JC

STUDENTS

STUDENT DISCIPLINE

**DUE PROCESS**

A student has the right to be heard prior to any imposition of suspension. Prior to the imposition of discipline, a student will be given an opportunity to receive notice of, and respond to, the allegations or charges against them (except in cases of extreme emergency). Before suspending a student from school, depending on the alleged conduct, the administrator will apply the appropriate level of disciplinary due process consistent with Massachusetts and federal law as described below.

Definitions

*Expulsion*: the removal of a student from the school premises, regular classroom activities, and school activities for more than ninety (90) school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H1/2.

*In-School Suspension*: the removal of a student from regular classroom activities, but not from the school premises, for no more than (10) consecutive school days, or no more than ten (10) school days cumulatively for multiple infractions during the school year.  Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days.

*Short-Term Suspension*: the removal of a student from the school premises and regular classroom activities for ten (10) consecutive school days or less. A principal may, in his or her discretion, allow a student to serve a short-term suspension in school. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days.

*Long-Term Suspension*: the removal of a student from the school premises and regular classroom activities for more than ten (10) consecutive school days, or for more than ten (10) school days cumulatively for multiple disciplinary offenses in any school year. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days.  Except for students who are charged with a disciplinary offense in subsections (a) or (b) of M.G.L. c. 71, § 37H or 37H ½, no student may be placed on long-term suspension for one or more disciplinary offenses for more than ninety (90) school days in a school year beginning with the first day that the student is removed from school. No long-term suspension shall extend beyond the end of the school year in which such suspension is imposed, except in accordance with M.G.L. c. 71, § 37H or 37H ½.

*Written Notice*:  written correspondence sent by hand-delivery, certified mail, first-class mail, or email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and the parent.

*Principal*:  the primary administrator of the school or the principal’s designee for disciplinary purposes.

**Due Process for M.G.L. c. 71, § 37H 3/4 Offenses: Any Offense other than Dangerous Weapons, Narcotics, Assaults on Staff or Felony Matters**

Emergency Removal, M.G.L. c. 71, § 37H ¾

A principal may remove a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school, and, in the principal's judgment, there is no alternative available to alleviate the danger or disruption. In such a case, the principal shall immediately notify the superintendent in writing of the removal and the reason for it, and describe the danger presented by the student.

The temporary removal shall not exceed two (2) school days following the day of the emergency removal, during which time the principal shall:

1. make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters set forth in 603 CMR 53.06(2);
2. provide written notice to the student and parent as provided in 603 CMR 53.06(2);
3. provide the student an opportunity to have a hearing with the principal that complies with the requirements for a short-term suspension or long-term suspension, as applicable, and as set out below, and the parent an opportunity to attend the hearing, before the expiration of the two (2) school days, unless an extension of time for hearing is otherwise agreed to by the principal, student, and parent; and
4. render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of notice of the decision for short-term suspension or long-term suspension, as set forth below, whichever is applicable.

A principal may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

In-School Suspension, M.G.L. c. 71, § 37H ¾

*Due Process, In-School Suspension, M.G.L. c. 71, § 37H ¾*

Prior to the imposition of an In-School Suspension, the student will be informed of the disciplinary offense and provided with an opportunity to respond. If the principal determines that the student committed the disciplinary offense, the principal will provide oral notice to the student and parent of the length of the In-School Suspension and will make reasonable efforts to meet with the parent.

*Principal’s Decision, In-School Suspension, M.G.L. c. 71, § 37H ¾*

On or before the day of suspension, the principal shall send written notice to the student and parent about the In-School Suspension, including the reason and the length of the In-School Suspension, and inviting the parent to a meeting with the principal for the purpose set forth in 603 CMR 53.10(4), if such meeting has not already occurred. The principal shall deliver such notice on the day of the suspension by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or by other method of delivery agreed to by the principal and the parent. Students have the right to appeal an In-School Suspension that will result in their in school or out of school suspension for more than ten (10) school days in a school year.

Short-Term Suspension, M.G.L. c. 71, § 37H ¾

*Due Process, Short-Term Suspension, M.G.L. c. 71, § 37H 3/4*

Except as provided in cases of In-School Suspension or Emergency Removal, a principal may not impose a suspension as a consequence for a disciplinary offense without first providing the student and the parent oral and written notice, and providing the student an opportunity for a hearing on the charge and the parent an opportunity to participate in such hearing.

