



**DATE:** December 6, 2010  
**TO:** Board of Education  
**FROM:** Daniel A. Nerad, Superintendent  
**RE:** Phoenix Program Update

Appendix MMM-6-16  
December 13, 2010

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## I. Introduction

### A. Title/Topic/Reason for Report

Mr. Howard, chairperson for the Operational Support Committee, requested an update on the Phoenix Program including number of students enrolled, costs of staffing and programming, and potential costs should there be a need to expand the program in the future. There was also a request for data that shows how the Phoenix Program is impacting the expulsion process.

### B. Presenter(s) or contact person(s) for the presentation

Joseph Hill, Coordinator for Expulsions  
Matt Bell, Associate General Counsel  
Nancy Yoder, Director of Student Services/Alternative Education

### C. Background information

On June 14, 2010, the BOE approved the implementation of the Phoenix Program which is an abeyance program for some, but not all, students who are recommended for expulsion on or after September 1, 2010. The program is staffed by a full-time teacher, Special Education Assistant and counselor. There are currently 10 high school students and 6 middle school students enrolled in the program.

Phoenix provides academic and social-emotional-behavioral learning opportunities for eligible students who choose to participate in this half-day program rather than proceeding to an expulsion hearing with the possible outcome of expulsion. If a student successfully completes the Phoenix Program, no expulsion hearing is held. If the student does not successfully complete the program, a date is set for the student's expulsion hearing and the expulsion process continues.

### D. Action requested of the BOE

This update is for information only and no action is requested.

## **II. Summary of Current Information**

### **A. Synthesis of the topic**

The information to be shared with the Operational Support Committee includes three (3) elements:

- Overview of program implementation to date
- Cost of current program and potential future expansion
- Summary of data detailing expulsion proceedings for this year and the past three (3) years. In order to show a comparison between the present year that includes the option of the Phoenix Program and previous years that did not include Phoenix, only data from Quarter 1 of each year is compiled.

### **B. Recommendations**

No recommendation is being made at this time. This is a requested update by the Operational Support Committee.

### **C. Reference to supporting documentation**

Attached to this memo are 3 documents:

- Summary of current and potential future budgets for Phoenix
- Summary of data detailing expulsion proceedings for Quarter 1 of 2007-08, 2008-09, 2009-10 and 2010-11. In order to show a comparison between the present year that includes the option of the Phoenix Program and previous years that did not include Phoenix, only data from Quarter 1 of each year is compiled.
- Written memo from Legal Services entitled Phoenix Program Update, outlining changes from prior practices

## **III. Implications**

### **A. Budget**

The cost of the current program and the projected costs of expanding the program in the future are found in Attachment A.

### **B. Strategic Plan**

The creation of the Phoenix Program helps connects with the following aspects of the Strategic Plan:

- Student Action Plan-Achievement, Action Step 3: Analyze new and existing systems of support to raise achievement for all students.
- Student Action Plan-Relationships, Action Step 5: Identify and implement innovative and effective school structures that enhance staff-student relationships
- Organization/Systems Action Plan- Climate: Action Step 4: Develop and implement behavior and discipline practices that are consistent, systematic, positive, restorative and data driven
- Organization/Systems Action Plan- Climate: Action Step 6:

Develop systems that promote student engagement

**C. Equity Plan**

The Phoenix Program is rooted in the importance of maintaining student access to academic and social-emotional-behavioral learning opportunities, despite the fact that a student has engaged in behavior that has led to a recommendation for expulsion. When a student chooses to participate in the Phoenix Program, he/she maintains access to curriculum, instruction and social-emotional supports rather than facing the possibility of expulsion without services. Applicable Guiding Principles from the Equity Task Force include:

- Schools will be excellent only when students of all demographic groups are achieving at high levels
- Achieving equity often requires an unequal distribution of resources and services

**D. Implications for other aspects of the organization**

The Phoenix Program requires a level of funding that must be maintained in order to be effective with the student population it serves. This has implications for the budget process as a whole with respect to prioritizing the use of district funds for the Phoenix Program.

**IV. Supporting Documentation**

- A. **Summary of current and expanded budgets for Phoenix: Attachment A**
- B. **Summary of data detailing expulsion proceedings for Quarter 1 of 2007-08, 2008-09, 2009-10 and 2010-11: Attachment B**

On the attached chart:

The column headings appear in bold print and some have a superscript number associated with them. The purpose of the superscript is to call the reader's attention to the bottom half of the page. The superscript on the bottom half of the page will be followed by an explanation of what is meant by the column header with the same superscript.

