

File: J38

## STUDENT CONDUCT AND DISCIPLINE

The Massachusetts General Laws require the School Committee to adopt written policies and rules not inconsistent with law, which may relate to study, discipline, conduct, safety and welfare of all students, or any classification thereof, enrolled in the public schools of the District.

The School Committee believes that all students deserve every opportunity to achieve academic success in a safe, secure learning environment. Good citizenship in schools is based on respect and consideration for the rights of others. Students will be expected to conduct themselves in a way that the rights and privileges of others are not violated. They will be required to respect constituted authority, to conform to school rules and to those provisions of law that apply to their conduct.

Policies and rules governing student conduct shall be set forth in the Students' Rights and Responsibilities Handbook (the "Handbook"). The Handbook will be made available electronically and/or in writing for all students entering school in September and to any student enrolling during the school year. All students will acknowledge in writing that they have accessed and/or received the Handbook. A parent/guardian's signature indicating that he/she has accessed and/or received the Handbook is also required for any student under the age of eighteen (18).

Policies and rules governing student conduct shall apply to any student who is on school property, on school-provided transportation, while walking to or from school, waiting for school-provided transportation, or at any school-sponsored activities, even though the activity may be conducted outside of school hours and away from school premises. In addition, the Chicopee Public Schools may discipline a student for conduct which occurs off school premises when the off-campus conduct has some nexus or connection to the school setting and bears some reasonable relationship to the educational environment. Therefore, the policies and rules apply to any student whose conduct at any time or any place interferes with the mission, operation, discipline, or general welfare of the school, or the safety of students or employees. The policies and rules set forth in the Handbook do not supersede any judicial action that may be taken by the appropriate authority of the Commonwealth of Massachusetts.

The implementation of the policies and rules of conduct is the responsibility of the Principal and the professional staff of the building. The Superintendent shall provide each Principal with a copy of the Student Discipline Regulations (603 CMR 53.00) promulgated by the Massachusetts Department of Elementary and Secondary Education. Principals and staff shall not use academic punishment of any form as a consequence to inappropriate behaviors/actions by students. The Principal may, as a disciplinary measure, remove a student from privileges, such as extracurricular activities and attendance at school-sponsored events, based on the student's misconduct. Such a removal is not subject to the remainder of this policy, law, or regulation.

Students violating any of the policies and rules on student conduct will be subject to disciplinary action. If a situation should arise in which there is no applicable written policy or rule, the staff member shall be expected to exercise reasonable and professional judgment. The purpose of

disciplinary action is to restore acceptable behavior. When disciplinary action is necessary, it shall be administered with fairness and shall relate to the individual needs and the individual circumstances of the student. The degree, frequency, and circumstances surrounding each incident shall determine the method used in enforcing these policies. Most of the situations which require disciplinary action can be resolved within the confines of the classroom or as they occur by reasonable but firm reprimand, and/or by teacher conferences with the student and/or parents or guardians.

### **DISCIPLINE POLICIES AND RULES**

All students are expected to comply with the following rules and School Committee policies which are set forth in the Handbook.

With the exception of offenses related to MGL c.71 §37H and 37H1½, no exclusion from school, for one or more disciplinary offense, shall exceed ninety (90) school days for an offense or offenses that occurred in the same school year. No suspension shall extend beyond the school year in which it was imposed. The Principal or designee may, in his or her discretion, allow a student to serve a suspension in school.

Items in the possession of a student which are related to a disciplinary infraction will be confiscated by a school staff member and will be returned at an appropriate time.

For all students excluded from school (suspension or expulsion), the Principal or designee shall ensure that the student has the opportunity to make academic progress during the period of exclusion, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers, and projects missed. Any student excluded from school for more than ten (10) consecutive days shall have an opportunity to receive educational services through a school-wide education services plan. Students excluded from school may not participate in extracurricular activities, attend school-sponsored events, or be on school property without approval from the Principal or designee.

