wanted to kill herself, Hadley's teacher followed the school's suicide prevention protocol and told the school's counselor and school leader.
- Since Hadley did not have a history of this at her prior school, the administrators did not think any further action needed to be taken.

## SCENARIO #1: ISSUES, RULES, AND SUMMARY

**ALL public schools in Georgia must have a suicide prevention and awareness policy and annually provide suicide prevention and awareness training to teachers.**

- All certificated employees must receive the training
- The suicide prevention and awareness policy must be developed in consultation with school and community stakeholders, school employment mental health professionals, and suicide prevention experts.
  - At a minimum, the policy must relate to suicide prevention, intervention, and postvention.
- Additional information:
  - [GaDOE Model Policy for Suicide Awareness, Prevention, Intervention, and Postvention](#)
  - O.C.G.A. § 20-2-779.1
  - State Board of Education Rule 160-4-8-.19

# SCENARIO #1: ISSUES, RULES, AND SUMMARY, CONTINUED

## **An emotional disturbance disorder is a covered disability under the Individuals with Disabilities Education Act (IDEA).**

- An emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
  - An inability to learn that cannot be explained by intellectual, sensory, or health factors.
  - An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
  - Inappropriate types of behavior or feelings under normal circumstances.
  - A general pervasive mood of unhappiness or depression.
  - A tendency to develop physical symptoms or fears associated with personal or school problems.
- Additional information:
  - 34 CFR § 300.8
  - State Board of Education Rule 160-4-7-.05-8

## SCENARIO #2:

- The second time Hadley told her teacher she wanted to kill herself, her statement was overheard by several of her fellow students.
- After receiving numerous calls from upset parents, the school's administrator, Sandy, informed Hadley's parents that her disruptive behavior would not be allowed at MPA. Sandy further explained that if Hadley's parents did not want any disciplinary action take against Hadley, the parents would have to get a psychological evaluation and counseling for Hadley.
- Hadley's parents agreed to provide a psychological evaluation and weekly counseling for Hadley.

## SCENARIO #2: ISSUES, RULES, AND SUMMARY

### **State charter schools must communicate with stakeholders, but the school must ensure that it keeps student information confidential.**

- Measure 5e of the Operations Section of the SCSC's Comprehensive Performance Framework measures a school's ability to communicate with stakeholders appropriately.
- Schools cannot disclose or discuss behaviors of another student (with certain extremely limited exceptions).
  - *Information obtained through personal knowledge or observation, or has heard orally from others, is not protected under the Family Educational Rights and Privacy Act of 1974 (FERPA). Nevertheless, schools should use extreme caution when discussing their personal observations of students or information about students obtained orally.*
  - In some emergency situations, schools may believe that a health and safety emergency exists and specific information about students should be disclosed to the appropriate parties.
    - Question 1: Is this an emergency situation?
    - Question 2: Are other parents an appropriate party to disclose information about Hadley's behaviors?

## SCENARIO #2: ISSUES, RULES, AND SUMMARY, CONTINUED

- Question 1: Is this an emergency situation?
  - Probably not. FERPA's health or safety emergency provision permits such disclosures when the disclosure is necessary to protect the health or safety of the student or other individuals. See 34 CFR §§ 99.31(a)(10) and 99.36. These disclosures must be related to an **actual, impending, or imminent emergency**, such as a natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic disease.
  - Under this health or safety emergency provision, an educational agency or institution is responsible for making a determination whether to make a disclosure of personally identifiable information on a *case-by-case basis, taking into account the totality of the circumstances pertaining to a threat to the health or safety of the student or others.*
- Question 2: Are other parents an appropriate party to disclose information about Hadley's behaviors?
  - Again, probably not. Typically, law enforcement officials, public health officials, trained medical personnel, and parents (including parents of an eligible student) are the types of appropriate parties to whom information may be disclosed under this FERPA exception.
- Additional Information:
  - [www.studentprivacy.ed.gov](http://www.studentprivacy.ed.gov)

