**APPENDIX**

**Highlights of Massachusetts Student Discipline Statutes and Regulations**

**as of July 1, 2014[[1]](#footnote-1)**

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| **G.L. Chapter 71, §37H** | **G.L. Chapter 71, §37H ½** | **G.L. Chapter 71, §37H ¾** |
| **Offenses:**  On school premises or at school-sponsored events or activities:   * Possession of a dangerous weapon * Possession of a controlled substance * Assault on a member of the educational staff | **Offenses:**  1. A felony charge or felony delinquency complaint against a student.  2. Conviction, adjudication, or admission of guilt with respect to such felony. | **Offenses:**  Any offense that is not addressed in §37H or §37H ½. |
| **Consequence:**   * Exclusion for amount of time up to expulsion; * Principal may suspend and not expel as he or she deems appropriate | **Consequence:**  1. Felony charge or felony delinquency complaint: suspension for a period of time deemed appropriate by principal ***if*** the principal determines the student’s continued presence would have a substantial detriment on the general welfare of the school.  2. Felony or felony delinquency conviction or adjudication or admission of guilt with respect to such felony: removal for a period of time up to expulsion (i.e. permanent exclusion) ***if*** the principal determines that the student’s continued presence would have a substantial detriment on the general welfare of the school. | **Consequence:**   * Avoid suspending a student from school long-term (i.e. more than 10 days) until other remedies and consequences have been considered; consider ways to re-engage the student in learning. * Consequences other than suspension may draw from evidence- based strategies and programs such as mediation, conflict resolution, restorative justice, and behavioral interventions and supports. * No student may be suspended for more than 90 school days in a school year. |
| **Due Process:**   * Prior notice to student of charge and written notice of right to hearing prior to expulsion or suspension for more than 10 days; * Right to representation at hearing; and to present evidence and witnesses at hearing. | **Due Process (for either suspension or expulsion):**   * Written notice of the charges and of the reasons before the suspension takes effect; * Principal may determine the appropriate amount of time for suspension; * Written notice of the right to appeal to the superintendent; * Suspension remains in effect pending appeal to the superintendent. | **Due Process:**   * Except for in-school suspension and emergency removals, prior oral and written notice of the charge to the student, and to the student’s parent, and the opportunity for a meeting/hearing with the principal before suspension takes effect. Consult 603 CMR 53:08 for details on notices, which vary for long- and short- term suspensions. * Consult 603 CMR 53:07 for emergency removal process and 603 CMR 53:10 for in-school suspension process * Explicit requirement to translate notice of the charges and the reasons in primary language of the home if other than English, or other means of communication where appropriate. * Principal must make and document reasonable efforts to include the parent in meeting/hearing with the student. * Principal must audiotape the hearing if requested by the parent and all those attending the hearing must be informed of the taping. * Following hearing, principal must provide a written decision; and if a long-term suspension imposed, must inform student and parent in writing of the right to appeal to the superintendent and the process to be followed; translate notice of appeal rights in primary language of the home, or other means of communication where appropriate. * Before any out-of-school suspension of a student in preschool or grades K – 3, principal must notify superintendent in writing of the alleged misconduct and the reasons for suspending the student out-of-school. |
| **Appeal from Principal’s Decision:**   * Right to appeal **expulsion** decision to superintendent * Timeline for requesting appeal: ten days from date of expulsion * Right to counsel at hearing * Superintendent can make factual determinations as well as determine consequence. | **Appeal from Principal’s Decision to Suspend or to Expel:**   * Timeline for requesting appeal: no later than 5 calendar days following the effective date of the suspension/expulsion * Superintendent must hold hearing within 3 calendar days of receipt of request and issue a decision within 5 calendar days. * Superintendent may overturn or alter the decision.   **A student may appeal a suspension decision and the subsequent expulsion decision (following the conviction, adjudication or admission of guilt) regarding the same offense.** | **Appeal from Principal’s Decision:**   * Timeline for requesting appeal: written request not later than 5 calendar days following effective date of suspension; parent can request extension for up to 7 calendar days, which must be granted. * The superintendent must hold hearing within 3 calendar days of the parent’s request for a hearing. The student or parent may request up to 7 additional calendar days. If so, the superintendent must allow the extension. The superintendent may have the hearing without the parent if the superintendent has made a good faith effort to include the parent. * The student has the right to present oral and written testimony, to cross examine witnesses, and to counsel at his or her expense at the hearing. * The superintendent must audiotape the hearing and notify hearing participants that the hearing will be taped. * The superintendent determines the facts and consequences, if any, but cannot impose a consequence greater than the principal decided. A written decision is due within 5 calendar days of the hearing. |
| **Provision of Education Services:**  Provide every student an opportunity to make *academic progress* during the period of suspension (whether in-school or out-of-school) or expulsion, to make up assignments, and earn credits missed. A district that suspends or expels a student for *more than 10 consecutive days* must provide the student and the parent with ***a list*** of alternative educational services.  **See G.L. c. 76, §21 and 603 CMR 53.13 for details, including required notice.** | **Provision of Education Services:**  **Same** | **Provision of Education Services:**  **Same** |
| **Discipline Collection and Reporting:**   * Collect and report to the Department data concerning the types and lengths of removals, suspensions, and expulsions, and access to education services * Periodically review discipline data by selected student populations; determine extent of disciplinary removals and the impact on such populations; adjust practice as appropriate * Department will provide assistance to school(s) if Commissioner identifies school(s) in district that have the highest percentage of suspensions or expulsions in Massachusetts for more than 10 cumulative days in a school year. * Create a plan to address disparities if Commissioner determines that school or district discipline data reflect significant disparities by race and ethnicity, or disabilities.   **See 603 CMR 53.14 for details.** | **Discipline Collection and Reporting:**  **Same** | **Discipline Collection and Reporting:**  **Same** |

1. This chart is a basic overview of requirements found in state statutes and the Department’s Student Discipline Regulations, 603 CMR 53 (Regulations), as approved by the Board of Elementary and Secondary Education on April 29, 2014. The Regulations, as well as amended §37H and new §37H ¾ of chapter 71, and new §21 of G.L. c. 76, are effective July 1, 2014. School administrators should become familiar with the state statutes and Regulations before responding to student misconduct on or after July 1, 2014. It is also advisable to consult with local counsel on questions involving specific incidents of student misconduct. [↑](#footnote-ref-1)