

## STUDENT DISCIPLINE POLICY

April 9, 2018

### *Purpose and Scope*

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The Public Schools of Brookline (PSB) is committed to providing every student with a safe, secure learning environment in which they can thrive. Consistent with the PSB core values of High Achievement for All, Educational Equity, and Respect for Human difference, this policy is designed to guide a general code of discipline and expected student behavior based upon respect for others, respect for self, and respect for property, and in which the consequences for misbehavior are clearly defined and appropriate to the offense. We believe all students have the right to be treated fairly, courteously and respectfully; to bring complaints to the school principal or staff for resolution; to tell their side of the story; and to freely express their opinions. All students have a right to a high-quality education. As such, school disciplinary measures should not be used to exclude students from school or school sponsored extracurricular activities unless it is necessary to preserve the safety of students and staff.

While we believe that a school environment conducive to learning requires a structured response to incidents in which a student's behavior indicates the need for externally applied curbs, it is our intent with this policy on Student Discipline to ensure that the rights of all students are equally respected, especially the right to equitable treatment from teachers and staff. We also recognize that as students grow and learn, sometimes their choices and behavior will fall short of our high expectations. When there is a breach of conduct, the Brookline School Committee believes it paramount that the school disciplinary response emphasize learning more than punishment, and that it be conducted in a way that calls the student's attention to his or her responsibility for self-discipline and helps the student exercise sounder judgment in the future.

The goal of student discipline is to teach students to behave in ways that contribute to academic achievement and school success, and to support a school environment where students and staff are responsible and respectful. Successful school discipline is guided by the following principles:

- Effective and engaging instruction and classroom management are the foundation of effective discipline.
- School discipline is best accomplished by preventing misbehavior before it occurs, and using effective interventions after it occurs.
- School safety and academic success are formed and strengthened when all school staff and personnel build positive relationships with students and are actively engaged in their lives and learning.
- School staff should promote high standards of behavior by teaching, modeling, and monitoring behavior, and by fairly and consistently correcting misbehavior as necessary.
- School discipline that is paired with meaningful instruction and guidance offers students an opportunity to learn from their mistakes and contribute to the school community, and is more likely to result in getting the student re-engaged in learning.
- Effective school discipline maximizes the amount of time students spend learning and minimizes the amount of time students are removed from their classrooms due to misbehavior.

Students may be subject to discipline for violations even if that conduct occurs on property not owned or controlled by the district. This is if the conduct is connected to activities or incidents that have occurred on property owned, or controlled by, the district or conduct that affects the school environment.

The Brookline Early Education Program provides a positive, nurturing environment for all learners. Exclusionary discipline removes students from the environment that supports their social, emotional and academic growth. As such, out of school suspensions in early childhood programs, grades PK-2, are limited to conduct that causes physical harm or poses a direct threat to the health and safety of students or educators, and requires the approval of the superintendent or his/her designee.

While overly harsh school discipline policies can affect all students, national surveys indicate that they may disproportionately impact students of color. Black, Latino/Hispanic, and Native American students, in particular, may be more likely to be suspended, expelled, and arrested than their white peers, even for the same behavior. The surveys indicate that students of color also tend to receive harsher punishments than their peers for the same offenses.

This District therefore is committed to ensuring that discrimination or bias that may present barriers to success for our students plays no role in the disciplinary process.

Staff members are specifically charged with being aware of the impact of their actions on students from racial and ethnic groups or other protected classes that national surveys indicate have historically been over-represented among those students who are suspended, expelled, referred to alternative schools, arrested, or referred to law enforcement. The District shall evaluate any evidence that punitive measures may be used disproportionately against students of any protected class and, if confirmed by such evidence, shall take appropriate corrective action.

It is the Policy of the School Committee to abide by all laws applicable to student discipline, including, but not limited to, Massachusetts General Laws Chapter 71, §§ 37H, 37H ½, and 37H ¾, constitutional due process and other requirements of the federal and state constitutions, laws and regulations. School staff should consult the applicable statutes and the regulations of the Massachusetts Department of Elementary and Secondary Education (DESE), 603 Code of Massachusetts Regulations (CMR) 53, and/or Town Counsel's Office as appropriate for further guidance.

## **I. Definitions**

The School Committee's rules and regulations regarding public conduct on school property, which also apply to students and teachers, are found in Section K4 of this manual. Further, each Principal shall include a code of conduct in the student handbook or other publication and make it available to students and parents.

The Principal may, as a disciplinary measure, remove a student from privileges with parent notification, such as extracurricular activities and attendance at school-sponsored events, based on his/her judgment of the student's misconduct. Such a removal is not subject to this policy.

Nothing in this policy is meant to challenge or change best practice by classroom teachers to manage behavior during a typical class period.