Where there is one or more asterisk(s) in the chart, at the bottom of the page an explanation of why the asterisk(s) appears is also provided.

- C. **Written memo from Legal Services entitled Phoenix Program Update, outlining changes from prior practices: Attachment C**

MADISON METROPOLITAN SCHOOL DISTRICT  
PHOENIX PROGRAM BUDGET

Appendix MMM-6-16  
December 13, 2010  
Attachment A

	Current 2010-2011		Proposed Program Increase	
	FTE	BUDGET	FTE	BUDGET
<b>Revenues</b>				
Fund 10 Operational Budget				
Elementary/Secondary Unallocated Positions	2.00	148,072	2.00	150,293
CyPres Technology Funds		7,360		
Alternative Program Department		1,000		1,020
Fund 27 Operational Budget				
Grants				
ARRA Flow Through	0.94	36,792		
<b>Total Revenues</b>	<b>2.94</b>	<b>193,224</b>	<b>2.00</b>	<b>151,313</b>
<b>Expenditures</b>				
Salary & Benefits:				
Administrative/Clerical				
Teacher	1.00	56,515	1.00	57,363
Special Education Teachers			1.00	78,804
Guidance	1.00	91,557	1.00	92,930
Educational Assistants				
Special Education Assistants	0.94	36,792	2.00	86,871
Extended Teacher Employment, PAC, Substitutes				
Purchased Services/Support				
Transportation				25,790
Supplies & Materials (Instructional/Audio Visual Media, Software, etc.)		1,000		2,288
Equipment:				
Computers (desktops, laptops, netbooks, etc.)		7,360		7,980
Peripherals (printers, presentation stations, interactive whiteboards, etc.)				
<b>Total Expenditures</b>	<b>2.94</b>	<b>193,224</b>	<b>5.00</b>	<b>352,027</b>
<b>Unfunded Expenditures (Revenues-Expenditures)</b>		-		<b>(200,714)</b>

Expulsion Process Historical Data  
 First Quarter Only Data 2007/2008 Through 2010/2011

School Year	Recommendations for Expulsion	Exempt from Expulsion	Phoenix Prog. Eligible <sup>1</sup>	Phoenix Revocation Recommendation	Revoked from Phoenix	Diverted <sup>2</sup>	Dismissed <sup>3</sup>	Expelled without Services <sup>4</sup>	Expelled with Partial Services <sup>5</sup>	Expelled with Services – Sp Ed <sup>6</sup>	Other
2007-2008	39	N/A	N/A	N/A	N/A	22	1	4	3	8	*
2008-2009	47	0 started mid year	N/A	N/A	N/A	26	6	8	4	3	
2009-2010	30	4	N/A	N/A	N/A	18	4	4	0	4	
2010-2011	31	2	23	5	3**	9	5	0 thus far	0 thus far	0 thus far	

<sup>1</sup>The Phoenix Program has defined certain violations of the Student Conduct & Discipline Plan as being a prohibition for Phoenix participation.

<sup>2</sup> Diverted pertains to students who were Recommended for Expulsion but who were identified as having qualified for Special Education services, and the behavior that resulted in the Recommendation for Expulsion was a manifestation of their educational disability.

<sup>3</sup> Dismissed cases are those that were dismissed by the Assistant Superintendent, the Expulsion Coordinator, or other district administrator prior to an Expulsion Hearing, or the case went to Hearing and the Hearing Officer determined that the district failed to meet its burden of proof and thus dismissed the case, or the Board of Education reverses the Hearing Officer's decision to expel and dismisses the case. In addition to insufficient evidence, a case will be dismissed when a Special Education re-evaluation is out of date.

<sup>4</sup> Expelled without services involves a Regular Education student that does not receive any educational services from the district after the Board of Education expels the student. Educational services resume when either the student is early readmitted or serves the full duration of his/her period of expulsion.

<sup>5</sup> Expelled with Partial Services involves a Regular Education High School student, whose misconduct occurred during the second or fourth quarter of a semester, and the student receives Off Campus Neutral Site Programming services until the end of the semester in which the misconduct occurs, even after the Board issues its decision to expel. The services typically include the receipt of homework from the student's school or program and the opportunity to take examinations, including final exams, and the student will receive credit for those courses in which he/she earns it.

<sup>6</sup> Expelled with Services – Special Education involves a Special Education student. A Special Education student is entitled to receive "disciplinary free and appropriate public education" while serving his/her period of expulsion. The services continue until the student is either early readmitted or serves the full term of his/her expulsion and then returns to school.

