

Changes to M.G.L. c. 71 §37H

- MGL c. 71, § 37 H(e) shall be amended to require:
 - The school district that took disciplinary action against the student must continue to provide educational services to the student during the disciplinary period. Moreover, if student moves to a new school district, the district must either admit the student or provide him/her educational services.
 - School district must report to DESE the reasons for all suspensions and expulsion.

Changes to M.G.L. c. 71

§37H 1/2

- The school district that must continue to provide educational services to the student during the disciplinary period . If the student moves to a new school district, the district must either admit the student or provide him/her educational services.
- Principals and headmasters must ensure that students that are suspended from school have an opportunity to make academic progress during the period of suspension.
- Principals must develop a school wide education plan for all students that are expelled or suspended from school for more than 10 consecutive school days.

M.G.L. c. 71 §37H 3/4

- Entirely new section!
- Provides students with additional rights in the disciplinary process
- Assigns new responsibilities to school districts

Applicability of § 37H 3/4

Applies to all suspensions and expulsions except for students who are being disciplined under

§ 37 H (dangerous weapons, controlled substances and assaults on education staff) OR

§ 37 H 1/2 (felony complaint or conviction).

Requirements of § 37H 3/4

School decision-makers MUST:

1. Exercise discretion in deciding consequences;
2. Consider ways to re-engage the student; and
3. Avoid using expulsion as a consequence until everything else tried

Removal from Extra-curriculars

- Not subject to the procedural requirements of
Massachusetts Laws Chapter 37H ³/₄
- Not a suspension
- Parents should be notified in writing.

IN-SCHOOL SUSPENSION

- **WITH NOTICE**, a student may be removed from regular classroom activities, but not from the school premises, for up to ten (10) consecutive school days or up to ten (10) school days cumulatively for multiple infractions during the school year.

In-School Suspension Procedures

- Notice to student of the disciplinary offense charged, the basis for the charge, and provide the student with an opportunity to dispute
- On same day as decision, notify the parent orally of the disciplinary offense, the reasons and the length of the in-school suspension
- Invite the parent to a meeting to discuss the student's academic performance and behavior – same day if possible

Out-Of-School Suspensions

No Out-of-School Suspensions Without Oral and Written Notice:

Must make REASONABLE EFFORTS to notify parents of opportunity to attend hearing.

REASONABLE EFFORTS = letter + 2 attempts to contact orally

MUST DOCUMENT ATTEMPTS TO CONTACT

NOTICE – oral and written

- (a) the disciplinary offense;
- (b) the basis for the charge;
- (c) the potential consequences and length;
- (d) the opportunity for hearing (student and parent)
- (e) the date, time, and location of the hearing;
- (f) Interpreter

Notice

If long-term suspension, include the right to appeal the principal's decision to the superintendent.

Reasonable efforts to notify parents orally of opportunity to attend hearing. To conduct hearing without parents present, principal must document attempts to include parent. (letter + 2 attempts)

Emergency Removal

WHEN: 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 (or his/her designee's) judgment, there is no alternative available to alleviate the danger or disruption.

HOW: notify the superintendent in writing of the removal and the reason for it, and describe the danger presented by the student.

Emergency Removal

HOW:

1. notify the superintendent of removal and the reason (in writing)
2. Not exceed two (2) school days.
3. Oral and written notice and opportunity for hearing.
4. Only after student's safety and transportation considered

Principal's Hearing (Short-term Suspension):

Consider information and determine if student committed disciplinary offense and any consequences and considering mitigating circumstances

Written determination to student and parents that includes reasoning, type and duration of suspension, and opportunity to make academic progress during removal

For preschool – grade 3: prior notice and reasoning to Superintendent

Principal's Hearing (Long-term Suspension):

- Same as for short-term, PLUS, other rights:
- In advance of hearing, student gets copy of student's record and documents that Principal may rely upon;
- Right to representation at hearing (parents' expense); right to produce, examine and cross-examine witnesses; right to request that hearing be recorded by principal;

§ 37H ³/₄: Procedural Requirements

AFTER THE MEETING/HEARING:

Written notice in English and home language to memorialize the meeting – i.e., written findings/outcome.