- **Detention:** The supervised retention of students beyond the regular school schedule when a teacher requests that the student show improvement of behavior resulting from violation of the school rules and/or student code of conduct.
- **Disciplinary offense:** any alleged or determined disciplinary infraction by a student,
  - **Section 37H offense** means conduct in the nature of that addressed by Massachusetts General Laws Chapter 71, Section 37H, which occurs on school premises or at school-sponsored or school-related events, including athletic contests, namely, (1) possession of a dangerous weapon (including, but not limited to, a gun or a knife), (2); possession of a controlled substance as defined in Massachusetts General Laws Chapter 94C (including, but not limited to, marijuana, cocaine, or heroin), and (3) assault on a member of the educational staff.
  - **Section 37H ½ offense** means conduct in the nature of that addressed by Massachusetts General Laws Chapter 71, Section 37H ½, namely, conduct that is the subject of a felony charge or conviction or a felony delinquency charge or conviction if the Principal determines that the student’s continued presence in school would have a substantial detrimental effect on the general welfare of the school.
  - **Section 37H ¾ offense** means all conduct other than that specifically addressed by Massachusetts General Laws Chapter 71, §§ 37H and 37H ½, including, but not limited to, bullying, hazing, discrimination, and harassment .
- **Emergency removal** means the temporary removal of a student from school when 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. *See appropriate* Section below for specific criteria and procedures applicable to emergency removals. A temporary removal shall not exceed two school days (see the complete definition at CMR 53.07). Students with disabilities may be afforded additional rights.
- **Expulsion:** the removal of a student from the school premises, regular classroom activities, and school activities for more than 90 school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H1/2. Students with disabilities may be afforded additional rights.
- **Incident Report:** Any time a student violates the code of conduct and is involved in behavior that requires the intervention of any additional staff, or is removed from the classroom, and at other times at the discretion of the staff, an incident report will be completed and shared with the student’s parents as soon as practicable. Students with disabilities may be afforded additional rights
- **In-school suspension:** removal of a student from regular classroom activities, but not from the school premises, for no more than ten (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. If a student is placed in in-school suspension for more than ten days, consecutively or cumulatively during a school year, such suspension shall be deemed a long-term suspension for due process, appeal, and reporting purposes. Students with disabilities may be afforded additional rights.

- **Long-term suspension:** 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. For Section 37H  $\frac{3}{4}$  offenses, such suspensions shall be for no more than ninety (90) school days 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. No long-term suspension shall extend beyond the end of the school year in which such suspension is imposed.
- **Manifestation determination:** The district must conduct a manifestation determination if a student with a disability will be removed for more than 10 consecutive school days, or when multiple shorter suspensions for similar reasons add to to ten days. The manifestation determination must determine if the conduct in question was "caused by, or had a direct and substantial relationship to, the child's disability...or was a direct result of [PSB's] failure to implement the IEP." Note that an "in-house" suspension may be considered a change in placement if it otherwise meets the criteria.
- **Parent:** for the purposes of this policy, "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.
- **Positive Behavior Interventions and Supports (PBIS):** a set of ideas and tools that schools use to improve the behavior of students. PBIS uses evidence and data-based programs, practices and strategies to frame behavioral improvement in terms of student growth in academic performance, safety, behavior, and establishing and maintaining positive school culture. PBIS addresses the needs of at-risk students as well as the multi-leveled needs of all students in regards to behavior, which creates an environment for both teaching and learning to occur in schools

See appropriate sections below for the specific criteria and procedures applicable to the various types of suspensions under Sections 37H, 37H  $\frac{1}{2}$ , and 37H  $\frac{3}{4}$ , respectively.

- **Restorative justice:** a program to empower students to resolve conflicts on their own and in small groups; a growing practice at schools around the country. It brings students together in peer-mediated small groups to talk, ask questions, and air their grievances under the supervision and guidance of a specifically trained staff member.
- **School Wide Education Service Plan:** the document developed by a principal, in accordance with Massachusetts General Laws Chapter 76, Section 21, which includes a list of education services available to students who are expelled or who are suspended from school for more than ten (10) consecutive days.
- **Short-term suspension:** the removal of a student from the school premises and regular classroom activities for ten 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.

## II. Alternatives to Suspensions

In every case of student misconduct for which suspension or expulsion may be considered, a principal shall exercise discretion in deciding the consequence(s) for the offense while ensuring opportunities for student to remain engaged in learning while maintaining the safety of the school community. The District will make every reasonable effort to correct student misbehavior through school-based resources and to support students in learning the skills necessary to enhance a positive school

environment and avoid negative behavior. In all instances, school discipline should be reasonable, timely, fair, age-appropriate, and should match the severity of the student's misbehavior.

### **III. Investigations of Disciplinary Incidents**

Upon notification of a report of a disciplinary offense the principal shall promptly; (1) notify the parents of the involved students within the confines of student confidentiality protections as outlined by the Massachusetts student record regulations and/or FERPA, and (2) review submitted incident report, and (3) conduct and conclude an investigation within ten (10) school days, unless circumstances, such as witness availability, require a longer period.

The details of the PSB's procedures pertaining to reports of disciplinary violations are set out in the PSB's disciplinary procedures and supporting templates.