### **Expectations of Student Conduct**

#### **A Possession of Drugs or Weapons or Assault of Educational Staff Member on School Grounds**

Students will be subject to discipline, up to and including expulsion, under MGL c.71 §37H for the following:

- A1. Drug-related offenses – which include possession, use, distribution or sale of a controlled substance (i.e. illegal drug, or prescription or over-the-counter medication not used in a prescribed manner or in compliance with Dispensation of Medication in School (File J52)). May also include drug paraphernalia. *Refer to Alcohol, Tobacco, and Drug Use by Students Prohibited (File J25)*
- A2. Weapons-related offenses - which include possession or use of a dangerous weapon including, but not limited to, guns/firearms (i.e. handgun, shotgun, rifle, pellet gun, or other firearms), knives with a blade longer than 2½ inches in length (including other sharp objects or cutting instruments), explosive or incendiary devices (i.e. bombs, grenades, rockets, missiles, mines or other incendiary devices). *Refer to Carrying Firearms upon School Grounds (File A6)*

A3. Assault of an educational staff member.

Note: These are serious offenses that may result in expulsion from school. "Expulsion" means the removal of a student from school for more than ninety (90) school days.

**B Felony or Felony Delinquency Charges or Convictions**

Students will be subject to discipline, up to and including expulsion, under MGL c.71 §37H½ for the following:

If a student is charged or convicted of a felony and the Principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. Felonies, which are crimes punishable by death or imprisonment in state prison, include but are not limited to breaking and entering and stealing property, possession and/or sale of narcotic drugs, forging a check with the attempt to fraud, homicide (murder or manslaughter), possession of firearms, knives, or other dangerous weapons, armed robbery, rape, arson, larceny over \$250, theft of a motor vehicle and kidnapping.

Note: A student who has been charged with a felony may be subject to indefinite suspension. A student who was been convicted of a felony may be subject to expulsion.

**C Students will be subject to discipline, up to and including suspension, under MGL c.71 §37H¾ for the following:**

**C1 Assault and Battery, Bodily Harm, and Threats**

- C1.1 Assault on any person, i.e. an attempt or threat to physically harm another person with the apparent present ability to do so and the victim has reasonable fear of immediate bodily harm.
- C1.2 Assault and battery on any person causing physical injury, i.e. fighting, except when the student's actions are reasonably believed necessary to protect himself or herself as determined by the Principal (or designee) on the evidence presented.
- C1.3 Sexual assault, i.e. any sexual act against another person either by force, against their will, or by threat of bodily injury. It also includes any sexual act against another person who is incapable of giving consent either because of her/his temporary or permanent mental or physical incapacity or because s/he is a minor. (Crimes such as indecent assault and battery, rape, unnatural and lascivious acts constitute a sexual assault.)
- C1.4 Endangering the physical safety or mental/emotional health of another by the use of force or threats of force communicated by any means including written, spoke, or through the use of technology or any electronic means.
- C1.5 Extorting any student for the purpose of, or with the intent of, obtaining money or anything of value from such student.

**C2 Bullying, Cyberbullying, and Hazing**

- C2.1 Bullying/Cyberbullying, i.e. the repeated use by one or more students of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, directed at a victim that:
  - causes physical or emotional harm to the victim or damage to the victim's property;
  - creates a hostile environment at school for the victim;

- infringes on the rights of the victim at school; or
- materially and substantially disrupts the education process or the orderly operation of a school.

Cyberbullying is bullying through the use of technology or any electronic means. This includes both the creation of a web page or blog in which the creator impersonated another person or the distribution or posting of information online if these acts create any of the conditions listed above. *Refer to the Bullying Prevention Policy (File J24).*

Retaliation relating to bullying/cyberbullying, i.e. any act of retaliation against a person who reports bullying, who is a witness, or who provides information during an investigation.

- C2.2 Hazing, i.e. any conduct or method of initiation into any student organization which willfully or recklessly harms or endangers the physical or mental health of any student. *Refer to Prohibition of Hazing (File J23).*

### **C3 Harassment and Violation of Civil Rights**

*Refer to the Anti-Discrimination/Anti-Harassment Policy and Grievance Procedure (File A4).*

- C3.1 Violation of the civil rights of others.
- C3.2 Committing acts of sexual harassment which are defined as sexually related physical contacts or offensive sexual insults or comments.
- C3.3 Committing acts of harassment related to actual or perceived membership in a protected class (race, color, gender, gender identity, religion, national origin, sexual orientation, age, or disability).
- C3.4 Using racial or ethnic slurs in a persistent and/or abusive manner.

### **C4 Possession of Dangerous Objects**

*(For the possession of firearms or other dangerous weapons, see Possession of Drugs or Weapons or Assault of Educational Staff Member on School Grounds above.)*

- C4.1 Use of any item, object, or device in a dangerous or threatening manner.
- C4.2 Endangering the safety of others by attempting to set a fire.
- C4.3 Possession of an object of no reasonable use to a student in school, including but not limited to any knife not defined as a dangerous weapon, a rock, brick, mock gun, or laser pointer.