## SCENARIO #2: ISSUES, RULES, AND SUMMARY, CONTINUED

**State charter schools must serve and provide services to all special education students and have an obligation to find and conduct special education related evaluations of students suspected of having an IDEA-covered disability.**

- State charter schools must follow IDEA.
- Your charter contract prohibits you from discriminating against students on the basis of the need for special educational services.
- Child Find Obligations:
  - State Board of Education Rule 160-4-7-.03: Each LEA must have in effect policies and procedures to ensure that all suspected children with disabilities, regardless of the severity of their disability, who are in need of special education and related services, are identified, located, and evaluated.
  - **NEW:** According to [GaDOE's Child Find Implementation Manual](#), state charter schools only have obligation to find students with disabilities within the population currently enrolled in their school.

## SCENARIO #3:

- Following an evaluation and counseling, Hadley's behavior and grades began to improve. A month into the arrangement, Hadley's father loses his job and the family no longer has health insurance coverage, rendering continued weekly counseling unaffordable.
- Several weeks after counseling was discontinued, Hadley's behavior and grades again become a challenge. Hadley's behaviors become more violent. She gets into three fights in one week, and she again expresses that she wants to kill herself.
- Sandy calls Hadley's parents and asks about their agreement for weekly counseling and the results of the psychological evaluation. Hadley's parents inform the school that because they lost health insurance coverage, they can no longer afford weekly counseling and continued psychological evaluation.
- Fearing that Hadley may hurt herself or another students, Sandy immediately begins the process to expel Hadley for her violent and disruptive behaviors.

## SCENARIO #3: ISSUES, RULES, AND SUMMARY

### **State charter schools must have, follow, and give families notice of their policies and procedures to discipline students.**

- O.C.G.A. § 20-2-751.5
  - Student codes of conduct must contain provisions that address a variety of different categories listed in the statute.
  - Any student handbook which is prepared by a LEA must include a copy of the student code of conduct for the school. When distributing the student handbook/code of conduct, the school must include a form for acknowledgment of the student's parent or guardian's receipt of the code, and the LEA shall solicit or require that the form be signed and returned to the school.
- Parents/guardians CAN waive their student's right to a full disciplinary hearing

## SCENARIO #3: ISSUES, RULES, AND SUMMARY, CONTINUED

**Students who have, are currently in the evaluation process, or are suspected of having a disability must have a manifestation determination prior to being issued a long-term suspension or expulsion.**

- Long-term suspension means a suspension for longer than ten school days, but not beyond the current quarter or semester
- Expulsion means expulsion of a student from a public school beyond the current quarter or semester
- Students who either a) have an IDEA-covered disability; b) have a parent request a special education evaluation prior to the student being recommended for expulsion or during the student disciplinary process; OR c) have personnel who have expressed specific concerns about a pattern of behavior demonstrated by the child to the supervisory personnel of the LEA – **are entitled to requisite disciplinary procedural safeguards under IDEA.** See 34 CFR § § 300.530, 300.534(b).
- 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, the LEA, the parent, and the relevant members of the child's IEP team must review all relevant information in the student's file, any teacher observations, and any relevant information provided by the parents to determine:
  - #1: If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; OR
  - #2: If the conduct in question was the direct result of the LEA's failure to implement the IEP.
- If yes to #1 → modify student's behavioral intervention plan/conduct functional behavioral assessment OR return the child to her original placement (i.e., the student does not receive a long term suspension or expulsion)
- If yes to #2 → the LEA must take immediate steps to remedy those deficiencies

## SCENARIO #4:

- Worried that the disciplinary proceeding may cause Hadley's behavior to escalate, Sandy encourages Hadley's parents to sign a hearing waiver form, which waives Hadley's right to a full disciplinary hearing.
- Hadley's parents are put-off by what they perceive to be pressure from Sandy and try to do some research about other options. They stumble upon the SCSC's website, call the SCSC for guidance about their situation and ultimately file a complaint against the school. The SCSC then reached out for additional information from the school's governing board chair, Ruth, and Sandy.
- Ruth is taken aback by the situation and worries that Sandy has put Hadley and the school at risk. Ruth immediately calls Sandy to ask for additional information. Ruth is disturbed by Sandy's lack of concern about the situation and comments like "[w]e don't have the money to help kids like her."