The principal shall provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language: the disciplinary offense; the basis for the charge; the potential consequences, including the potential length of the student's suspension; the opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident, and for the parent to attend the hearing; the date, time, and location of the hearing; the right of the student and the student's parent to interpreter services at the hearing if needed to participate; and, if the student may be placed on long-term suspension following the hearing with the principal: the rights set forth in 603 CMR 53.08(3)(b), and the right to appeal the principal's decision to the superintendent.

The principal shall make reasonable efforts to notify the parent orally of the opportunity to attend the hearing. To conduct a hearing without the parent present, the principal must be able to document reasonable efforts to include the parent. The principal is presumed to have made reasonable efforts if the principal has sent written notice and has documented at least two (2) attempts to contact the parent in the manner specified by the parent for emergency notification.

*Principal’s Hearing, Short-Term Suspension, M.G.L. c. 71, § 37H 3/4*

At the principal’s hearing, the student and parents (if participating) may dispute the charge(s) against the student and present information, including mitigating facts, for the principal’s consideration in determining consequences for the student.

*Principal’s Decision, Short-Term Suspension, M.G.L. c. 71, § 37H 3/4*

The principal shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other school work as needed to make academic progress during the period of removal, as provided in M.G.L. c. 76, § 21. The determination shall be in writing and may be in the form of an update to the original written notice. If the student is in a public preschool program or in grades K through 3, the principal shall send a copy of the written determination to the superintendent and explain the reasons for imposing an out-of-school suspension, before the short-term suspension takes effect. Students shall have no right to appeal a short-term suspension.

Long-Term Suspension, M.G.L. c. 71, § 37H ¾

*Due Process, Long-Term Suspension, M.G.L. c. 71, § 37H 3/4*

The student and parents will be given oral and written notice of the disciplinary offense with which the student is charged and the opportunity to participate in a hearing prior to the imposition of an out-of-school suspension.

Written notice of the date and time for the hearing will be provided in English and in the primary language of the Student’s home and will identify the disciplinary offense with which the student has been charged, the basis for the charge, the potential length of the student’s suspension, and inform the parent and student of the right to interpreter services if necessary to participate in the hearing. Where a student may be subject to a Long-Term Suspension, the principal will also notify the student and parent of the following rights: (1) in advance of the hearing, the opportunity to review the student's record and the documents upon which the principal may rely in making a determination to suspend the student or not; (2) the right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense; (3) the right to produce witnesses on his or her behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; (4) the right to cross-examine witnesses presented by the school district; and (5) the right to request that the hearing be recorded by the principal, and to receive a copy of the audio recording upon request. If the student or parent requests an audio recording, the principal shall inform all participants before the hearing that an audio record will be made and a copy will be provided to the student and parent upon request.

*Principal’s Hearing, Long-Term Suspension, M.G.L. c. 71, § 37H 3/4*

The student will have the rights identified in the written notice and the principal shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the principal should consider in determining consequences for the student.

*Principal’s Decision, Long-Term Suspension, M.G.L. c. 71, § 37H ¾*

Based on the evidence, the principal shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension, what remedy or consequence will be imposed, in place of or in addition to a Long-Term Suspension. The principal shall send the written determination to the student and parent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and the parent. If the principal decides to suspend the student, the written determination shall: (1) identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing; (2) set out the key facts and conclusions reached by the principal; (3) identify the length and effective date of the suspension, as well as a date of return to school; (4) include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in M.G.L. c. 76, § 21; (5) inform the student of the right to appeal the principal's decision to the superintendent or designee, but only if the principal has imposed a long-term suspension.

Notice of the right of appeal shall be in English and the primary language of the home if other than English, or other means of communication where appropriate, and shall include the following information stated in plain language: (a) the process for appealing the decision, including that the student or parent must file a written notice of appeal with the superintendent within five (5) calendar days of the effective date of the Long-Term Suspension; provided that within the five (5) calendar days, the student or parent may request and receive from the superintendent an extension of time for filing the written notice for up to seven (7) additional calendar days; and that (b) the Long-Term Suspension will remain in effect unless and until the superintendent decides to reverse the principal's determination on appeal.