If the report of a disciplinary violation involves student(s) from another school, the principal shall promptly notify the appropriate administrator of the other school so that both may take appropriate action. In that instance, the administrators shall agree on which one should supervise the investigation.

Confidentiality shall be used to the greatest extent permitted by law to protect a person who reports disciplinary offense or retaliation, who provides information during an investigation, or who is a witness.

The principal shall document and maintain a file of all reports of disciplinary and subsequent investigations, and disciplinary determinations. A quarterly report shall be provided to the Superintendent.

The superintendent shall inform the School Committee periodically of any trends or implications of these reports in order to give the School Committee the opportunity to review and amend this policy. No such report by the superintendent shall convey information about specific identifiable students.

### **IV. Tiered Disciplinary Interventions/*Disciplinary Consequences***

Three types of intervention strategies available to teachers and administrators in responding to violations of the discipline policy are: administrative, restorative, and skill-based/therapeutic.

- Administrative Strategies are statutory, rule-based, or contract-based interventions such as detention or suspension.
- Restorative Strategies are problem solving interventions. They focus on the conflict caused and how it will be repaired. Examples include, but are not limited to:
  - Family group conferencing
  - Victim-offender mediation
  - Restorative justice
  - Classroom peace circles
- Skill-based/therapeutic require intrinsic motivational behavior change. Such interventions include, but are not limited to:
  - Mental health counseling
  - Anger management classes
  - Informal mentoring and behavior coaching

*Strategies in Using Interventions*

Teachers and administrators should consider utilizing different types of strategies, or multiple strategies simultaneously, to deal with misbehavior, especially for second third, or more instances of the same disruptive or inappropriate behavior. For example only, in compliance with this Policy, the three types of interventions may be used in the following way:

- Independently (e.g., 1-day after-school detention);
- As alternatives to each other (e.g., choice of peer mediation or 1-day detention); or
- In conjunction with each other (e.g., 2-day in-school suspension along with mediation).

*Relevant Factors in Making Discipline Decisions*

When choosing consequences for students' misbehavior, teachers, administrators, and staff must consider the following factors:

- Age, health, and disability or special education status of the student;
- Appropriateness of student's academic placement;
- Student's prior conduct and record of behavior;
- Student's attitude;
- Student's willingness to repair the harm;
- Seriousness of the offense and the degree of harm caused; and
- Impact of the incident on overall school community.

**V. Description of Tiered Interventions and Consequences**

The district defines five levels of interventions and disciplinary responses. The following is a disciplinary interventions and consequences matrix and table, which contain a list of inappropriate or disruptive behaviors and potential appropriate interventions or consequences. This matrix and table is a general guideline only. The list of behaviors is not exhaustive or exclusive. In every case the Principal shall determine the appropriate intervention or consequence based on the specific facts and circumstances. In no such case shall this matrix and table be grounds for challenging or nullifying the Principal’s determination of the appropriate intervention and consequences, which shall instead be measured by the applicable legal standard.

<b>Levels of Interventions and Disciplinary Responses</b>		
<b>Level 1</b>	<ul style="list-style-type: none"> <li>● Teacher/Student Conference</li> <li>● Reminders and Redirection</li> <li>● Teaching of Expectations and Skills</li> <li>● Written Apology</li> </ul>	<ul style="list-style-type: none"> <li>● Reflective Essay or Other Reflective Activity</li> <li>● Independent Study</li> <li>● Role-Play</li> </ul>
<b>Level 2</b>	<ul style="list-style-type: none"> <li>● Any Lower-Level Interventions</li> <li>● Parent/Guardian Outreach</li> <li>● In-Class Time-Out</li> <li>● Seat Change</li> <li>● Self-Charting of Behaviors</li> <li>● Daily Report Card on Behavior Task Completion, and Achievement</li> <li>● Restorative Justice</li> </ul>	<ul style="list-style-type: none"> <li>● Reprimand by Administrator</li> <li>● Removal from Class to Supervised Time-Out in Another Classroom</li> <li>● Loss Of Privileges (e.g., exclusion from group lunch or extra activities)</li> <li>● Mini-Course/Training (e.g., conflict resolution, anger management, social skills, or appropriate behavior)</li> </ul>
<b>Level 3</b>	<ul style="list-style-type: none"> <li>● Any lower-level Interventions</li> <li>● Student/Teacher/Parent Conference</li> <li>● Referral to Support Staff (e.g. guidance counselor, social worker, psychologist, or nurse)</li> <li>● Short-term Behavioral Progress Reports</li> <li>● Behavioral Intervention Plan</li> <li>● Change in Schedule/Class</li> <li>● Referral to After-School Program</li> <li>● Restorative Justice</li> <li>● In-School Suspension - 1 day</li> </ul>	<ul style="list-style-type: none"> <li>● Community Service</li> <li>● Mentoring Program</li> <li>● Peer Mediation</li> <li>● Functional Behavioral Assessment</li> <li>● Referral to School-based Health/Mental Health Clinics</li> <li>● Referral to Community-Based Services</li> <li>● Substance Abuse Treatment Services</li> <li>● Modification of IEP (if applicable)</li> </ul>
<b>Level 4</b>	<ul style="list-style-type: none"> <li>● Any Lower-Level Interventions</li> <li>● Detention</li> <li>● Saturday Detention</li> <li>● Restorative Justice</li> <li>● In-School Suspension - 1 to 3 days</li> </ul>	<ul style="list-style-type: none"> <li>● Restitution</li> <li>● Out-of-School Suspension - 1 to 5 days</li> </ul>
<b>Level 5</b>	<ul style="list-style-type: none"> <li>● Any Lower-Level Interventions</li> <li>● Out-of-School Suspension - 1 to 10 days (may be extended as necessary)</li> </ul>	<ul style="list-style-type: none"> <li>● Alternative Education Placement</li> <li>● Recommendation for Expulsion</li> <li>● Arrest or Referral to Law Enforcement</li> </ul>