# SCENARIO #4: ISSUES, RULES, AND SUMMARY

## How the SCSC complaint process works:

1. The SCSC receives a complaint through its online complaint form located here: <https://scsc.georgia.gov/webform/file-complaint>
2. SCSC staff reviews the complaint and decides next steps.
  - If the complaint alleges egregious violations of state and/or federal law or material breaches of the charter contract, the SCSC will immediately follow up with the school for additional information.
    - Based on the information provided, the SCSC may formally request additional information and/or require the school complete corrective action.
  - If the complaint contains issues that deal with the day-to-day operations of the school, the SCSC will generally direct the parent/guardian back to the governing board to resolve their concerns. Absent extreme circumstances, the SCSC expects that governing boards will respond to parent/guardian complaints within two business days.
    - SCSC rule 691-2-.03 requires state charter schools to have information on their website about the procedure for contacting the school's governing board and the school's most senior administrator

## SCENARIO #5:

- Sandy served on the founding governing board and is extremely well-loved by the MPA community.
- Since its inception, MPA has struggled academically and operationally. In its first two years, MPA has not met SCSC academic or operational standards. The school is consistently found to be out of compliance with various operational items, but Sandy always assures the governing board that she is working on solving the problems, and that these are just normal “new school hiccups.”
- Despite these assurances, the governing board is growing frustrated with Sandy’s lack of action but feel that their hands are tied because parents and students at MPA love Sandy. The governing board also fears that if Sandy is let go, many students may leave the school.

## SCENARIO #5:

- On the Tuesday this happens, Ruth immediately shares her concerns with the rest of the governing board and recommends that the governing board have a called telephonic governing board meeting that Friday to discuss the performance of Sandy at MPA.
- Because of the swiftness of the meeting, the governing board forgets to post a meeting notice to its website, on the door of the school, and in the legal organ that it is having a called meeting. The school does send an e-blast to all parents alerting them to called meeting. The only agenda item was to go into executive session to discuss personnel.
- During executive session, the governing board decides that it cannot continue to overlook Sandy's behavior and performance – especially given the recent incident with Hadley. During its executive session, the governing board votes to fire Sandy, effective immediately. When the governing board reconvenes from executive session, it does not state with any specificity the actions it took during executive session.

## SCENARIO #5: ISSUES, RULES, AND SUMMARY

### **Governing boards for state charter schools are NOT authorized to conduct meetings via teleconference.**

- The Open Meetings Act provides that only agencies with statewide jurisdiction may conduct meetings via teleconference. It is the interpretation of the Department of Law that charter schools, even if they have statewide attendance zones, do not have statewide jurisdiction as the schools do not have “state-wide powers” as defined by O.C.G.A. § 45-10-20.
- **As a result, all state charter schools may only conduct meetings if a quorum is present in person.**
  - Individual members of a governing board may participate via teleconference, but ONLY if necessitated by the individual’s health or absence from the jurisdiction – and the member may only do so twice per calendar year unless there is a written provision from a health professional that reasons of health prevent the member’s physical presence or if there are emergency conditions.
- Please note that this does NOT preclude a state charter school from providing a means for the public to participate in a governing board meeting electronically. In other words, it remains acceptable for a governing board to meet in person and simultaneously allow members of the public to hear and see proceedings through a webinar or livestream format.

