



# Boston Public Schools Code of Conduct

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*Approved 1982*

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*Revised 1993, 1994, 1995, 2006, 2010, 2013, 2014  
to bring the Code into compliance with*

- ☐ M.G.L. Chapter 71, Acts of 1993
- ☐ M.G.L. Chapter 380, Acts of 1993
- ☐ M.G.L. Chapter 92, Acts of 2010
- ☐ M.G.L. Chapter 222, Acts of 2012
- ☐ P.L. 103-382 (Gun-Free Schools Act of 1994)
- ☐ Individuals with Disabilities Education Act (IDEA)

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2014, and 2016 to include revisions required by federal and  
state laws and regulations, to align the Code with Boston  
Public Schools organizational structure, and to include  
policy changes approved by the School Committee of the  
City of Boston.*

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## FOREWORD

IT IS THE FIRM CONVICTION OF THE BOSTON PUBLIC SCHOOLS (hereafter District/BPS) that good school discipline promotes equal educational opportunity and a safe and supportive educational environment. The Boston Public Schools strives to develop and to implement programs and approaches to learning and discipline that will:

- ensure parental/guardian/caretaker confidence in the ability of every school to provide a safe and supportive climate;
- help administrators, teachers, and other staff provide safe and supportive teaching and learning environments; and
- assure students that they can learn in a safe, healthy, and supportive atmosphere and can be treated in a fair, consistent, and nondiscriminatory manner.

Every school should provide a learning environment that encourages academic excellence, free exchange of ideas, and maximum personal growth. It should be understood that on entering a school building, students do not divest themselves of their constitutional rights, e.g., the rights to due process, freedom of expression, orderly assembly, privacy of person, freedom from discrimination, and so forth. It also should be understood that students have the responsibility not to disrupt the educational process or impose upon, endanger, or deprive others of their rights to an education.

It is the policy of the Boston Public Schools to attempt to resolve disciplinary problems by every means short of exclusion from school. To achieve this, the Boston Public Schools shall create safe, healthy and supportive learning environments. Fair and reasonable procedures will also be followed to assure students, Parents, Guardians, and Caregivers of their rights. When it is determined that a disciplinary hearing is necessary, the student will receive a fair hearing accordance to established rules, regulations, and procedures.

The School Committee and the administration expect all persons connected with the schools to demonstrate mutual respect for the rights of others; and they expect all involved in teaching and learning to fully accept and discharge their responsibilities toward others and toward the school system. These rights and responsibilities derive from federal and state laws and regulations, local ordinances, School Committee policy, the goals of the Acceleration Agenda, Academic Achievement Framework, and the Behavioral Health and Public Schools Framework (Framework) established by the Massachusetts Behavioral Health and Public Schools Task Force 2011 Final Report. The Boston School Committee and Superintendent intend that the procedures outlined in the Code of Conduct will always be in compliance with and facilitate the implementation of those laws, ordinances, regulations, and policies, as to both their letter and spirit.

**The Code of Conduct is in compliance with mandates of St. 93, C. 71, also known as the Educational Reform Act of 1993, as amended by St. 1993, C. 380, and as amended by St. 2012 C. 222; P.L. 103-382, §14601 (Improving America's Schools Act of 1994); 18 USC, §921 et seq. (United States Code); and the federal Individuals with Disabilities Education Act, Amendments of 2004 (IDEA04).**

## PHILOSOPHY

### **Boston Public Schools mission statement**

*As the birthplace of public education in this nation, the Boston Public Schools is committed to transforming the lives of all children through exemplary teaching in a world-class system of innovative, welcoming schools. We partner with the community, families and students to develop within every learner the knowledge, skill, and character to excel in college, career, and life.*

THE BOSTON PUBLIC SCHOOLS recognize that the primary intent of society in establishing public schools is to provide an opportunity for learning and growth that cannot be provided in the home. The Boston Public Schools further recognizes that students have the full rights deriving from the above-listed sources of legal authority, and that these rights may not be abridged, obstructed, or altered except in accordance with due process. The Boston Public Schools further recognizes the importance of maintaining safe, healthy, and supportive school environments. Furthermore, BPS will continue to provide preventive and positive approaches to discipline and to respond with interventions and consequences aimed at addressing the causes of misbehavior, resolving conflicts, meeting students' needs and keeping students in school.