Inappropriate or Disruptive Behavior	Intervention				
	1	2	3	4	5
Academic Dishonesty (e.g. cheating or plagiarizing)	●	●	●		
Alcohol			●	●	
- Under the influence, Using, or Possession				●	
- Selling					
Assault or Battery				●	
- Simple Assault or Simple Battery					
- Assault with a Weapon or Battery Causing Serious Injury					●
Bullying		●	●	●	
Bus Disruptions	●	●	●		
- Minor Disruption on the Bus (e.g. eating, drinking; being too loud, standing, throwing objects from the bus)				●	
- Serious Disruption on the Bus					
Classroom Disruption (e.g. talking out in class or talking out of turn, throwing objects, and other behavior that distracts from student learning)	●	●	●		
Defiance of Authority and/or Insubordination (e.g. non-violent/non-physical, talking back to school staff, failure to follow directions, failure to respond to school staff questions or requests, refusal to participate in classroom activities, etc.)	●	●	●		
Disrespectful Behavior (e.g. verbal insults or put-downs, including the use of profane or offensive language; picking on, bothering, teasing, or distracting other students; making inappropriate gestures or comments; and other behavior that is rude or disrespectful)	●	●	●		
False Activation of a Fire Alarm			●	●	
<p><i>This matrix and table is a general guideline only. The list of behaviors is not exhaustive or exclusive. In every case the Principal shall determine the appropriate intervention or consequence based on the specific facts and circumstances.</i></p>					

Inappropriate or Disruptive Behavior	Intervention				
	1	2	3	4	5
<b>Fighting</b> - Physical Aggression (e.g., pushing and shoving) - More Serious Fighting (may include incidents involving minor injuries)		●	●	●	
				●	●
<b>Gambling</b>		●	●	●	
<b>Hallway Misbehavior. Running, Making Excessive Noise or Loitering</b>	●	●	●		
<b>Harassment based on Race, Ethnicity, Gender, Sexual Orientation, Disability, or Religion Against Members of the School Community</b>		●	●	●	●
<b>Illegal Drugs or Controlled Substances</b> - Under the Influence, Using, or Possessing - Selling			●	●	
					●
<b>Lying to, Giving False Information to, or Misleading School Personnel</b>	●	●	●		
<b>Portable Electronic Devices Use at Unauthorized Times</b>	●	●	●		
<b>Property Damage</b> - Intentional Damage or Defacement of Another Person's or School Property (less than \$50) - Intentional Damage or Defacement of Another Person's or School Property (more than \$50)		●	●	●	
				●	
<b>Sexually-Based Behaviors</b> - Consensual Sexual Activity - -Sexual Harassment (e.g. unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal, written, or physical conduct of a sexual nature) - Sexual Assault	●	●	●	●	
		●	●	●	●
					●
<b>Tardiness</b> - Persistent or Excessive Tardiness to Class/School	●	●	●		
<b>Theft</b> - Less than \$50 - Greater than \$50		●	●	●	
				●	

*This matrix and table is a general guideline only. The list of behaviors is not exhaustive or exclusive. In every case the Principal shall determine the appropriate intervention or consequence based on the specific facts and circumstances.*

Inappropriate or Disruptive Behavior	Intervention				
	1	2	3	4	5
Trespassing (Level 5 interventions may only be used when a student has entered onto school property without permission and then refused to leave school property upon request)				●	●
Tobacco Possession or Use	●	●	●		
Unauthorized Use of School Equipment	●	●	●		
Unexcused Absence from School or Class Cutting	●	●	●		
Weapons, Firearms, and Explosives	●	●	●		
- Bringing or Possessing Fireworks	●	●	●		
- Igniting Fireworks					●
- Bringing, Possessing, or Using Other Explosives (non-fireworks)					●
- Threat or False Report related to Explosives					●
- Bringing, Possessing, or Using Firearms					●
- Bringing or Using Other Deadly Weapons					●
- Possessing Other Deadly Weapons					●
<p><i>This matrix and table is a general guideline only. The list of behaviors is not exhaustive or exclusive. In every case the Principal shall determine the appropriate intervention or consequence based on the specific facts and circumstances.</i></p>					

## **VI. Expulsions and Suspensions of Students**

The use of measures that remove students from the classroom, such as in-school/out-of-school suspensions, expulsions, and referrals to alternative schools, should be minimized. These punitive measures may result in the loss of valuable instructional time and should be reserved for infractions that cannot be appropriately or adequately addressed through other interventions and disciplinary responses.