*Superintendent Appeal, Long-Term Suspension, M.G.L. c. 71, § 37H ¾*

A student who is placed on Long-Term Suspension under M.G.L c. 71, § 37H ¾ following a hearing with the principal shall have the right to appeal the principal's decision to the superintendent. The student or parent shall file a notice of appeal with the superintendent within five (5) calendar days of the effective date of the Long-Term Suspension; provided that within the five (5) calendar days, the student or parent may request and receive from the superintendent an extension of time for filing the written notice for up to seven (7) additional calendar. If the appeal is not timely filed, the superintendent may deny the appeal, or may allow the appeal in his or her discretion, for good cause.

*Superintendent’s Appeal Hearing, Long-Term Suspension, M.G.L. c. 71, § 37H 3/4*

The superintendent shall hold the hearing within three (3) school days of the student's request, unless the student or parent requests an extension of up to seven (7) additional calendar days, in which case the superintendent shall grant the extension. The superintendent shall make a good faith effort to include the parent in the hearing. The superintendent shall be presumed to have made a good faith effort if he or she has made efforts to find a day and time for the hearing that would allow the parent and superintendent to participate. The superintendent shall send written notice to the parent of the date, time, and location of the hearing. The superintendent shall conduct a hearing to determine whether the student committed the disciplinary offense of which the student is accused, and if so, what the consequence shall be. The superintendent shall arrange for an audio recording of the hearing, a copy of which shall be provided to the student or parent upon request. The superintendent shall inform all participants before the hearing that an audio record will be made of the hearing and a copy will be provided to the student and parent upon request. The student shall have all the rights afforded the student at the principal's hearing for long-term suspension as identified above.

*Superintendent’s Decision, Long-Term Suspension, M.G.L. c. 71, § 37H ¾*

The superintendent shall issue a written decision within five (5) calendar days of the hearing which: (1) identifies the disciplinary offense and the date on which the hearing took place, and the participants at the hearing; (2) sets out the key facts and conclusions reached by the superintendent; (3) identifies the length and effective date of the suspension, as well as a date of return to school; and (4) includes notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in M.G.L. c. 76, § 21. If the superintendent determines that the student committed the disciplinary offense, the superintendent may impose the same or a lesser consequence than the principal, but shall not impose a suspension greater than that imposed by the principal's decision. The decision of the superintendent shall be the final decision of the school district, with regard to the suspension.

**Due Process for M.G.L. c. 71, §§ 37H and 37H 1/2 Offenses: Dangerous Weapons, Drugs, Assaults on Staff and Felony Matters**

*Short-Term Suspension, M.G.L. c. 71, §§ 37H and 37H ½*

For disciplinary offenses involving a) possession of a dangerous weapon;  b) possession of a controlled substance;  c) assault on a member of the educational staff; or d) a felony charge or felony delinquency complaint or conviction, the student will be given oral notice of the violation with which the student is charged and an opportunity to respond thereto, prior to the Principal’s imposition of a short-term suspension or an interim suspension of ten (10) consecutive days or less pending formal proceedings. Upon imposition of a short term or interim suspension of ten (10) consecutive days or less pending further disciplinary proceedings, the student and parents will be provided with written notice of the suspension and the date and time of the formal disciplinary hearing.

*Long-Term Suspension/Expulsion, M.G.L. c. 71, §§ 37H and 37H ½*

For offenses that fall within M.G.L. c. 71, §§ 37H and 37H1/2, a principal may long-term suspend a student for more than ninety (90) days or permanently expel a student if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in G.L. c. 71, §§37H or 37H½.

The procedures below apply to M.G.L. c. 71, §§ 37H and 37H 1/2 suspensions that exceed ten (10) consecutive days.

Dangerous Weapons, Drugs or Assaults on Staff

1. Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to long-term suspension and/or expulsion from the school or school district by the principal.
   1. Building principals or designees are required to report to the police department the presence of any weapon on school premises.
2. Any student who assaults a principal, assistant principal, teacher, teacher's aide, or other educational staff on school premises or at school-sponsored events, including athletic games, may be subject to long-term suspension and/or expulsion from the school or school district by the principal.

*Principal’s Hearing, Long-Term Exclusion, M.G.L. c. 71, § 37H*

Any student who is charged with a violation of either paragraphs 1 or 2 shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal.

After said hearing, the principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the Principal to have violated either paragraphs (1) or (2) above.

*Appeal to the Superintendent, Long-Term Exclusion, M.G.L. c. 71, § 37H*

Any student who has been expelled pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten (10) calendar days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

Felony Complaints/Convictions

Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the principal may suspend such student for a period of time determined appropriate by said principal if said principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the principal may expel said student if said principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

*Notice of Principal’s Hearing, Long-Term Exclusion, M.G.L. c. 71, § 37H ½*

The student shall receive written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension/expulsion; provided, however, that such suspension/expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent.