# SCENARIO #5: ISSUES, RULES, AND SUMMARY, CONTINUED

## **Governing boards of state charter schools must follow the executive session requirements of the Georgia Open Meetings Act.**

- Executive session means a portion of the meeting that is lawfully closed to the public. See O.C.G.A. § 50-14-1(a)(2).
  - Reasons you can go into executive session (list is summarized – see page 96 of [SCSC's Legal Obligations of State Charter School](#) document for fully explained list):
    - 1) consult with legal counsel; 2) discuss real estate matters; 3) personnel; 4) discuss records exempted from Georgia Open Records Act
  - Executive Session Procedure
    - 1) ensure executive session is listed on your agenda with the purpose of going into executive session;
    - 2) governing board must vote to enter into executive session and state the purpose for going into executive session;
    - 3) the minutes of the public meeting must reflect the reasons for going into executive session, the names of the members of those present, and the names of those voting to enter into executive session;
    - 4) execute executive session affidavit; and
    - 5) keep meeting minutes of the executive session (they are not open to the public, but must be kept and maintained for inspection by an appropriate court should a dispute arise as to the propriety of the executive session)
  - **During executive session, you cannot discuss a matter that is not authorized by law to be discussed during executive session.**

## SCENARIO #5: ISSUES, RULES, AND SUMMARY, CONTINUED

### **State charter school governing boards must provide notice of a specific action taken at the meeting with regards to personnel.**

- It is a common practice for charter schools (and school districts) to vote on general recommendations of personnel that do not detail the action taken regarding an individual.
  - For example, governing boards often vote “to accept the personnel recommendations made by the superintendent.” This is not permitted under the Open Meetings Act. Governing Boards must provide sufficient detail to clearly allow the public to determine what action was taken with regard to an individual.
- There are times when votes can be done in executive session if they are not votes on official actions of the agency.
  - For example, when discussing a personnel matter, a board could “vote” to ask the superintendent to do some research or provide more information about a topic before they make a decision on something. This does not require a public vote because the vote is not for the governing board to actually make a personnel decision – its just to research a specific topic.

# SCENARIO #5: ISSUES, RULES, AND SUMMARY, CONTINUED

## **Governing boards of state charter schools must follow the meeting notice requirements of the Georgia Open Meetings Act.**

- Notice Requirements: O.C.G.A. § 50-14-1(b) – (e)
- A state charter school must determine and publish the time, place, and dates of its regular meetings. This information must be available to the general public, and a notice of this information must be posted and maintained at least one week in advance of the meeting at the regular place of the meeting and on the school's website (if the school maintains a website).
- Notice for called meetings (i.e., meetings not regularly scheduled):
  - The state charter school must give written or oral notice at least 24 hours in advance of the special called meeting. The written or oral notice of the special called meeting must be provided to the legal organ of the county in which the board holds its regular meetings or a newspaper having a general circulation in that county equal to or greater than the legal organ. The called meeting notice must also be placed on the school's website and physically at the school (and the physical location of the meeting if these places are different).
  - If the legal organ is published less than four times each week, the state charter school may provide sufficient notice of the special called meeting by posting written notice of the special called meeting at the regular meeting place and providing notice at least 24 hours in advance of the special called meeting to any local broadcast or print media outlet doing business or located in the county upon request.
  - The state charter school must provide any local broadcast or print media outlet a copy of the agenda for the special called meeting upon request.
- While helpful and a best practice, sending SOLELY an e-blast to stakeholders about a called meeting does not fulfill the school's notice requirements for called meetings.

## SCENARIO #6:

- On Monday, the school sends a letter home with students stating that Sandy will no longer be the MPA school leader, and the governing board will be taking the school down a new path. MPA parents are immediately taken aback and feel personally hurt by this decision.
- Later the same day, the school announces that it will have another called meeting on Wednesday to go into executive session to discuss personnel. The governing board doesn't have time to post a meeting notice to its website, on the door of the school, and in the legal organ that it is having a called meeting. The school again does send an e-blast to all parents alerting them to called meeting.
- The governing board gavels in its meeting, and then goes into executive session. When the governing board returns to the meeting, it does not state the actions it took during executive session.