### **C5 Theft and Vandalism**

- C5.1 Attempting by force or threat of force to steal or stealing property.
- C5.2 Damaging property, including tampering with school records.

### **C6 Academic Dishonesty**

- C6.1 Cheating on classroom work, homework, or standardized testing.
- C6.2 Plagiarism, which is taking ideas or writings from another person and offering them as your own.

### **C7 Acceptable Use of Networks and Portable Electronic and Communication Devices**

*Refer to the Acceptable Use and Internet Safety policy (File E18) and Portable Electronic and Communication Devices (J45).*

- C7.1 Any use that violates the law including, but not limited to, transmitting offensive, harassing or bullying messages, viewing pornographic material, intruding into the networks or computers of others, downloading or transmitting confidential or copyrighted materials.
- C7.2 Uses that cause harm to others or damage to their property, such as altering, deleting or destroying files or data belonging to another user.
- C7.3 Uses that jeopardize the security of the network such as disclosing or sharing passwords with others.
- C7.4 Uses that are commercial transactions.
- C7.5 Revealing personal information about another individual, such as address, telephone number, credit card numbers, social security number, etc.
- C7.6 “Sexting,” including dissemination of child pornography. Sexting is the act of sharing or sending sexually explicit messages or photos electronically, usually via computers, cell phones or other electronic devices. Sexting may be considered dissemination of child pornography in violation of MGL Chapter 272, Section 28.
- C7.7 Uses that share of test/assessment or assignment information.
- C7.8 Uses that interfere in the learning opportunities of other students.
- C7.9 Unauthorized videotaping/photographing, or otherwise recording the voice or image of an individual without their consent.
- C7.10 Use of cell phones (or similar devices) during school hours unless granted permission by school personnel.

NOTE: If reasonable suspicion exists that a cell phone contains evidence of a violation of the policies and rules of conduct by the phone’s owner, then the phone may be searched by Chicopee Public Schools personnel and held during the investigation, but for no longer than 3 school days before being returned to the student or, where necessary, turned over to the police. The search of the phone must be reasonable in scope and limited to the data about which reasonable suspicion exists, and, when practicable, conducted in the presence of the student.

### **C8 Alcohol, Tobacco, and Other Inhalants**

- C8.1 Use or possession or use of any alcoholic beverage on school property, at school sponsored activities, or while on school provided transportation. *Refer to Alcohol, Tobacco and Drug Use by Students Prohibited (File J25).*
- C8.2 Use or possession of tobacco products (including e-cigarettes) and other inhalants on school property, at school-sponsored activities, or while on school provided transportation. *Refer to Alcohol, Tobacco, and Drug Use by Students Prohibited (File J25).*

### **C9 Substantial Disruptions**

- C9.1 Occupying any school building, school grounds, or part, depriving others of its use.
- C9.2 Blocking the entrance or exit of any school building, corridor, or room, depriving others of lawful access to or from, or use of, the building, corridor, or room.
- C9.3 Preventing or attempting to prevent by physical act the safe functioning of any part of any school.
- C9.4 Continuously and intentionally making noise or otherwise seriously disrupting and/or preventing the normal functioning of the school or the teaching of other students.
- C9.5 Making a bomb threat.
- C9.6 Pulling/Reporting a false fire alarm.

**C10 Other Disruptions**

- C10.1 Refusing to identify self on the reasonable request of staff or failure to have identification. *Refer to the Staff and Visitor Identification Policy (File J15).*
- C10.2 Presence in a part of the school building or grounds off limits to students.
- C10.3 Leaving the school building without permission.
- C10.4 Excessive tardiness and/or cutting of classes. *Refer to the Tardy Policy (File J14).*
- C10.5 Intentionally impeding an investigation of school officials into alleged violations of school policies and rules of conduct.
- C10.6 Open or persistent defiance of a teacher or other school employee.
- C10.7 Using profanity or obscene or abusive language in a persistent and/or abusive manner.
- C10.8 Engaging in sexual activity on school grounds and during school-sponsored activities, including indecent exposure.
- C10.9 Violation of Gang Activity/Secret Societies policy *(File J22).*
- C10.10 Violation of the Personal Appearance policy *(File J19).*
- C10.11 Violation of Conduct on School Buses policy *(File J20).*
- C10.12 Being in the presence of another student whom the student knows is violating the rules and policies for student conduct and failing to remove himself/herself from the situation.

