**CHECKLIST FOR EXPULSION POLICY**

Please use the following checklist to guide the creation/revision of your charter school expulsion policy. Schools are required to submit their expulsion policies for Department approval. Please record the page number and location of each of the required elements within your draft policy under the Page/Section column. While these are the minimum rights that must be afforded by law, consult with legal counsel while preparing your expulsion policy, as counsel may suggest additional processes. If revisions are needed, this document will be returned with an **X** under the “revision required” column next to the corresponding section. Revision notes will be provided on your draft expulsion policy.

***Each policy must state or describe the following elements:***

|  |  |  |
| --- | --- | --- |
| **Expulsion Policy** | **Page/****Section** | **Revision Required** |
| 1. **Policy identifies specific discipline offenses subject to expulsion[[1]](#endnote-1)**

Chapter 71, Section 37H (a), (b); Chapter 71, Section 37H ½ (2) |  |  |
| 1. **Standards and procedures assuring due process for expulsion. [[2]](#endnote-2)**
2. Written notice to student of the charges and of the reasons and evidence for expulsion before the expulsion takes effect.
 |  |  |
| 1. Written notice to student of student’s right to a hearing[[3]](#endnote-3) with the principal before the expulsion takes effect, including date, time and location.[[4]](#endnote-4) Student’s parent or guardian will be present at the hearing[[5]](#endnote-5).
 |  |  |
| 1. If the principal decides to expel the student after the hearing the principal shall give

written notification at the hearing to student and parent of student of the right to appeal, the process for appealing the expulsion and of the opportunity to receive educational services.[[6]](#endnote-6)Chapter 71, Section 37H; paragraph 2, (c) and 37H½ and 603 CMR 53.08 |  |  |
| 1. **Any student who has been expelled from a school district shall have the right to appeal to the superintendent.**
	1. The student or parent of the student shall notify the superintendent in writing of his request for an appeal[[7]](#endnote-7)
		1. Per 37H: ten days from date of expulsion.
		2. Per 37H½: five days from date of expulsion.
 |  |  |
| * 1. The superintendent shall hold a hearing with the student and the student’s parent or guardian[[8]](#endnote-8).
 |  |  |
| * 1. At the hearing, the student shall have the right to present oral and written testimony, the right to counsel and the right to confront and cross examine witnesses presented by the school.[[9]](#endnote-9).
 |  |  |
| * 1. 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 calendar days of the hearing. That decision shall be the final decision of school district with regard to the expulsion.

Chapter 71, Section 37H (d), 37H ½ (2) and 603 CMR 53.09 |  |  |
| 1. **Description of the educational services that will be made available for a student to make academic progress during the period of expulsion once it is imposed.[[10]](#endnote-10)**
	1. The principal shall inform the student and parent of this opportunity in writing to receive education services at the time the student is expelled.[[11]](#endnote-11)

Chapter 76, Section 21; Chapter 71, Section 37H, (e); 603 CMR 53.01 and 53.13(1), (2), (4) |  |  |
| 1. **Disciplinary measures taken in serious cases[[12]](#endnote-12)**

Chapter 71, Section 37H (paragraph 2), 37H ½ |  |  |

1. Upon a student being convicted of a felony or upon adjudication or admission in court of guilt with respect to such a felony or felony delinquency, possession of a dangerous weapon or an illegal/controlled substance or assault of educational personnel / felony charge or felony offense, the principal of a school in which the student is enrolled may expel the 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. [↑](#endnote-ref-1)
2. At a student hearing, any decision maker (principal, executive director, head of school) deciding the consequence for the student shall exercise discretion. [↑](#endnote-ref-2)
3. At the hearing, students and parents have the right to: bring counsel (at the student’s expense), present evidence (through the student’s own testimony or witnesses and through written evidence) and cross-examine witnesses presented by the school. [↑](#endnote-ref-3)
4. After the hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either Chapter 71, Section 37H, paragraph (a) or (b). The expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent. [↑](#endnote-ref-4)
5. Chapter 71, Section 37H½ [↑](#endnote-ref-5)
6. The expulsion will remain in effect prior to any appeal hearing. For a 37H ½ charge, delinquency complaint, conviction, adjudication or admission of guilt principal may remove student for period of time up to expulsion if principal determines the student’s continued presence would have a substantial detriment on the general welfare of the school. The student has 10 days from the date of the expulsion to notify the superintendent of an appeal. [↑](#endnote-ref-6)
7. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. [↑](#endnote-ref-7)
8. Superintendent holds hearing within 3 days of receipt of request per 37H½ . [↑](#endnote-ref-8)
9. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of section 37H. [↑](#endnote-ref-9)
10. If the student moves to another district during the period of 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. [↑](#endnote-ref-10)
11. 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 specific school district staff member to arrange services. [↑](#endnote-ref-11)
12. Serious case is defined as involving the possession or use of illegal substances or weapons, assault, vandalism, or violation of a student’s civil rights. In practice, the decision to suspend rather than expel in serious cases may depend on whether the principal determines that the student’s continued presence in school would have a substantial detrimental effect on the general welfare of the school.

**Definitions:**

The **board of trustees** of a charter school shall designate in the school discipline code who will serve as the principal for purposes of 603 CMR 53.00.

**Expulsion** is defined at 603 CMR 53.02 as more than 90 school days. A student may not be expelled for a §37H ¾ offense

**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. *603 CMR 53.02.*

**Principal** is defined in 603 CMR 53.02 as: the instructional administrative leader or headmaster of a public school or his or her designee for purposes of disciplinary matters.

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 M.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 shall designate in the school's discipline code who will serve as the superintendent for the purposes of 603 CMR 53.00. [↑](#endnote-ref-12)