## SCENARIO #6:

- Dozens of parents attend the meeting, but the governing board says that because it is a called meeting, the public does not have a right to public comment. Further, the governing board states that members of the public cannot speak about personnel during public comment.
- MPA parents are upset that they did not get a chance to speak during public comment and that they do not have answers as to why Sandy was fired. MPA parents begin filing open records requests to try to piece together what happened.
- One request asked for **all** of the emails from members of the governing board using their official MPA accounts. Between the 7 MPA governing board members, there are thousands of emails. Ruth estimates that it will take their attorney 60 hours to retrieve and redact all of the sensitive information in these emails. Their attorney's hourly rate is \$200 an hour, so she responds to the request after four days stating that it will cost \$12,000 to produce the records responsive to her request.

## SCENARIO #6: ISSUES, RULES, AND SUMMARY

**State charter school governing boards do not have to offer public comment. Nevertheless, offering public comment is a best practice and governing boards should allow the public to freely speak during public comment (with some limited exceptions).**

- Georgia Open Meetings Act and the First Amendment do not provide an absolute right to make public comment at a public meeting, thus, governing boards do not have to offer public comment at any meeting. Governing boards should ensure that whatever decision they make on offering public comment is consistent with the governing board's by-laws.
- When a governing board offers public comment – it creates a “limited” or “designated” public forum, meaning, a government entity (i.e., the governing board) may please reasonable time, place, and manner restrictions on the speech, but a government entity **cannot restrict or regulate the content of a public commenter's speech.**
  - Valid time, place, manner restrictions include procedures for signing up for public comment and limiting the time of a speaker's comments. These are *content-neutral restrictions*.
  - Invalid restrictions on a public commenter's speech include preventing a commenter from speaking about personnel matters or other students.
  - If a public commenter is vulgar, inciting violence, or disrupting the meeting preventing the governing board from conducting further business, then the governing board has a significant government interest in stopping the comments from the public commenter.

## SCENARIO #6: ISSUES, RULES, AND SUMMARY, CONTINUED

### **State charter schools must follow the requirements of the Georgia Open Records Act.**

- All public records, except those specifically exempt from disclosure by law (e.g., FERPA protected student educational records) or court order, must be available for review and copying.
- After receiving a request, the state charter school must respond with the records within three business days (the day the open records request is received is not included in the three business days allotted for response).
  - If not all the records requested are available for review within three business days, the state charter school must provide the records that are available within that timeframe.
  - If some or all of the records that were requested are not available, the state charter school must issue a response to the request within three business days that details what records are available and when the records will be available.

# SCENARIO #6: ISSUES, RULES, AND SUMMARY, CONTINUED

## **State charter schools may charge a fee for the search, retrieval, redaction, production, and copying costs for producing records in response to an open records request.**

- The state charter school must use the most economical means to respond to an open records request.
  - The cost assessed must not exceed the prorated hourly salary of the lowest paid full-time employee who the state charter school determines has the necessary skills and training to produce the requested records, except that the state charter school may not charge for the first fifteen minutes of the employee's time to produce the records.
  - When the state charter school will assess costs in excess of \$25.00 for responding to a request, the state charter school must notify the requester within the three-day period allotted for response to an open records request and inform the requester of the estimate of the costs.
    - In such a case, the state charter school may defer search and retrieval of the records until the requester agrees to pay the estimated costs unless the requester stated in his or her request a willingness to pay an amount that exceeds the search and retrieval costs.
    - When the state charter school will assess costs in excess of \$500.00 for responding to a request, the state charter school may insist on prepayment of the costs prior to beginning search, retrieval, review, or production of the records.
- Generally, schools cannot charge attorney's fees for the search and retrieval of records pursuant an open records request.
  - EXCEPT: there may be a few things that only your attorney has the knowledge to redact or refuse to produce for an open records request – such as reviewing records to see if they contain attorney work product or communications covered under attorney-client privilege (and thus exempt from disclosure under the Georgia Open Records Act). BUT it would NOT be appropriate to have an attorney review every request and charge for it.

## QUESTIONS?

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