\* One case remains on hold from 2007-2008.

\*\* Although the three students were initially revoked from further participation in the Phoenix Program, it is my understanding that all three are being afforded a post-revocation decision opportunity to have decision rescinded.

Note: The district's first actual Expulsion Hearing for the 2010-2011 school year is scheduled to occur on December 6, 2010.



## LEGAL SERVICES MEMORANDUM

APPENDIX MMM 6-16

December 13, 2010

Attachment C

**Date:** December 2, 2010

**To:** Board of Education

**From:** *MWB* Matthew W. Bell, Associate General Counsel; *Pam* Pam Nash, Assistant Superintendent; Nancy Yoder, Director of Student Services and Alternative Programs

**cc:** Daniel Nerad *naib*

**Subject:** Phoenix Program Update

On June 14, 2010, the Board was presented with a Document entitled *Disciplinary Alternatives: Phoenix Program*. That Document outlined the foundation for the current Phoenix Program, an alternative to expulsion that allows a student's expulsion recommendation to be held in abeyance while the student participates in a half-day program tailored to the student's academic, emotional and behavioral needs. At the time of presentation, the Board voted to implement the Phoenix Program.

The June 14, 2010 document did not provide all the details related to the Phoenix Program and contemplated that further details would be provided to the Board as the Program was implemented. This memo is intended to advise the Board of the current state of the Phoenix Program, provide further details of its operation and advise the Board of changes to prior practices that have been made in the process of implementing the Phoenix Program. For ease of reference, this Update will follow the structure of the June 14, 2010 Document. Also for the Board's reference the following documents are attached to this Update: Phoenix Program Participation Agreement, the "Knowledge" analysis form, and a chart that compares and contrasts the old practices versus the new practices.

### Introduction

As the Board will recall, the Phoenix Program was recommended and adopted in order to provide an alternative to expulsion for students who committed certain expellable offenses. The intent of the program is to provide academic, social and emotional interventions to students who engage in certain behavior in order for students to remain connected to the school environment and improve their prosocial skills and not repeat the same or similar behavior.

### Procedures

The Phoenix Program Advisory Committee<sup>1</sup> continues to follow the procedure that a student may only be eligible to participate in the Phoenix Program if a student has been recommended for expulsion and that recommendation has been approved by an Assistant Superintendent (Pam Nash). For students identified as having special education needs, in addition to an approved recommendation for expulsion, a manifestation determination ("MD") meeting must also have occurred and it must have been determined that the conduct **was not** a manifestation of the student's disability.

As noted in the June 14 Document, students who engage in certain behaviors are deemed ineligible to participate in the Phoenix Program. Those behaviors are serious sexual assault (407), possession or use of a firearm (401d), possession of any weapon combined with any threat to use, attempt to use or actual use to

<sup>1</sup> The current Phoenix Program Advisory Committee is made up of Pam Nash, Nancy Yoder, Joseph Hill, Sally Schultz, Pam Walker, Sherry Bamsley, John Harper, and Matthew Bell

cause harm (401c), and possession of a bomb or other explosive device combined with the actual or attempted detonation of the bomb/device (405). At this point in time, no students have been precluded from participating in the Phoenix Program. However, it is believed that one student who recently engaged in an expellable offense is most likely ineligible for participation in the Phoenix Program.

If a student without an identified disability becomes eligible to participate in the Phoenix Program, staff at the student's home school (at the current time the building school psychologist) conducts an analysis to determine whether the District had "knowledge," as defined by the Individuals with Disabilities Education Act ("IDEA"), that the student was a child with a disability. Please see the attached form used to conduct this analysis. The IDEA requires that the District provide all of the protections of the IDEA to a regular education student if any of the three following scenarios are present prior to the conduct subject to discipline: 1) the parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services; 2) the parent of the child requested an evaluation; or 3) the teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency. (See 34 C.F.R. 300.534). If any of these three criteria are met, the student is advised of their right to return to his/her home school and offered the opportunity to receive one on one instruction via off-campus services. An expedited evaluation is also conducted. Depending on the outcome of that evaluation (i.e. eligible or ineligible for special education), an MD may or may not be required and participation in the Phoenix Program would necessarily depend upon the result of any eligibility and/or MD decision. Thus far during the current school year there have been three instances in which "knowledge" has been found.