### **1. Section 37H Offense Procedures (Expulsions and Suspensions)**

- a. Except in cases of emergency removal, the following procedures shall be used. Students are entitled to constitutional due process and to the procedural protections set forth in Section 37H.
  1. Notice Procedures: Prior to suspending or expelling a student on the basis of a Section 37H offense, the student and parent must be notified orally and in writing of:
    - a. the charge(s);
    - b. the basis for the charge(s);
    - c. the opportunity for a hearing before the Principal
    - d. the opportunity at the Principal's hearing to receive an explanation of the evidence, an opportunity to explain the circumstances and/or dispute the charge(s), and an opportunity to present information, including mitigating facts, that the Principal should consider;
    - e. the right to counsel at his/her expense at the Principal's hearing; and
    - f. the right to present witnesses and evidence at the Principal's hearing.

The Principal shall provide oral and written notice in English and in the primary language of the home if other than English, or other means of communication where appropriate.

- b. Principal's Hearing Procedures: Disciplinary hearings regarding an alleged Section 37H offense shall be conducted in a manner that affords students all of the procedural protections outlined above ("Notice"). Students and parents have the right to interpreter services at the hearing if needed to participate. In addition, with regard to contemplated long-term suspensions students have the following additional rights:
  1. the right to review the student's record and the documents upon which the Principal may rely;
  2. the right to confront and cross-examine witnesses against him/her; and
  3. the right to a recording of the hearing.
- c. Consequences: After said hearing, the Principal may, in his/her discretion, decide to suspend or expel a student who has been determined to have committed a Section 37H offense, subject to this Policy.
- d. Notification of Principal's Decision:
  1. Determinations of Short-Term Suspension  
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 (see Section H below.) The

determination shall be in writing and may be in the form of an update to the original written notice.

2. Determinations of Long-Term Suspension or Expulsion  
The Principal shall send a 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 other method of delivery agreed to by the Principal and the parent. If the Principal decides to suspend the student, the written determination shall:
  - a. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
  - b. Set out the key facts and conclusions reached by the Principal;
  - c. Identify the length and effective date of the suspension, as well as a date of return to school;
  - d. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school. 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. The notice shall be made in both English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate;
  - e. In the event the Principal has expelled a student, inform the student of the right to appeal the Principal's decision to the Superintendent. 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:
    - the process for appealing the decision, including that the student or parent must file a written notice of appeal with the Superintendent within ten days of the expulsion.
- e. Appeal to Superintendent (Expulsions Only): Any student who has been expelled from the PSB pursuant to these provisions shall have the right to appeal to the Superintendent, however, any expulsion shall remain in effect unless and until the Superintendent decides to reverse the Principal's determination on appeal:
  1. The expelled student shall have ten (10) days from the date of expulsion in which to notify the Superintendent of his/her appeal. The appeal hearing shall take place within a reasonable time following receipt of the notice of appeal.
  2. The student shall have the right to counsel at the hearing
  3. 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.
  4. The Superintendent shall issue a written decision within five (5) calendar days of the hearing that is as described with respect to Principals' written determinations regarding long-term suspensions and expulsions above. If translation of the decision into the primary language spoken in the student's home is required, such translation shall be provided as soon as reasonably possible, but shall not be subject to the 5 calendar day deadline. The decision of the Superintendent shall be the final decision of the school district.

2. Section 37H ½ Offense Procedures (Expulsions and All Suspensions):

- a. Except in cases of emergency removal, the following procedures shall be used. Students are entitled to constitutional due process and to the procedural protections set forth in Section 37H ½
1. Notice Procedures: Prior to suspending or expelling a student on the basis of a
    - a. Section 37H ½ charge, the student must be notified orally and in writing of:
    - b. the charge(s);
    - c. the basis for the charge(s);
    - d. the opportunity for a hearing before the Principal
    - e. the opportunity at the Principal's hearing to receive an explanation of the evidence. an opportunity to explain the circumstances and/or dispute the charge(s); and an opportunity to present information, including mitigating facts, that the Principal should consider;
    - f. the right to counsel at his/her expense at the Principal's hearing; and
    - g. the right to appeal a suspension or expulsion decision to the Superintendent, if the student notifies the Superintendent in writing of his/her request for an appeal no later than 5 calendar days following the effective date of the suspension.

