

discipline code that the school believes the student violated. The notice must be in the primary language of the student's guardian.

A Written Notice of the Hearing. The principal must notify the student in writing of the time, date, and place of the hearing. This notice also must be in the primary language of the student's guardian.

The Right to Bring a Representative. The student can have a lawyer or advocate present during the hearing. If the student or his family is trying to locate an attorney to work on the case, the student can ask for the hearing to be postponed until a later date.

The Right to Present Witnesses and Evidence. The student has the right to bring evidence and people to the hearing that can help prove the student's case or support his character.

Access. The student can look at the school's evidence and their own school record in advance of the hearing. The student should make a request for all the evidence the school intends to present and a list of all the witnesses that the school intends to call against the student.

The Right to an Impartial Decisionmaker. The student has a right to have his or her case judged by someone who is impartial. For example, if the principal is the decisionmaker and the student is charged with assaulting the principal, or if the principal is a witness against the student, the student should ask for another person to substitute for the principal and act as the decisionmaker at the hearing.

The Right to a Record of the Hearing. The student has a right to have the hearing tape recorded or recorded in some other way. Always ask for a copy of the tape.

A Written Decision. The student should get a copy of the principal's decision to suspend or expel the student, explaining why the decision was made. This written notice should be in a student's native language. The notice of sus-

or expulsion should indicate how long the student must stay out of school. The notice should also contain a statement of the student's right to appeal the decision.

Right to Appeal to the Superintendent. The student usually has the right to appeal the decision of the principal to the superintendent or to the school committee. The student has ten days to tell the superintendent that he or she wants to appeal. The superintendent will hold another hearing about the matter. The student has the same rights at the superintendent's hearing as he or she did at the principal's hearing. The superintendent may consider other suspensions and disciplinary incidents that the student may have had.

If a student is facing an expulsion hearing, or other formal hearing, we highly recommend that the student try to locate an attorney or advocate to be present at the hearing. Often the attorney can work with the school district to try to resolve the case without having to permanently expel the student from the Massachusetts public schools.

For more information call:

Children's Law Center
298 Union Street
Lynn, MA 01903
781-581-1977 (tel); 781-598-9364 (fax)
Phone Assistance Hours
Tuesday & Thursday 2-4 pm
Wednesday 9:30-11:30am
1-888-543-5298

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UNITED WAY
of Massachusetts Bay**



CHILDREN'S LAW CENTER
OF MASSACHUSETTS

SCHOOL SUSPENSION AND EXPULSION

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United Way
of Massachusetts Bay

What is a Suspension or Expulsion?

Suspension and Expulsion are disciplinary sanctions imposed for prohibited conduct committed by a student. Generally, an expulsion is when a student is permanently removed from a school system. For certain serious offenses, if a student is expelled, no other school system must enroll the student, even if the student's family moves to a new town.

Districts do not have to provide alternate education for an expelled student. Because expulsion is so serious, the school must follow strict guidelines when conducting a hearing in which expulsion may be considered as punishment.

If the student is suspended, either an in-school or out-of-school suspension may be imposed. A suspension may be for 3 days, 10 days, or for a longer period of time. If a principal imposes an "indefinite" suspension the student is entitled to be given all the same protections as if s/he were being expelled.

Students with disabilities (whether or not they have been identified as students with disabilities) must be treated differently. Special education students are entitled to greater protection from discipline. Because of these protections, it is very important to ask the district to evaluate a student who may be expelled to determine whether the student has any special needs. (This topic is beyond the scope of this brochure, please call CLC for more information).

Who can be Expelled or Suspended?

The law specifically allows principals to permanently expel students who are found 1) with a dangerous weapon; 2) with illegal drugs, or alcohol, or controlled medication (like Prozac or antidepressants), without a doctor's prescription; or 3) assaulting any school employee. Students can also be suspended or expelled if they are charged with or convicted of a felony.

Discipline under these laws allows for expulsion from all school districts in Massachusetts.

What is a dangerous weapon?

The principal decides what is a dangerous weapon. It can be a gun, a pocket knife, or a table knife, but may be something else. A student may be carrying something that s/he does not think is a weapon, like a nail file or scissors. If the principal thinks that the item can hurt someone the item may be considered a dangerous weapon.

Can a student be suspended or expelled for other offenses?

All school districts must write a school discipline code that lists offenses for which a student can be disciplined, and that lists the students' rights. Every discipline code must state that if a student commits the above offenses, he or she may be suspended or expelled.

Discipline codes also contain other offenses for which students can be suspended or expelled. Every student should check and keep a copy of the school discipline code so that they know what offenses can lead to discipline.

Students can also be suspended or expelled if they are charged with or convicted of a felony.

Can a student be suspended or expelled for activity committed off school grounds?

If the student has a weapon, drugs, or assaults school staff, off school grounds, but at a school function like a sports event, school dance, or field trip, the student can be disciplined as if he were on school grounds.

A student also can be suspended if s/he is charged with a felony and can be expelled if s/he is convicted of a felony. A felony is a serious crime like theft (stealing a car), assault and/or battery (threats to hit or hitting), breaking and entering, or rape. If the school finds out that a student has been charged with a felony, the principal can suspend the student until the case is resolved. *If the student pleads guilty to or is found guilty of a felony, the principal*

can permanently expel the student. This can happen whether or not the crime occurred at school. Before disciplining the student because of a felony, however, the principal must find that the student's presence in the school would pose a substantial detriment to the school.

Remember, if a student gets into trouble at school, the principal can also call the police and press charges.

What happens at the hearing?

The hearing may be informal or formal. An informal hearing typically is held just after the offense occurs. For example, if a fight breaks out and a student gets in trouble for hitting a teacher, the principal can hold a hearing right then to decide what happens to the student. At an informal hearing, the only discipline that can be imposed is a short suspension.

A formal hearing must be held before a child can be expelled. If the hearing is for conduct for which the principal can impose a long-term suspension, a formal hearing should also be held. Before the hearing the student and his/her parent or guardian should be notified of the time, date, location, and reasons for the hearing. They should also be notified of all the rights they have at the hearing.

In some cases, the principal may believe that the student is a threat to school property, school employees, or other students. In this case, the student may be temporarily suspended before the formal hearing.

What Rights Do Students Have?

Students have special legal rights when it comes to hearings and expulsions, such as:

A Written Notice of Charges. The principal must give the student a written explanation of why the student is in trouble. This includes a notice of the exact provision of law or school