The process described above varies from the practice previously utilized by the MMSD. During prior years, in addition to answering the IDEA-mandated questions regarding whether the District had knowledge that a regular education student was a student with a disability, the District also engaged in an extensive process referred to as a "record review." In the record review, a District school psychologist would review the student's entire file and convene a meeting in which it would be determined 1) whether the District had "knowledge" and 2) whether the District should have suspected that the student was a student with a disability. The "record review" process of prior years led to a number of students being referred and the evaluated for special education services. For instance, during the 09-10 school year (as of 4/23/2010) 18 students had been referred pursuant to the "record review" and 8 of those evaluations resulted in a determination of eligibility for special education.

Following the approval of an expulsion recommendation and MD, a Phoenix Program representative consults with the student and family to discuss potential enrollment in the Phoenix Program. At that time, the family is presented with the Phoenix Program Participation Agreement (see attached "Agreement") and all terms of that Agreement are reviewed. At that meeting, the family is also asked whether they suspect that their child has a disability, and if so, a special education referral is initiated at that time. In addition, a further review of the student's educational record, conducted by Phoenix Program staff, occurs once the student is enrolled in the Phoenix Program.

Another variation from past practice is that if a student is referred for a special education evaluation after the conduct occurred and while participating in the Phoenix program, and assuming the District did not have prior knowledge that the student was a student with a disability, the evaluation will occur on an expedited basis and the student will remain in the Phoenix Program during the evaluation process. (Please see the Additional Issues section for a request for guidance regarding the definition of an "expedited" evaluation). If the student does not meet eligibility criteria for special education, the student remains in the Phoenix Program for the abeyance period. If the student does meet eligibility criteria for special education, the IEP team will not conduct a retroactive manifestation determination but will develop an IEP that offers a free appropriate public education in a disciplinary setting which may or may not be the Phoenix Program.

Previously, a student who was referred for a special education evaluation after the conduct occurred but before the expulsion hearing was held would be evaluated within a 20 day timeline. During those 20 days, the student

received off-campus services and the expulsion process was put on hold. If the student was ultimately deemed eligible for special education, the IEP team would conduct a retroactive MD. That determination, dictated whether the expulsion process either proceeded or was dismissed.

It should be noted that IDEA does not require that an MD be held when a student is referred for an evaluation and found to have a disability **after** the conduct occurred (unless the District had knowledge that the student had a disability prior to the conduct). Thus the prior practice went above and beyond the IDEA-mandated disciplinary protections afforded to students with disabilities. IDEA does require that "[u]ntil the evaluation is completed, the child remains in the educational placement determined by the school authorities, which can include suspension or expulsion without educational services" and further that "if the child is determined to be a child with a disability . . . the agency must provide special education and related services in accordance with this part, including the requirements of §§ 300.530 through 300.536 and section 612(a)(1)(A) of the Act." (34 C.F.R. 300.534).

### **Model**

All staff outlined in the June 14 document (i.e. teacher, guidance counselor, social worker to monitor expelled students and SEA) have now been hired and the Phoenix Program is fully staffed. Students attend the Phoenix Program for three hours per day and the determination regarding which section (a.m. or p.m.) a student attends is made based upon the age of the student. Currently, middle school-aged students attend the a.m. section and high school-aged students attend the p.m. section.

Students who have approved recommendations for expulsion during the 1<sup>st</sup> and 3<sup>rd</sup> quarters, and who agree to participate in the Phoenix Program, are enrolled in the Program immediately.

Students who have approved recommendations for expulsion during the 2<sup>nd</sup> and 4<sup>th</sup> quarters, and who agree to participate in the Phoenix Program, may be enrolled in the Phoenix Program immediately or **may** receive off-campus services for the remainder of the semester and begin attending the Phoenix Program at the beginning of the next semester. That determination will be based upon the student's grade level and the number of classes the student is currently passing. Middle School students will start participating in the Phoenix Program immediately. If the student is a high school student, and the a student is passing 50% of his/her classes, the student will receive off-campus services for the remainder of the quarter in order to allow the student to complete coursework, take final exams and obtain credit for those courses. However, if the student is a high school student and is not passing 50% of his/her classes, the student will not receive off-campus services and will immediately begin to receive services in the Phoenix Program. Also, for students who engage in expellable behavior during the 2<sup>nd</sup> and 4<sup>th</sup> quarters, the student must attend the Phoenix program for the next full semester.

Students who are successful in the Phoenix Program will return to their home school (unless an alternative placement for a student with a disability is agreed upon by the parent and the District). Success is defined by the student's compliance with the Agreement, and further defined by academic achievement rubrics developed by the Phoenix Program staff.