*For contemplated expulsions and out-of-school suspensions:* the Principal shall provide oral and written notice in English and in the primary language of the home if other than English, or other means of communication where appropriate.

- b. Principal's Hearing Procedures: Disciplinary hearings regarding alleged Section 37H ½ offenses shall be conducted in a manner that affords students all of the procedural protections outlined above ("Notice"). Students and parents have the right to interpreter services at the hearing if needed to participate. In addition, with regard to contemplated suspensions of more than ten (10) days, students have the following additional rights:
  1. the right to review documents;
  2. the right to confront and cross-examine witnesses against him/her;
  3. and the right to a recording of the hearing.
- c. Consequences: After said hearing, the Principal may, in his/her discretion, decide to suspend (in the case of a felony charge or conviction, or a felony delinquency charge or conviction) or expel (only in the case of a felony conviction, or felony delinquency conviction) a student who has been determined to have committed a Section 37H ½ offense if the Principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, subject to Section B of this Policy. A student shall not be suspended or expelled except on the basis of substantial evidence.
- d. Notification of Principal's Decision:
  1. Determinations of Short-Term Suspension

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. The determination shall be in writing and may be in the form of an update to the original written notice.
  2. Determinations of Long-Term Suspension or Expulsion

The Principal shall send a 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 other method of delivery agreed to by the Principal and the parent. If the Principal decides to suspend the student, the written determination shall:

- a. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
  - b. Set out the key facts and conclusions reached by the Principal;
  - c. Identify the length and effective date of the suspension, as well as a date of return to school;
  - d. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school. 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. The notice shall be made in both English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate;
  - e. Inform the student of the right to appeal the Principal's decision to the Superintendent. 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:
    - i. the process for appealing the decision, including that the student or parent must file a written notice of appeal with the Superintendent within five calendar days of the effective date of suspension; and that
    - ii. the suspension will remain in effect unless and until the Superintendent decides to reverse the Principal's determination on appeal.
- e. Appeal to Superintendent:  
Any student who has been suspended or expelled from the PSB pursuant to these provisions shall have the right to appeal to the Superintendent, however, the student's suspension or expulsion shall remain in effect pending the appeal.
- The student must request an appeal in writing no later than 5 calendar days following the effective date of the suspension/expulsion.
  - The Superintendent must hold a hearing with the student and parent within 3 calendar days of the student's request.
  - The procedures applicable to Principal's hearings for contemplated expulsions or long-term suspensions are applicable to the Superintendent's appeal hearing.
  - The student has the right to counsel at his/her own expense at the appeal hearing.
  - The student has the right to present oral and written testimony at the appeal hearing.
  - The Superintendent shall issue a written decision within five (5) calendar days of the hearing that is as described with respect to Principals' written determinations regarding long-term suspensions and expulsions above. If translation of the decision into the primary language spoken in the student's home is required, such translation shall be provided as soon as reasonably possible, but shall not be subject to the 5 calendar day deadline. The Superintendent may overturn or alter the decision, including

recommending an alternate education program. The decision of the Superintendent shall be the final decision of the school district.

3. **Section 37H ¾ Offense Procedures for All Suspensions EXCEPT In-School Suspensions of 10 Days or Fewer**

a. Except in cases of emergency removal, the following procedures shall be used.

i. **Notice Procedures:** A Principal shall provide both 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. 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. The notice shall set forth in plain language:

1. the disciplinary offense;
2. the basis for the charge;
3. the potential consequences, including the potential length of the student's suspension;
4. that a hearing will be held to afford the student the opportunity to dispute the charges and to present the student's explanation of the alleged incident, and that the parent/guardian may attend and participate in the hearing;
5. the date, time, and location of the hearing;
6. the right of the student and the student's parent to interpreter services at the hearing if needed to participate;
6. if the student may be placed on long-term suspension following the hearing with the Principal:
7. the rights set forth in 603 CMR 53.08 (3)(b); and
8. the right to appeal the Principal's decision to the Superintendent.

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 attempts to contact the parent in the manner specified by the parent for emergency notification.

b. **Principal's Hearing Procedures:** Students and parents have the right to interpreter services at the hearing if needed to participate. In addition, Principal's Hearings are subject to the following required procedures.

- **Contemplated Short-Term Suspensions**
  - (1) The Principal shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information.
  - (2) 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.

(3) 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,

- **Contemplated Long-Term Suspensions**

The student shall have all of the rights enumerated in Section b above ("Short-Term Suspensions"). In addition, the student shall be afforded the following protections:

- (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 which will be provided to the student or parent 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. Consequences: After said hearing, based on the available information (including mitigating circumstances), and subject above, the Principal may decide to suspend a student who has been determined to have committed a Section 37H  $\frac{3}{4}$  offense.

d. Notification of Principal's Decision:

- Determinations of Short-Term Suspension

(1) 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. The determination shall be in writing and may be in the form of an update to the original written notice.