IF student suspended for 10+ consecutive or cumulative days, the notice must provide:

1. right of appeal
2. appeal process; and
3. that exclusion will remain in effect pending appeal

Special process for kindergarten – grade 3 students:

For any “out of school suspension,” the principal must:

1. Notify the Superintendent in writing prior to such suspension taking effect ; and
2. the writing must describe the alleged misconduct.

Does not include “in school suspensions,” but in-school suspension will “count” as day suspended if over half of the school day.

Appeal Process under § 37H ³/₄

Applies to any exclusion for more than 10 school days:

1. School provides written notice of appeal rights;
2. Student has 5 calendar days to appeal with option to extend additional 7 days;
3. Superintendent hears appeal within 3 school days;

Appeal Hearing

Student's Rights:

1. present oral and written testimony;
2. cross-examine witnesses;
3. the right to counsel (at own expense)
4. the right to interpreter (if needed)
5. the right to a decision within 5 calendar days.

THE SUPERINTENDENT'S DECISION IS FINAL.

Student's Rights During Exclusion

1. No exclusion for more than 90 school days
(exception: exclusions under § 37 H or § 37 H ½)
2. Students have the opportunity to make academic progress during exclusion from school.

“Opportunity for Academic Progress”

Suspensions Less Than 10 Days, Student Gets:

1. To make up assignments and earned credits.

Suspensions 10 Days or More, Student Gets:

1. Participation in the school-wide Educational Service Plan; and
2. List of available alternative educational services (tutoring, alternative placement, Saturday school, online learning)

Data Collection and Reporting Requirements

- For each student excluded for more than 10 consecutive days, the school district shall document the student's enrollment in education services and track and report attendance, academic progress, and such other data as directed by the Department
- School districts must collect and annually report data to the Department regarding in-school suspensions, short- and long-term suspensions, expulsions, emergency removals, and access to education services
- Such schools and districts, identified by the Department to have significant disparities in the rate of suspension and expulsion by race and ethnicity, or disability, shall develop and implement a plan approved by the Department to address such significant disparities

Pupil Notification Law: MGL c. 76, § 1B

The student attendance law requires:

- The establishment of a pupil absence notification program to ensure that the school notifies a parent of the child's absence if the school has not received notification of the absence from the parent or guardian within 3 days of the absence.
- The establishment of a school committee policy to notify the parent or guardian of a student who has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or who has missed 5 or more school days unexcused in a school year and to develop action steps with parent, student, and input from state agencies.

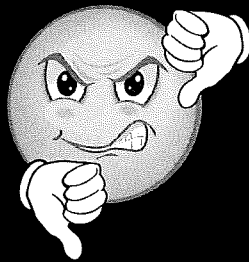
Drop-Out Prevention: MGL c. 76, § 18

Requires school district to send parent notice within 5 days of the students 10th consecutive absence.

The notice must:

1. Offer two alternative days to conduct an exit interview, within 10 days form the date of the notice, between the superintendent and student;
2. The superintendent may grant an extension of said interview for up to 14 days;
3. Although the superintendent may conduct the exit interview without a parent, he or she must make a good faith effort to include the parent;
4. The “exit interview” must involve a team of relevant staff;
5. The student shall be given information about the detrimental effects of early withdrawal from school, the benefits of earning a high school diploma and the alternative education programs and services available to the student.

Top Ten Reasons Why School Districts Get in Trouble with School Discipline



Top Ten (in no particular order)

- Failure to state charges adequately;
- Failure to send discipline notices in a timely manner;
- Failure to implement searches properly and to delineate school/police functions;
- Failure to require adherence to internal communication protocols;
- Failure to call a suspension a suspension;

Top Ten

- Insufficient/ineffective communication with parents;
- Failure to follow your own policies;
- Failure to conduct proper or timely Manifestation Determinations;
- Inadequate alternative education;
- Failure to understand the civil rights implications of the discipline process.

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