Students who do not achieve success in the Phoenix Program may either be required to attend a second semester in the Program or proceed to an expulsion hearing. As noted in the attached Agreement, if a student commits another expellable offense while attending the Phoenix Program that results in an approved recommendation for expulsion and is ultimately expelled, the student's participation in the Phoenix Program will be revoked. If the student commits a violation of the Agreement (that does not rise to an expellable offense) the student's participation in the Program **may** be revoked. If revocation is contemplated under either scenario, the student is provided formal notice of the revocation, is offered the opportunity to meet with Pam Nash to either refute or explain the student's violation and a determination will be made based upon consideration of relevant information.

Students have only one opportunity to participate in the Phoenix Program. If a student's participation in the Phoenix Program is revoked the student will not be able to access the Program again if subsequent expellable



behavior occurs. If a student successfully completes the Phoenix Program and subsequently receives another approved expulsion recommendation the student will not have the option of participating in the Phoenix Program a second time and will proceed to an expulsion hearing.

It should be noted that as of the date of this Memo, three students' participation in the Phoenix Program has been revoked.

### **Location**

As noted in the June 14, 2010 Document, the Phoenix Program is housed in the Doyle Building.

### **Off Campus Program**

If students do not qualify for the Phoenix Program or choose the expulsion route, off campus programming will still be provided prior to the expulsion hearing as it has been in previous years. Off campus programming related to Phoenix Program participants is detailed above.

### **Alternative Programs**

The June 14 Document notes that other alternative programs "may be used as abeyance option sites, at the discretion of the District." At this time, the District has not exercised this discretion and no other programs are being used as abeyance program options.

### **Additional Issues**

The Phoenix Program Advisory Committee meets once a month to discuss implementation of the Phoenix Program. The Committee recently addressed the issue of transportation and whether it would be feasible to provide transportation to Phoenix Program participants on currently existing or new bus routes. That possibility continues to be investigated. The Committee also has been continuously discussing the manner in which students with special needs are served within the Phoenix Program. In particular, the Committee is evaluating the timing related to conducting the manifestation determination and identifying a location to provide a free appropriate public education for students in the time period after the manifestation determination and before placement in the Phoenix Program.

An issue has also been raised regarding whether additional code sections should be included in the "not eligible" list. In particular, possession of drugs with intent to deliver and mere possession of, or intent to use, a weapon (as opposed to the current requirement of possession of weapon with a threat to use, attempt to use, or actual use to cause harm). As noted in the June 14, 2010 document, "in other circumstances, the District may choose not to offer an abeyance option." However, the District is wrangling with what "circumstances" would mandate a student being precluded from participating in the Phoenix Program while simultaneously attempting to avoid over-exercising discretion.

Principals have articulated concern regarding the possibility of returning a student to their home school if the District determines that it had knowledge that the child was a child with a disability.

The Committee also continues to evaluate the attached Agreement. The Committee has discussed adding a provision requiring the student to acknowledge committing the violation of the code with which they are charged and a provision that will identify which section the student will attend.

Available space for students continues to be evaluated. Thus far, middle school students (currently 6) participating in Phoenix have been placed in the morning section and high school students (currently 10) have been placed in the afternoon section. This arrangement will be continuously monitored as numbers increase. At this time the Program is not at its maximum capacity and it is anticipated that 8 students (5 middle school-aged students and 3 high school students) will be transitioning out of the Phoenix Program at the conclusion of the semester. Administration will continue to monitor the numbers of students choosing to participate in the Phoenix Program, advise the Board of those numbers and determine if further action needs to be brought before the Board for review.

Finally, the District is evaluating what is the appropriate length of time for an "expedited evaluation." Previously, the District had a practice of defining "expedited" as 20 days. However, that timeline has been deemed by a number of evaluators to be too short of a period. Those evaluators note that the truncated period had the potential of causing "rushed" evaluations and may have compromised the quality of the evaluation. For the Board's reference, pursuant to Wisconsin Statute 115.78, a district must evaluate a child referred for special education "within 60 days after the local educational agency receives parental consent for the evaluation." Neither Wisconsin statutes nor IDEA define an "expedited" evaluation and case law has not provided consistent guidance regarding the definition of "expedited," but clearly "expedited" is some time frame significantly shorter than 60 days.