(2) If the student is in a preschool program or in grades K through 3, the Principal shall, before the short-term suspension takes effect, send a copy of the written determination to the Superintendent and explain the reasons for imposing an out-of-school suspension.

- Determinations of Long-Term Suspension or Expulsion

(1) The Principal shall send a 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 other method of delivery agreed to by the Principal and the parent. If the Principal decides to suspend the student, the written determination shall:

- (a) Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
- (b) Set out the key facts and conclusions reached by the Principal;

(c) Identify the length and effective date of the suspension, as well as a date of return to school;

(d) Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school. 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. The notice shall be made in both English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate

(e) Inform the student of the right to appeal the Principal's decision to the Superintendent. 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:

- the process for appealing the decision, including that the student or parent must file a written notice of appeal with the Superintendent within five calendar days of the effective date of suspension; and that
- the suspension will remain in effect unless and until the Superintendent decides to reverse the Principal's determination on appeal.

(2) If the student is in a public preschool program or in grades K through 3, the Principal shall, before the suspension takes effect, send a copy of the written determination to the Superintendent and explain the reasons for imposing an out-of-school suspension.

- e. Appeal to Superintendent (Long-term Suspension Only): Any student who has been placed on long-term suspension or expelled from the PSB pursuant to these provisions shall have the right to appeal to the Superintendent; however, the student's suspension or expulsion shall remain in effect pending the appeal.
- Time to File Appeal.* The student or parent shall file a notice of appeal with the Superintendent within five calendar days of the effective date of the long-term suspension; provided that within the five 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 additional calendar 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.
  - Time for Superintendent's Appeal Hearing.* The Superintendent shall hold the hearing within three school days of the student's request, unless the student or parent requests an extension of up to seven additional calendar days, in which case the Superintendent shall grant the extension.
  - Superintendent's Written Notice of Appeal Hearing and Good Faith Effort to Accommodate parent's Schedule.* 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.

- iv. *Appeal Hearing/Audio Recording.* 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.
- v. *Student Rights.* The student shall have all the rights afforded the student at the Principal's hearing for long-term suspensions under section b, above. The student must request an appeal in writing no later than 5 calendar days following the effective date of the suspension/expulsion.
  - The Superintendent must hold a hearing with the student and parent within 3 calendar days of the student's request.
  - The procedures applicable to Principal's hearings for contemplated expulsions or long-term suspensions are applicable to the Superintendent's appeal hearing.
  - The student has the right to counsel at his/her own expense at the appeal hearing.
  - The student has the right to present oral and written testimony at the appeal hearing.

The Superintendent shall issue a written decision within five (5) calendar days of the hearing that is as described with respect to Principals' written determinations regarding long-term suspensions and expulsions above. If translation of the decision into the primary language spoken in the student's home is required, such translation shall be provided as soon as reasonably possible, but shall not be subject to the 5 calendar day deadline. The Superintendent may overturn or alter the decision 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 Superintendent;
  - including recommending an alternate education program;
  - Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school (*see* section f below)
- vi. *Consequences.* 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.

f. Finality: The decision of the Superintendent shall be the final decision of the school district.

#### **VII. Emergency Removal (All Offenses)**

- A Principal may remove a student from school temporarily when a student is charged with a disciplinary offense and, in the Principal's judgment, the continued presence of the student in school would have a substantial detrimental effect on the general welfare of the school (in 37H and 37H ½ offenses) or 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 reasonable alternative available to alleviate the danger or disruption (in 37H ¾ offenses). The Principal may take this step only after adequate provisions have been made for the student's safety and transportation.

- Principal shall immediately notify the Superintendent in writing of the removal including a description of the danger or disruption 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:
  1. Make immediate and reasonable efforts to provide the oral notifications described above that are applicable to the type of offense at issue (37H, 37H ½, or 37H ¾) and the type of consequence contemplated (i.e., in-school v. out-of-school suspension, short-term v. long term suspension).
  2. Provide the written notifications described above that are applicable to the type of offense at issue (37H, 37H ½, or 37H ¾) and the type of consequence contemplated (i.e., in-school v. out-of-school suspension, short-term v. long term suspension).
  3. Hold a Principal's hearing that complies with the procedures described above that are applicable to the type of offense at issue (37H, 37H ½, or 37H ¾) and the type of consequence contemplated (i.e., in-school v. out-of-school suspension, short-term v. long term suspension). The Principal, student and parent may agree to an extension of time for the hearing. Subject to Section H of this Policy, a student may be kept out of school through the agreed-upon rescheduled hearing date.
  4. The Principal shall render a decision orally on the same day as the hearing. No later than the following school day, the Principal shall render a written decision that complies with the requirements described above applicable to the type of offense at issue (37H, 37H ½, or 37H ¾) and the type of consequence contemplated (i.e., in-school v. out-of-school suspension, short-term v. long term suspension). If translation of the decision into the primary language spoken in the student's home is required, such translation shall be provided as soon as reasonably possible, but shall not be subject to the applicable deadline for written decision.