**Repeated and Flagrant Violations**

Consequences for repeated and flagrant violations of school policies and rules of conduct shall be consistent with the principle of progressive discipline, with consideration given to the age and the social, emotional, and intellectual development of the student.

Note: Chicopee Public Schools reserves the right to discipline for conduct not mentioned in the above list of offenses, when such conduct disrupts or interferes with the educational program or which infringes on/interferes with the health and safety of any member of the school.

**CONSEQUENCES FOR VIOLATION OF POLICIES AND RULES OF CONDUCT**

The following is a list of potential consequences for student misconduct. The list is neither sequential nor all inclusive – consequences should be based upon the type of infraction, age and developmental level of the student, and interventions used previously to address similar concerns.

Teacher/Staff Intervention: verbal warning; verbal cues and redirection; re-teaching of expectations and skills; communication with parent/guardian (telephone/note); loss of privilege; temporary placement in a different classroom; conference with parent and student; confiscation of electronic devices/toys with return to parent only; detention; letter of apology to victim and/or letter explaining the incident to parent; behavior contract; restitution; positive behavioral interventions and supports; referral to counselor (i.e. for anger management, conflict resolution, social skills, or alcohol or drug-related issues).

Administrative Intervention: any of the above listed consequences; peer mediation; behavior contract with clear expectations and outcomes that is signed off on by the student and parent; conference with parent and student; community service; placement in different classroom or adjustment to class schedule; denial of school-provided transportation; requiring a student to be at school outside of normal school hours (*see Detention (File J41)*); referral for agency support for student and/or family; mandatory school counseling support (individual or group) related to

behavioral issue that is occurring; referral to instructional support team; loss of school privileges such as removal from participation in extracurricular activities or school-sponsored events.

In every case of student misconduct for which suspension may be imposed, a Principal/designee shall exercise discretion in deciding the consequence for the offense; consider ways to re-engage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been considered and tried.

### Definitions

*In-school suspension* means removal of a student from regular classroom activities, but not from the school premises, for no more than ten consecutive school days, or no more than ten school days cumulatively for multiple infractions during the school year.

*Short-term Suspension* means the removal of a student from the school premises and regular classroom activities for ten consecutive school days or less.

*Long-term Suspension* means the removal of a student from the school premises and regular classroom activities for more than ten consecutive school days, or for more than ten school days cumulatively for multiple disciplinary offenses in any school year.

*Expulsion* is defined as the removal of a student from school for more than ninety (90) school days, indefinitely, or permanently.

### **Procedures for Suspension or Expulsion under MGL c. 71, §37H**

(Possession of Drugs or Weapons or Assault of Educational Staff Member on School Grounds)

Any student who engages in conduct that is prohibited in Section A above may be subject to suspension or expulsion from the school. The Principal must provide the student and the parent oral and written notice of the charge. The Principal must also provide the student who is charged with such a violation with written notice 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, a Principal may, in his discretion, decide to suspend rather than expel a student.

Any student who has been suspended for more than ten days or expelled pursuant to these provisions shall have the right to appeal to the Superintendent. The suspended/expelled student shall have ten (10) days from the date of the suspension/expulsion in which to notify the Superintendent of an appeal. A student may request an extension of up to seven (7) calendar days. The appeal hearing will be scheduled within three (3) days of receipt of the written request. The student has the right to counsel at a hearing before the Superintendent. The Superintendent can make factual determinations as well as the determine consequence. The Superintendent will issue his decision within five (5) calendar days.

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion. If the student

moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student in an education service plan.

**Procedures for Suspension under MGL c. 71, §37H½**  
(Felony or Felony Delinquency Charges or 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. The student shall receive oral and written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The Principal must also provide the student who is charged a felony with written notice 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 provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the Superintendent.

The student shall have the right to appeal the suspension to the Superintendent. The suspended student shall have five (5) calendar days from the date of the suspension in which to notify the Superintendent of an appeal. A student may request an extension of up to seven (7) calendar days. 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 counsel. 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 of the school district with regard to the suspension.