# ATTACHMENT 1



## PHOENIX PROGRAM

5 West Dayton St.

Madison, Wisconsin 53703-1967

608.204.4223

www.mmsd.org

Sally Schultz, Director of Innovative &amp; Alternative Programs

Daniel A. Nerad, Superintendent of Schools

## PHOENIX PROGRAM PARTICIPATION AGREEMENT

Pupil's Name: \_\_\_\_\_ D/O/B: \_\_\_\_\_

Parent/Guardian Name: \_\_\_\_\_

Expellable Code Of Conduct Section(s) Violated: \_\_\_\_\_

Date Of Conduct Violation: \_\_\_\_\_ School Year: \_\_\_\_\_

Pupil's School/Program Attended: \_\_\_\_\_

Student ID: \_\_\_\_\_

On [DATE], Assistant Superintendent [NAME OF ASST. SUPT.] approved a recommendation for expulsion related to [STUDENT'S NAME] and his/her violation of the Madison Metropolitan School District's ("MMSD") Code of Conduct Section [SECTION]. Specifically, the school administration recommended that [Student's Name] be expelled because...(take information from notice letters).

On [DATE], [PARENT/GUARDIAN/ADULT STUDENT] met with \_\_\_\_\_, a MMSD administrator. During that meeting [PARENT/GUARDIAN/ADULT STUDENT] was provided a copy of the District's Code of Conduct and was fully informed regarding the following:

- 1) the code section allegedly violated by [STUDENT];
- 2) the expulsion process and possible outcomes of that process;
- 3) the expulsion abeyance program ("the Phoenix Program") and the possible outcomes of participating in that program; and
- 4) appeal rights relative to the suspension associated with the alleged code violation

[PARENT/GUARDIAN/ADULT STUDENT] was also fully informed that [STUDENT] has a right to an expulsion hearing to determine whether [STUDENT] committed the alleged misconduct, whether the alleged misconduct is grounds for expulsion and whether the interests of the school demand that [STUDENT] be expelled.

[PARENT/GUARDIAN/ADULT STUDENT], having been fully informed of his/her rights and the rights of his/her child, agrees that attending the Phoenix Program in lieu of conducting an expulsion hearing is appropriate for [STUDENT]. [PARENT/GUARDIAN/ADULT STUDENT] requests that [STUDENT] participate in the Phoenix Program and an expulsion hearing not be conducted at this time. In furtherance of [PARENT/GUARDIAN/ADULT STUDENT]'s request for [STUDENT] to attend the Phoenix Program in lieu of expulsion proceedings, [PARENT/GUARDIAN/ADULT STUDENT], agrees to the following:



PHOENIX PROGRAM

**Phoenix Program Conditions**

1. **Pre-Participation Meeting:** The minor pupil, and his/her parent/guardian, or an adult pupil, and his/her parent/guardian if they are willing, shall participate in a pre-participation meeting to review the pupil's prior disciplinary history, academic achievement, attendance, and any other aspect of the pupil's history or education record that will assist Phoenix Program staff in providing educational services to the pupil.

2. **Assessments:** The pupil shall participate in the following identified assessments:

- a. an Alcohol or Other Drug Assessment (AODA) \_\_\_\_\_
- b. an Anger Management Assessment (AMA) \_\_\_\_\_
- c. a Psychiatric Evaluation \_\_\_\_\_
- d. a Violence Risk Assessment by MMSD personnel \_\_\_\_\_
- e. a Sexual Assault Assessment \_\_\_\_\_
- f. Other: \_\_\_\_\_

3. **Attendance:** The pupil will attend the Phoenix Program on a regular basis, with attendance at the rate of Ninety-four percent (94%) each month. In addition, the pupil will not be permitted to have any unexcused absences.

4. **Academic:** The pupil will make continuous academic progress within the educational curriculum provided while participating in the Phoenix Program.

5. **Behavior:** The pupil will comply with all provisions in the Code of Conduct while participating in the Phoenix Program.

6. **Counseling:** The pupil will participate in all scheduled counseling sessions and classes that are recommended as an outcome of the above-designated "assessment(s)", and any additional counseling sessions that are part of his/her Phoenix Program Participation Agreement, including but not limited to the following:

- a. group sessions held at the Phoenix Program addressing how to de-escalate potentially volatile and/or violent situations;
- b. group sessions that address strategies on problem-solving and behavioral choices;
- c. group sessions that address strategies for dealing with peer pressure;
- d. group sessions that address how to resolve differences of opinion with school authority figures (teachers, security guards, Principals, etc.)
- e. participation in Restorative Justice Circle(s)
- f. other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The expectation regarding pupil participation in "counseling" is that he/she will attend, participate and cooperate at all times while involved in "counseling".

7. **Off-Site Experiences:** If available and beneficial for the pupil, the pupil may participate in off-site (i.e. not located in the Doyle Building) activities. By my signature below, I hereby provide my express consent for my child to be transported to, and participate in, these off-site experiences.

