

**PROPOSED STUDENT DISCIPLINE REGULATIONS
603 CMR 53**

- Presented to the Board of Elementary and Secondary Education for initial review and vote to solicit public comment: **January 28, 2014**
- Period of public comment: **through March 7, 2014**
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A summary of the Student Discipline Regulations is included in the Board materials.

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53.01: Authority, Purpose, and Scope

(1) 603 CMR 53.00 is promulgated pursuant to the authority of the Department of Elementary and Secondary Education under G.L. c. 69, §§ 1A and 1B, G.L. c. 71, §37H, and G.L. c. 71, § 37H^{3/4}.

(2) The purpose of 603 CMR 53.00 is:

- (a) for those discipline offenses subject to G.L. 71, § 37H^{3/4}, as set forth in 603 CMR 53.01(3)(a), to limit the use of long-term suspension as a consequence for student misconduct until other consequences have been considered and tried as appropriate;
- (b) to promote engagement of a student's parent in discussion of the student's misconduct, and options for responding to it;

- (c) to assure that every student who is expelled or suspended, regardless of the reason for suspension or expulsion, has the opportunity to receive education services to make academic progress during the period of suspension or expulsion; and,
 - (d) to keep schools safe and supportive for all students while ensuring fair and effective disciplinary practices.
- (3) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:
- (a) at 603 CMR 53.03 through 53.11, the minimum procedural requirements applicable to the suspension of a student for a disciplinary offense *other than*: 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, or adjudication or admission of guilt with respect to such felony, 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;
 - (b) the minimum requirements and procedures necessary to ensure that all students who have been suspended, in-school or out-of-school, or expelled, regardless of the type of offense, have an opportunity to make academic progress during their period of suspension, expulsion, or removal from regular classroom activities; and
 - (c) the requirements pertaining to school discipline data reporting and analysis.

53:02: Definitions

- (1) “Commissioner” means the commissioner of the Department of Elementary and Secondary Education appointed in accordance with G.L. c. 15, §1F, or his or her designee.
- (2) “Department” means the Department of Elementary and Secondary Education.
- (3) “Disciplinary offense” means any alleged or determined disciplinary infraction by a student, *except for*: 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, or adjudication or admission of guilt with respect to such felony, 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 . A disciplinary offense, as defined, is subject to the provisions of G.L. c. 71, § 37H¾ and these regulations.

- (4) “Disciplinary offense under G.L. c. 71, §§37H or 37H½ ” means one or more of the following alleged or determined disciplinary infractions: a) possession of a dangerous weapon; b) possession of a controlled substance; c) assault on a member of the educational staff; and d) a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, 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.
- (5) “Expulsion” means 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 G.L. c. 71, §§37H or 37H½ for: 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, or adjudication or admission of guilt with respect to such felony, 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.
- (6) “In-school suspension” means 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. In-school suspension for ten (10) days or less, consecutively or cumulatively during a school year, shall not be considered a short-term suspension under these regulations. If a student is placed in in-school suspension for more than ten (10) days, consecutively or cumulatively during a school year, such suspension shall be deemed a long-term suspension for due process, appeal, and reporting purposes under 603 CMR 53.00.
- (7) “Long-term suspension” means 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 set forth in subsections (a) or (b) of G.L. c. 71, §37 H, or in section 37H ½ of G.L. c. 71, 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.

- (8) “Parent” means a student’s father, mother, or legal guardian, or person or agency legally authorized to act on behalf of the student in place of or in conjunction with the father, mother, or legal guardian.
- (9) “Principal” means the instructional leader or headmaster of a public school or his or her designee for purposes of school disciplinary matters. The board of trustees of a charter school or virtual school shall designate in the school discipline code who will serve as the principal for purposes of 603 CMR 53.00.
- (10) “School-wide education service plan” means the document developed by a principal, in accordance with G.L. c. 76, §21, that includes a list of education services available to students who are expelled or suspended from school for more than 10 consecutive days.
- (11) “Short-term suspension” means the removal of a student from the school premises and regular classroom activities for ten (10) consecutive school days or less. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days.
- (12) “Superintendent” means the chief executive officer employed by a school committee or board of trustees to administer a school system, charter school, or virtual school pursuant to G.L. c. 71, §§59, 59A, 89, or 94, or his or her designee appointed for purposes of conducting a student disciplinary hearing. The board of trustees of a charter school or virtual school shall designate in the school’s discipline code who will serve as the superintendent for the purposes of 603 CMR 53.00.
- (13) “Suspension” means short-term suspension and long-term suspension unless otherwise stated.