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 such Principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive oral and written notification of the charges and reasons for such expulsion prior to such expulsion taking effect. The Principal must also provide the student who is convicted of a felony with written notice 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 provided, however, that such expulsion shall remain in effect prior to any appeal hearing conducted by the Superintendent.

The student shall have the right to appeal the expulsion to the Superintendent. The expelled student shall have five (5) calendar days from the date of the expulsion in which to notify the Superintendent of an appeal. A student may request an extension of up to seven (7) calendar days. 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



counsel. 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 of the school district with regard to the suspension.

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student under an education service plan.

Note: A student may appeal a suspension decision and the subsequent expulsion decision (following the conviction, adjudication, or admission of guilt) regarding the same offense.

### **Procedures for Suspension under MGL c. 71, §37H¾**

(Any offense that is not addressed under MGL c. 71, §37 or MGL c. 71, §37½)

#### Notice of Suspension and Principal's Hearing

Except for emergency removal or an in-school suspension of less than ten (10) days, a Principal must provide the student and the parent oral and written notice, and provide the student an opportunity for a hearing and the parent an opportunity to participate in such hearing before imposing suspension as a consequence for misconduct. The Principal shall provide both oral and written notice to student and parent in English and in the primary language of the home if other than English. The notice shall include the rights enumerated in law and regulation.

The Principal shall make reasonable efforts to notify the parent verbally of the opportunity to attend the hearing. The meeting may take place without the students' parent/guardian so long as the Principal has sent written notice and has documented at least two (2) attempts to contact the parent/guardian in the manner specified by the parent for emergency notification.

#### Emergency Removal

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.

The Principal shall immediately notify the Superintendent in writing of the removal including a description of 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: 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 required in the notice as referenced in the applicable regulation; Provide written notice to the student and parent as required above; Provide the student an opportunity for a hearing with the Principal that complies with applicable regulations, 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; 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 applicable law and regulation.

A Principal shall also ensure adequate provisions have been made for the student's safety and transportation prior to removal.

#### In-School Suspension

The Principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.

For an in-school suspension, the Principal shall inform the student of the disciplinary offense charged and the basis for the charge, and provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident. If the Principal determines that the student committed the disciplinary offense, the Principal shall inform the student of the length of the student's in-school suspension, which shall not exceed ten days, cumulatively or consecutively, in a school year.

On the same day as the in-school suspension decision, the Principal shall make reasonable efforts to notify the parent orally as soon as possible of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The Principal shall also invite the parent to a meeting to discuss the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meeting shall be scheduled on the day of the suspension if possible, and if not, as soon thereafter as possible. If the Principal is unable to reach the parent after making and documenting at least two (2) attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school 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, 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 other method of delivery agreed to by the Principal and the parent.

#### Principal's Hearing - Short Term Suspension

The hearing with the Principal shall be to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction.

At a minimum, the Principal shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information. The student also shall have an opportunity to present information, including mitigating facts, that the Principal should consider in determining whether other remedies and consequences may be appropriate as set forth in law and regulation. 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.

The Principal shall, based on the available information, including mitigating circumstances, determine whether the student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.

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 required by law and regulation. 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.

#### Principal's Hearing - Long Term Suspension

The hearing with the Principal shall be to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction.

At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have the following rights: 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; the right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense; 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; the right to cross-examine witnesses presented by the school district; 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.

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.

The Principal shall, based on the evidence, determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as required by law and regulation, 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: identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing; set out the key facts and conclusions reached by the Principal; identify the length and effective date of the suspension, as well as a date of return to school; include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as required by law and regulation; 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: 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 the long-term suspension will remain in effect unless and until the Superintendent decides to reverse the Principal's determination on appeal.

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 suspension takes effect.

#### Superintendent's Hearing

A student who is placed on long-term suspension 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 the time period noted above (see Principal's hearing - Suspension of more than 10 days). 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.

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's hearing may proceed without the parent/guardian if a good faith effort was made to include the parent/guardian. 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.

The Superintendent shall issue a written decision within five (5) calendar days of the hearing which meets the requirements of law and regulation. 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.

### **Academic Progress**

Any student who is suspended or expelled shall have the opportunity to earn credits, 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. The Principal shall inform the student and parent of this opportunity in writing, in English and in the primary language of the home, when such suspension or expulsion is imposed.

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 make academic progress toward meeting state and local requirements, through the school-wide education service plan.