*Appeal to the Superintendent, Long-Term Exclusion, M.G.L. c. 71, § 37H ½*

The student shall have the right to appeal the suspension to the superintendent in writing of his request for an appeal no later than five (5) calendar days following the effective date of the suspension/expulsion. The superintendent shall hold a hearing with the student and the student's parent or guardian within three (3) calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to be represented by counsel at student’s own expense. The superintendent shall have the authority to overturn or alter the decision of the principal, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five (5) calendar days of the hearing. Such decision shall be the final decision with regard to the suspension.

**OPPORTUNITY TO MAKE ACADEMIC PROGRESS**

Any student who is serving a short-term suspension, long-term suspension or expulsion shall have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school.

Any student who is expelled or suspended from school for more than ten (10) consecutive days, whether in school or out of school, shall have an opportunity to receive education services and to make academic progress toward meeting state and local requirements, in accordance with the school’s education service plan. M.G.L. c. 76, § 21.

**DISCIPLINE OF STUDENTS WITH DISABILITIES**

In addition to the due process protections and rights afforded to all students, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and related regulations require that additional provisions be made for students who have been found eligible for special education services or whom the school district knows or has reason to know might be eligible for such services.

1. A suspension of longer than ten (10) consecutive school days, or a series of short term suspensions that exceeds ten (10) school days and constitute a pattern of removal, are considered to constitute a potential disciplinary change in placement.
2. Prior to a suspension that would result in a disciplinary change in placement of a student with a disability, the building administrators, the parents and relevant members of the student’s IEP/504 Team will convene to determine whether the violation for which the student is subject to a disciplinary change in placement was caused by or directly and substantially related to the student’s disability or was the direct result of a failure to implement the student’s IEP or Section 504 Plan.
3. If the Team determines that the behavior is not a manifestation of the disability, the student may be disciplined in accordance with the policies and procedures applicable to all students except that students eligible for special education services shall be entitled to a free appropriate public education as of the eleventh (11th) day of disciplinary exclusion in the school year.
4. If the team determines that the behavior is a manifestation of the disability, then the district will conduct a functional behavior assessment or review any existing behavior intervention plan and takes steps (with the consent of the parent) to correct the IEP, the placement, or the behavior intervention plan and the student will not be suspended for the violation found to be a manifestation of his/her disability.
5. Regardless of the manifestation determination, the District may place the student in an interim alternative setting (as determined by the Team) up to forty-five (45) school days if:
   1. The student was in possession of a dangerous weapon on school grounds or at school-sponsored events;
   2. The student was in possession of or using of illegal drugs on school grounds or at school-sponsored events;
   3. The student engaged in solicitation of a controlled substance on school grounds or at school-sponsored events; or
   4. The student inflicted serious bodily injury to another at school or at school-sponsored events.

The interim alternative setting must enable the student to participate in the general curriculum, progress toward the goals in the IEP, and receive the special education and related services contained in the student’s IEP. The interim alternative setting must also provide services and modifications designed to address the behavior giving rise to the removal and to prevent the behavior from reoccurring. At the conclusion of the forty-five (45) school day period, *the student shall be returned to his/her previous placement* unless the parent (or student if 18+ years of age) consents to an extension of the interim alternative setting or an Order is obtained from the Bureau of Special Education Appeal authorizing the student’s continued removal.

If the conduct does not involve a dangerous weapon, controlled substance, or serious bodily injury, the school may remove the student to an interim alternative setting for forty-five (45) days only: 1) with parental consent *or* 2) by obtaining authorization from a court or BSEA Hearing Officer. In order to obtain an order from the a court or BSEA Hearing Officer, the school must prove that maintaining the student’s placement is substantially likely to result in injury to the student or others.

1. The parent shall have the right to appeal the Team’s manifestation determination, the imposition of a disciplinary change in placement, and the student’s placement in an interim alternative educational setting. The student will remain in the disciplinary placement imposed by school authorities pending a decision on the appeal or until the expiration of the disciplinary sanction, whichever comes first.

**REPORTING**

The District shall collect and annually report to the DESE regarding in-school suspensions, short and long-term suspensions, expulsions, emergency removals, access to education services, and such other information as may be required by the DESE.

The principal of each school shall periodically review discipline data by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status in accordance with law and regulation.

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