8. **Presence On MMSD Property:** While participating in the Phoenix Program the pupil will not be permitted to be present at any school or alternative educational program site, other than the Phoenix Program, or attend any school supervised function, without prior written permission provided by the Superintendent or Assistant Superintendent. If pupil violates this provision he/she may be arrested or cited by the Madison Police Department for trespassing.

9. **Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. **Term Of This Contract:** The pupil's participation in the Phoenix Program is anticipated to begin on \_\_\_\_\_, 20\_\_ and is anticipated to end on \_\_\_\_\_, 20\_\_, unless extended or revoked pursuant to the provisions below.

**Revocation of Participation in the Phoenix Program**

The pupil's participation in the Phoenix Program may be revoked, meaning that he/she will not be permitted to continue attending the Phoenix Program, in the event that he/she does any of the following:

1. **Mandatory Revocation:** If the pupil commits a violation of the Code of Conduct while participating in the Phoenix Program that results in an approved recommendation for expulsion and the pupil is expelled by a decision and order of an independent hearing officer, the pupil's participation in the Phoenix Program will be revoked. During the period between the pupil's violation of the Code of Conduct and the expulsion hearing, the pupil will be suspended from participating in the Phoenix Program and receive off-campus services until the pending expulsion hearing is complete.

2. **Discretionary Revocation:** If the pupil commits a violation of any of the terms of this agreement, other than a violation of the Code of Conduct that results in the pupil being expelled, the pupil's participation in the Phoenix Program may be revoked. If revocation is recommended, the Superintendent or Assistant Superintendent will provide notice of the reason for revocation from the Phoenix Program and an opportunity for the pupil to explain his/her violation of this agreement. If after the pupil's explanation the

revocation is determined to be appropriate, the pupil and his/her parent(s) will be given prompt written notice of the revocation, including the condition(s) violated.

3. **Expulsion Hearing Following Revocation:** If the pupil engages in conduct while attending the Phoenix Program that results in the pupil being expelled, the resulting expulsion hearing may, at the discretion of the Superintendent or Assistant Superintendent, address both the original violation of the Code of Conduct that prompted the pupil's participation in the Phoenix Program and the violation of the Code of Conduct that occurred while participating in the Phoenix Program.

If the pupil's participation in the Phoenix Program is revoked at the discretion of the Superintendent or Assistant Superintendent, an expulsion hearing will be scheduled regarding the violation of the Code of Conduct that resulted in the pupil's participation in the Phoenix Program.

#### **Extension of Participation in the Phoenix Program**

1. **Extension of Participation:** If the pupil commits a violation of any of the terms of this agreement, other than a violation of the Code of Conduct that results in the pupil being expelled, the pupil's participation in the Phoenix Program may be extended. If an extension of the pupil's participation in the Phoenix Program is recommended, the Superintendent or Assistant Superintendent will provide notice of the reason for the extension and an opportunity for the pupil to explain his/her violation of this agreement. If after the pupil's explanation the extension is determined to be appropriate, the pupil and his/her parent(s) will be given prompt written notice of the extension, including the condition(s) violated.

**Based upon the foregoing,** the parent/guardian of the minor pupil, or the adult pupil in his/her own stead, knowingly and voluntarily consent to all the terms and conditions of this Agreement and the pupil's participation in the "Phoenix Program".

**We the undersigned,** have read and understand this entire Agreement.

\_\_\_\_\_  
Minor Pupil

\_\_\_\_\_  
Parent/Guardian of Minor Pupil

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Adult Pupil

\_\_\_\_\_  
Parent/Guardian of Adult Pupil

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
MMSD Superintendent's Signature

\_\_\_\_\_  
Date Signed

# **ATTACHMENT 2**



**MADISON METROPOLITAN SCHOOL DISTRICT  
DEPARTMENT OF EDUCATIONAL SERVICES - SPECIAL EDUCATION  
Determination if District Had Knowledge as per IDEA 2004**

Student	Student #	Date of Birth	Gender	Grade	School of Attendance

**BASIS OF KNOWLEDGE, SUMMARY**

A child who has not been determined to be eligible for special education/related services may assert any of the protections provided for in the Discipline section of IDEA 04 if the district had knowledge that the child is a child with a disability. The district shall be deemed to have knowledge if any one of the questions 1, 2 or 3 above are answered Yes, Except

- (Questions 4, 5, and 6): If the parent/guardian of the child had refused to allow an evaluation, if the parent/guardian had refused to allow special education services, or if an evaluation had found the child to not be a child with a disability, then the district shall not be deemed to have knowledge that the child is a child with a disability, even if any of the questions 1-3 had been answered Yes.