The Principal shall develop a school-wide education service plan describing the education services that the school district will make available to students who are expelled or suspended from school for more than ten (10) consecutive days. The plan shall include the process for notifying such students and their parents of the services and arranging such services. Education services shall be based on, and be provided in a manner consistent with, the academic standards and curriculum frameworks established for all students under the law.

The Principal shall notify the parent and student of the opportunity to receive education services at the time the student is expelled or placed on long-term suspension. Notice shall be provided in English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate. The notice shall include a list of the specific education services that are available to the student and contact information for a school district staff member who can provide more detailed information.

For each student expelled or suspended from school for more than ten (10) consecutive days, whether in-school or out-of-school, the school district shall document the student's enrollment in education services. For data reporting purposes, the school shall track and report attendance, academic progress, and such other data as directed by the Department of Elementary and Secondary Education.

### **Reporting**

The school district shall collect and annually report data 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 students with a disability status in accordance with law and regulation.

### **DISCIPLINE OF STUDENTS WITH DISABILITIES**

Students with disabilities as defined by state and federal law and regulations shall be subject to the provisions of the District's policies and rules of conduct except as otherwise provided by this section and by the Student's Individualized Education Program ("IEP") or Section 504 Plan ("504 Plan").

Prior to instituting any discipline, the Principal shall verify:

1. whether or not the student has been designated a student with disabilities or has been referred for a special education evaluation but not yet determined to have disabilities; and
2. whether the student's IEP or 504 Plan indicates that the student is not expected to meet the District's policies and rules of conduct, and if so, what modification of the District's policies and rules of conduct is required.

Special Education staff shall be involved in disciplinary decisions involving students with IEP's; school counselors shall be involved in disciplinary decisions involving students with 504 Plans.

### **Students Identified as Having Special Needs**

If a student with a special needs has violated the District's policies and rules of conduct, the school may suspend or remove the student from his or her current educational placement for a period not to exceed ten (10) consecutive or cumulative school days in any school year as fully outlined under MGL c. 71B and the Individuals with Disabilities Education Act. Such suspension or removal will be carried out in accordance with the same process afforded to all students.

A student with special needs may be suspended for more than ten (10) consecutive or cumulative school days in a school year, such that a substantial change in placement is occurring or will occur, provided that the conduct for which the student is being disciplined is not a manifestation of his/her disability. [Note: A change of placement occurs if a student is removed for more than ten (10) consecutive school days or more than ten (10) cumulative school days for a "pattern" of behavior where the student's behavior is substantially similar to previous incidents that resulted in removal.]

When it is known that the suspension of a student with special needs may exceed ten (10) days as set forth above, the school must conduct a manifestation determination hearing. The parent/guardian must be invited to the hearing. The hearing must be held within ten (10) school days of the occurrence of the conduct that is being disciplined.

Relevant members of the Team must determine whether the student's misconduct was a manifestation of the student's disability. After reviewing relevant documents (including the student's IEP, evaluation and diagnostic results), relevant information provided by teachers or other school personnel and parents/guardians, observations of the student, and the misconduct of the student, the Team must answer two questions:

- Was the conduct caused by, or did it have a direct and substantial relationship to, the student's disability/disabilities?

- Was the conduct the direct result of the District’s/school’s failure to implement the student’s IEP?

If the Team finds that the misconduct was not a manifestation of the student’s disability by answering “no” to the above questions, then the student may be disciplined in accordance with the same process afforded to all students but the school will continue to provide a Free Appropriate Education (“FAPE”) to the student.

If the Team finds that the misconduct was a manifestation of the student’s disability by answering “yes” to either of the above questions, the District may not proceed with the disciplinary action against the student and must return the student to the placement from which he/she was removed, unless the District and the parent/guardian agree to a different placement. In addition, the Team will need to conduct a functional behavior assessment (“FBA”) of the student, unless one has already been conducted. Similarly, the Team must write a behavior intervention plan (“BIP”) for the student, unless one already exists. If a BIP already exists, then the Team will need to review the plan and modify it, as necessary, to address the behavior.

Regardless of whether the misconduct was a manifestation of the student’s disability, a change in placement, determined by the Team, may be made with or without the parent's permission to an interim alternative education setting (“IAES”) for a period of up to but not exceeding forty-five (45) school days as long as a FAPE is provided, if one or more of the following apply:

- a. A student carries or possesses a weapon at school or to a school function.
- b. A student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function.
- c. A student has inflicted serious bodily injury upon another person while at school or at a school function. (“Serious bodily injury” is defined as that involving a substantial risk of death or extreme physical pain.)
- d. The District has demonstrated at an administrative hearing at the Bureau of Special Education Appeals (“BSEA”) by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others. In this case, the change of placement may be ordered by a BSEA hearing officer.