53:03: Policies and Procedures

Each school committee and board of trustees shall ensure that policies and procedures are in place in public preschool, elementary, and secondary schools and programs under its jurisdiction that meet, at a minimum, the requirements of G.L. c.71, §37H^{3/4}, G.L. c. 76, §21, and 603 CMR 53.00.

53.04: Investigation of Disciplinary Incidents

Nothing in these regulations shall prevent a school administrator from conducting an investigation, including student interviews, of a school-related disciplinary incident.

53:05: Alternatives to Suspension under Section 37H^{3/4}

In every case of student misconduct for which suspension may be imposed, a principal 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 tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive behavioral interventions and supports.

53:06: Notice of Suspension and Hearing under Section §37H^{3/4}

- (1) Except as provided in 603 CMR 53.07 and 603 CMR 53.10, 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.
- (2) 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:
 - (a) the disciplinary offense;
 - (b) the basis for the charge;
 - (c) the potential consequences, including the potential length of the student's suspension;
 - (d) 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;
 - (e) the date, time, and location of the hearing;
 - (f) the right of the student and the student's parent to interpreter services at the hearing if needed to participate;
 - (g) if the student may be placed on long-term suspension following the hearing with the principal:
 1. the rights set forth in 603 CMR 53.08 (3)(b); and
 2. the right to appeal the principal's decision to the superintendent.
- (3) 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.

- (4) Written notice to the parent may be made by hand delivery, first-class mail, certified mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and parent.

53.07: Emergency Removal under Section 37H^{3/4}

- (1) Nothing in these regulations shall prevent a principal from removing 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 and, in the principal's judgment, there is no alternative available to alleviate the danger. 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:

- (a) 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);
- (b) Provide written notice to the student and parent as provided in 603 CMR 53.06(2);
- (c) Provide the student an opportunity for a hearing with the principal that complies with 603 CMR 53.08(2) or 53.08(3), as applicable, 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.
- (d) 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 603 CMR 53.08(2)(c) and 53.08(2)(d) or 603 CMR 53.08(3)(c) and 53.08(3)(d), as applicable.

- (2) 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.

53:08 Principal's Hearing under Section 37H^{3/4}

- (1) The principal shall determine the extent of the rights to be afforded the student at a disciplinary hearing based on the anticipated consequences for the disciplinary offense. If the consequence may be long-term suspension from

school, the principal shall afford the student, at a minimum, all the rights set forth in 603 CMR 53.08(3) in addition to those rights afforded to students who may face a short-term suspension from school.

(2) Principal Hearing – Short-term Suspension

- (a) The purpose of the hearing with the principal is 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 603 CMR 53.05. 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.
- (b) Based on the available information, including mitigating circumstances, the principal shall determine whether the student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.
- (c) 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 603 CMR 53.13(1). The determination shall be in writing and may be in the form of an update to the original written notice.
- (d) 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.

(3) Principal Hearing – Long-term Suspension

- (a) The purpose of the hearing is the same as the purpose of a short-term suspension hearing.
- (b) At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have 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;
 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.
- (c) 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.
- (d) 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 as set forth in 603 CMR 53.05, 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 603 CMR 53.13(4)(a);

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.
- (e) 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, whether short-term or long-term, before the suspension takes effect.

53.09: Superintendent's Hearing under Section 37H³/₄

- (1) 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.
- (2) The student or parent shall file a notice of appeal with the superintendent within the time period set forth 603 CMR 53.08 (3) (c) 5.a). 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.
- (3) 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.