**In accordance with IDEA 04, did the District have knowledge that the child was a child with a disability?**

Yes       No

.....

Has the cumulative record been reviewed?       YES       NO  
If no, please explain:

Has the behavioral record been reviewed?       YES       NO  
If no, please explain:

Has the parent been interviewed?       YES       NO  
If no, please explain:

**Additional sources of information:**

Name of and Title of staff who interviewed parent(s)/guardian:	Date parent was interviewed:
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Name and Title of staff Involved in the review process:	

Report completed by:	Date:
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Signature of LEA Representative \_\_\_\_\_ Date \_\_\_\_\_

**MADISON METROPOLITAN SCHOOL DISTRICT  
DEPARTMENT OF EDUCATIONAL SERVICES - SPECIAL EDUCATION  
Determination if District Had Knowledge as per IDEA 2004**

Student	Student #	Date of Birth	Gender	Grade	School of Attendance

**Determination if student qualifies under IDEA 04: "Protection for children not determined eligible for special education and related services".**

**REASON FOR REVIEW:** This student is recommended for expulsion for being in violation of the MMSD Student Conduct and Discipline Plan under the following code(s):

Code number(s):

Date of violation(s):

**Before the behavior that precipitated the recommended disciplinary action occurred:**

**1. Did the parent/guardian of the child express concern in writing to supervisory or administrative personnel of the appropriate education agency, or to a teacher of the child, that the child is in need of special education?**

Yes (If yes, please explain)

No

Additional information:

**2. Did the parent/guardian of the child request an evaluation for a suspected disability?**

Yes (If yes, please explain)

No

Additional information:

**3. Did a teacher of the child or other personnel of the LEA, express specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel of the agency?**

Yes (If yes, please explain)

No

Additional information:

**4. Had the parent/guardian of the child refused to allow an evaluation of the child for a suspected disability?**

Yes (If yes, please explain)

No

Additional information:

**5. Had the parent of the child refused to allow special education/related services for an identified disability?**

Yes

No

If yes, explain including date of determination that the child had a disability, date of parent notification of placement, and date of parent refusal of services.

**6. Has this child ever been evaluated and determined to not be a child with a disability?**

Yes

No

If yes, explain, including date of determination that the child is not a child with a disability.

# **ATTACHMENT 3**

<b>Expulsion Process Comparisons</b>	
<b>Phoenix Program (New)</b>	<b>No Abeyance Option (Old)</b>
Student recommended for expulsion, recommendation approved by Asst. Supt.	Student recommended for expulsion, recommendation approved by Asst. Supt.
If a student with a disability, manifestation determination (MD) is conducted. If conduct determined to be a manifestation, student returns to school. If conduct is not a manifestation, Phoenix Program may be offered.	If a student with a disability, manifestation determination (MD) is conducted. If conduct determined to be a manifestation, student returns to school. If conduct is not a manifestation, student proceeds to an expulsion hearing.
If a student without a disability, District determines whether it had "knowledge." If knowledge is found, student is informed of right to return to school or receive off-campus services and expedited evaluation proceeds. If found eligible, an MD is held and if a manifestation the student returns to school. If no disability is found or conduct is not a manifestation, student may be offered the Phoenix Program or proceed to an expulsion hearing.	If a student without a disability, District determined whether it had "knowledge" and further whether it should have suspected a disability. If knowledge or suspicion is found, student is informed of right to return to school or receive off-campus services and expedited evaluation proceeds. If found eligible, an MD is held and if a manifestation the student returns to school. If no disability is found or conduct is not a manifestation, student proceeds to an expulsion hearing.
Student is offered the Phoenix Program. Student may either attend Phoenix pursuant to the Participation Agreement or proceed to an expulsing hearing.	Student proceeds to an expulsion hearing.
If referred for a special education evaluation during either participation in Phoenix or expulsion proceedings, evaluation proceeds on an expedited basis. Neither expulsion nor participation in Phoenix are placed on hold during the evaluation.	If referred for a special education evaluation during expulsion proceedings, evaluation proceeds on an expedited basis. Expulsion hearing is placed on hold during pendency of evaluation.
If determined to be eligible, IEP is developed with placement in a disciplinary setting (possibly Phoenix) determined by the IEP team.	If determined to be eligible, IEP is developed and a "retroactive" MD is conducted. If conduct was a manifestation, student returns to school, if not, expulsion proceeds.