A summary of the manifestation determination review will be written and a copy provided to the Parent(s)/guardian(s) as soon as possible after the hearing, but no later than five (5) school days after the hearing.

### **Students Identified As Having a Disability and Provided with a Section 504 Plan**

If a student with a 504 Plan has violated the District’s policies and rules of conduct, the school may suspend or remove the student from his or her current educational placement for a period not to exceed ten (10) consecutive or cumulative school days in any school year. Such suspension or removal will be carried out in accordance with the same process afforded to all students.

A student with a 504 Plan may be suspended in excess of ten (10) consecutive or cumulative school days, provided that the conduct for which the student is being disciplined is not a manifestation of his/her disability.

When it is known that the suspension of a student with a 504 Plan will accumulate to more than ten (10) consecutive or cumulative days in a school year, such that a substantial change in placement is occurring or will occur, the school must conduct a manifestation determination hearing. The parent/guardian must be invited to the hearing. The hearing must be held within ten (10) school days of the occurrence of the conduct that is being disciplined.

Relevant members of the 504 Team meet for the manifestation determination hearing to determine whether the student's misconduct was a manifestation of the student's disability. After reviewing relevant documents (including the student's 504 Plan, evaluations), relevant information provided by teachers or other school personnel and parents/guardians, observations of the student, and the misconduct of the student, the Team must answer two questions:

- Was the conduct caused by, or did it have a direct and substantial relationship to, the student's disability/disabilities?
- Was the conduct the direct result of the District's/school's failure to implement the student's 504 Plan?

If the Team finds that the misconduct was not a manifestation of the student's disability by answering "no" to the above questions, then the student may be disciplined in accordance with the same process afforded to all students.

If the Team finds that the misconduct was a manifestation of the student's disability by finding either of the above to be true, the district may not proceed with the disciplinary action against the student.

A summary of the manifestation determination review will be written and a copy provided to the Parent(s)/guardian(s) as soon as possible after the hearing, but no later than five (5) school days after the hearing.

Note: A student who is currently engaged in the illegal use of drugs or alcohol is not considered a student with a disability for the purposes of Section 504. Therefore, if there is evidence that the student is a current drug or alcohol user, the Team need not conduct a manifestation determination, and the student is subject to the regular disciplinary process that would take place in the case of a drug or alcohol offense by a nondisabled student.

### **Students Not Yet Identified as Having a Disability**

A student who has not been determined to be eligible for an IEP or 504 Plan and who has engaged in behavior that violated the policies and rules of conduct, may assert any of the protections provided for in this part if the District/school had knowledge (as determined below) that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The District/school must be deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- The parent/guardian of the student expressed concern in writing to supervisory or administrative personnel of the school, or a teacher of the student, that the student is in need of special education and related services;



- The parent/guardian of the student requested an evaluation of the; or
- The teacher of the student, or other school personnel, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Director of Special Education, the Section 504 Coordinator, or other supervisory or administrative personnel.

The District/school would not be deemed to have knowledge if:

- The parent/guardian has not allowed an evaluation of the student or has refused services;  
or
- The student has been evaluated and determined to not be a student with a disability.

If the District/school did not have knowledge that a student is a student with a disability (in accordance with above) prior to taking disciplinary measures against the student, the student may be disciplined in accordance with the same process afforded to all students. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures, the District must conduct the evaluation in an expedited manner. If the student is determined to be a student with a disability, then he/she receives all the protections set forth above following the finding of eligibility.

Legal Refs: MGL 71:37H; 71:37H<sup>1</sup>/<sub>2</sub>; 71:37H<sup>3</sup>/<sub>4</sub>; 71B;  
603 CMR 28.00; 603 CMR 53.00;  
Individuals with Disabilities Education Act (IDEA) of 2004;  
Section 504 of the Rehabilitation Act of 1973; and  
Title II of the Americans with Disabilities Act of 1990

1<sup>st</sup> Reading: Reg SC Mtg 8/17/2016

2<sup>nd</sup> Reading: Reg SC Mtg 8/17/2016