### **VIII. Limited Role of Law Enforcement**

At any point after receiving a report of a violation, including after an investigation, the principal shall immediately notify the local law enforcement agency if there is a reasonable basis to believe that criminal charges may be pursued or if the conduct is reasonably believed to put persons at risk of harm, including the actor. Such notification will be made after consultation with the superintendent. The principal shall document the reasons for the decision to notify law enforcement if such notification is made.

This District seeks to avoid the unnecessary criminalization of our students; as such, police involvement should be limited to situations when it is reasonably believed to be necessary to protect the physical safety of students, staff, or other persons in the community, or appropriate to address criminal behavior of persons other than students. Police involvement should not be requested in a situation that can be safely and appropriately handled by the District's internal disciplinary procedures.

### **IX. Academic Progress**

Any student who is suspended, expelled, or removed on an emergency basis shall have the opportunity to earn credits and 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 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.

Any student who is given a long-term suspension or expulsion shall have an opportunity, through the school-wide education service plan, to receive education services and make academic progress toward meeting state and local requirements.

For each student who is given a long-term suspension or expulsion, 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.

In addition to the provisions detailed above, students with disabilities are afforded all the protections relating to discipline to which they are entitled under applicable law, including but not limited to, Individuals with Disabilities in Education Act (IDEA), 20 U.S.C. § 1415(k), and implementing regulations, 34 CFR 300.530-537, the Rehabilitation Act, Section 504, and the Massachusetts special education law, Massachusetts General Laws Chapter 71B, and implementing regulations, 603 CMR 28.

## **X. Students with Disabilities**

Students with disabilities are provided with legal protections in addition to those given to their general education peers. These protections are to prevent interruptions of their educational placement and receipt of mandated services.

When a student with a disability displays inappropriate behavior which may be a violation of the code of conduct this may indicate a need for an immediate IEP team meeting with a discussion of behavioral supports which should be included in the child's IEP. This is especially true when the student displays inappropriate behavior on a regular basis or when the behavioral incidents may result in suspensions or other disciplinary measures that exclude the student from accessing curriculum.

If a student displays inappropriate behavior despite having an IEP that includes behavioral supports, this may indicate that the behavioral supports in the IEP are not being appropriately implemented, or that the behavioral supports in the IEP are not appropriate for the student.

In these situations, the IEP Team shall meet to determine whether the current IEP should be amended to ensure that the interventions and supports in the IEP can be implemented, or whether the behavioral interventions and supports that are currently in place should be revised.

If a student with a disability is attending a school outside the PSB system pursuant to an out-of-district placement, that student shall be subject to the out-of-district school's discipline policies during their attendance and not to the discipline policies of the PSB.

## **XI. Non-Discrimination/Civil Rights and Bullying**

School district staff responsible for implementing this policy shall do so without discrimination based on ethnicity, race, color, religion, national origin, ancestry, gender, sexual orientation, age, or disability.

Student misconduct may violate not only a school's code of conduct, but also (1) one or more federal civil rights statutes, including Title VI (discrimination on the basis of race, color, or national origin), Title IX (discrimination on the basis of sex), or Section 504 (discrimination on the basis of disability), and analogous Massachusetts statutes and/or (2) Massachusetts statutes which prohibit bullying and hazing.

Any misconduct alleging violations of Title VI/IX and disability statutes will be investigated in accordance with the *PSB Policy Against Discrimination, Sexual Harassment and Retaliation* (J40). Allegations of bullying behaviors, including cyber-bullying, will be investigated in accordance with the *PSB Bullying Prevention Policy* (J46). In all instances where violations are confirmed, discipline shall be administered in accordance with the standards and procedures set forth in this Policy.

## **XII. Staff Training**

Every school within the District shall make an appropriate annual allocation of professional development time to training in classroom management, conflict resolution, and non-punitive approaches to discipline in order to ensure that the disciplinary program in each school is effective and that relevant policies and procedures are equitably applied. In addition to behavioral supports for students with disabilities, it may also be necessary, and consistent with IDEA requirements, to provide training to school personnel which is appropriate to address the behavioral needs of students with disabilities.

## **XIII. Community Involvement**

Meaningful parent, student, and community involvement in the creation and application of school and district policy is essential for building effective schools with positive and inclusive learning environments. As such, parents, students, and community members should have input in the development of discipline rules for their school and classrooms, subject to the requirements and limitations of applicable law. Ultimately the development of such rules is the sole responsibility of the schools' administrations and the school district.

## **XIV. Distribution of Policy**

The District shall distribute a copy of this policy to all students and their parents in a language they can understand. It shall also be posted on the district website and be accessible in each school main office for parent/staff reference.

## **XV. Reporting and Review**

In order to ensure equitable implementation of this policy, the Office of Student Services shall keep records of all disciplinary actions, including relevant demographic data on students involved in any

action reported under this policy. This data shall be regularly reviewed by the superintendent to provide constructive feedback on the policy and PSB practice, and a summary shall be made available to the School Committee.