- (4) 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.
- (5) 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.
- (6) The student shall have all the rights afforded the student at the principal's hearing for long-term suspension under 603 CMR 53.08(3)(b).
- (7) The superintendent shall issue a written decision within five (5) calendar days of the hearing which meets the requirements of 603 CMR 53.08(3)(c)1 through 5. 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.
- (8) The decision of the superintendent shall be the final decision of the school district, charter school, or virtual school, with regard to the suspension.

53.10: In-School Suspension under Section 37H^{3/4}

- (1) The principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.
- (2) The principal may impose an in-school suspension for a disciplinary offense under this provision, provided that the principal follows the process set forth in 603 CMR 53.10(3) through 603 CMR 53.10(5) and the student has the opportunity to make academic progress as set forth in 603 CMR 53.13(1).
- (3) 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 10 days, cumulatively or consecutively, in a school year.

- (4) On the same day as the in-school suspension decision, the principal shall make reasonable efforts to notify the parent orally 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 (2) attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.
- (5) 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.

53.11: Exclusion from Extracurricular Activities and School-Sponsored Events

The principal may 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 procedures in G.L. c. 71, § 37H³/₄ or 603 CMR 53.00.

53.12: Disciplinary Offenses under Section 37H or 37H¹/₂

- (1) School districts shall adopt disciplinary policies and procedures applicable to a student who is accused of a disciplinary offense under G.L. c. 71, §§37H or 37H¹/₂. Such policies and procedures shall be consistent with the applicable statute and provide due process of law.
- (2) The principal may remove a student who has committed a disciplinary offense under G.L. c. 71, §§37H or 37H¹/₂ from school for more than ninety (90) days in a school year.
- (3) Any student who is removed from school for a disciplinary offense under G.L. c. 71, §37H or §37H¹/₂ shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

53.13: Education Services and Academic Progress under Sections 37H, 37H¹/₂, and 37H³/₄

- (1) Any student who is serving an in-school suspension, 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. The principal shall inform the student and parent of this opportunity in writing when such suspension or expulsion is imposed.
- (2) 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.
- (3) 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 G.L. c 69, §§ 1D and 1F.
- (4) Notice of Education Services for Students in Long-Term Suspension and Expulsion; Enrollment Reporting.
 - (a) 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.
 - (b) 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.

53.14: Student Suspension and Expulsion Data Collection and Reporting

- (1) Every school district, charter school, and virtual school shall collect and annually report data to the Department regarding in-school suspensions, short- and long-term suspensions, expulsions, emergency removals under 603 CMR 53.07, access to education services under 603 CMR 53.13, and such other information as may be required by the Department. Such data shall be reported in a manner and form directed by the Department.

- (2) 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 reviewing the data, the principal shall assess the extent of in-school suspensions, short- and long-term suspensions, expulsions, and emergency removals under 603 CMR 53.07, and the impact of such disciplinary action on selected student populations. The principal shall further determine whether it is necessary or appropriate to modify disciplinary practices due to over-reliance on expulsion, in-school or out-of school suspension, or emergency removals, or the impact of such suspensions, removals, and expulsions on selected student populations compared with other students.
- (3) In the fall of each year, the Department shall publish an analysis and report of student discipline data disaggregated by district and school, and by selected student populations, included but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. The data shall be reported in a manner that protects the identity of each student and shall be made available to the public online in a machine readable format.
- (4) The Department shall annually determine the schools with the highest percentage of students expelled or placed on long-term suspension for more than ten (10) cumulative days in a school year. After review of the discipline data described in 603 CMR 53.14(3) and other relevant school and district information, including but not limited to student demographics, student performance, promotion, attendance, attrition, graduation, and dropout rates, the Commissioner shall identify schools that need assistance to reduce over-reliance on long-term suspension or expulsion as a consequence for student misconduct. The Department shall identify models that such schools may use to incorporate intermediate steps before long-term suspension and expulsion and to foster positive school climate.

Through use of statistical analysis, the Commissioner shall identify schools and districts with data that reflect significant disparities in the rate of suspension and expulsion by race and ethnicity, or disability. Such schools and districts shall develop and implement a plan approved by the Department to address such significant disparities.