This document details the responsibilities and rights of students, teachers, administrators, and parents/guardians/caregivers. Promoting quality education and safe and supportive schools depend not only upon the responsibilities and rights of students, but also upon the quality of interaction among students, parents/guardians/caregivers, teachers, and administrators.

Parents, Students, Guardians and Caregivers have the right to be active and effective participants in the learning process, to express their views, and to give input into decisions that affect their lives and education.

Parents, guardians and caregivers are vital to the success of the school. They have the responsibility to reinforce the learning process at home, to encourage and model civil behavior, to motivate their children to be interested in school, and to see that their children attend school regularly. They should expect the highest level of achievement of which their children are capable, and teacher performance which can elicit this level of achievement. They are welcomed and encouraged to confer with teachers to find out how their children are progressing. The more they are involved the higher the quality of their child's education can become.

Teachers and all other school personnel shall treat all students with respect. Teachers need to explain and apply to students in a consistent manner a clear set of ground rules for acceptable behavior, class participation, grades, and assignments. Teachers shall communicate with the home about school activities, positive accomplishments and problems, and the ways in which parents, guardians and caregivers can help their children succeed in school.

Principals and headmasters have the responsibility for assuring that the educational needs of all students in school are met and that all members of the school community experience fair and equitable treatment. Principals and headmasters shall communicate to students, parents/guardians/caregivers, and staff the belief that school is a place for learning and teaching, and it is the business of all to see that this happens on a consistent basis every day. They shall clearly communicate and shall fairly and consistently enforce preventive and positive disciplinary policies.

## GUIDING PRINCIPLES

THE FOLLOWING GUIDING PRINCIPLES lay the foundation for creating safe, healthy, and supportive learning environments that include the adoption of preventive and positive approaches to discipline that support

students in building social and behavioral skills, resolving conflicts in a non-violent manner, and creating productive learning environments. These principles are essential beliefs that will guide Boston Public Schools staff, students and families in the shared work of ensuring positive school environments and improved student outcomes. These principles must be discussed, understood and embraced across the city to ensure maximized learning and growth opportunities for all children:

1. Recognition and respect for the diverse population in the schools and community are paramount. All children must be assured that they can learn in a non-disruptive atmosphere and can be treated in a fair, consistent and nondiscriminatory manner.
2. Creating safe, healthy, and supportive school environments with collaborative services is a necessary foundation for improving educational outcomes for all students, especially those with behavioral health challenges.
3. Improving educational outcomes for students with behavioral health challenges requires that schools become environments that provide support at three levels of care and instruction:
  - a. Promotion. Schools foster the emotional well-being of *all* students through school-wide approaches to support positive behavioral health;
  - b. Prevention. Schools provide support to intervene early to minimize escalation of identified behavioral health symptoms through targeted collaborative supports; and
  - c. Intervention. Schools provide and participate in coordinated care for the small number of students demonstrating considerable need.

These three levels should not be treated as silos; activities to address each level must take place throughout the whole school, in classrooms, in small groups, and with individual students and families.

4. Schools can tailor local solutions to address the needs of their communities at these three levels through organization by the following six-part Framework:
  - a. Leadership by school and district administrators to create supportive school environments and promote collaborative services that reliably address each of the three levels;
  - b. Professional development for school administrators, educators, and behavioral health providers through cross-disciplinary trainings and separately;
  - c. Access to resources and services by identifying, coordinating, and creating school and community behavioral health services to improve the school-wide environment. The Framework recognizes the need for resources that are clinically, linguistically, and culturally appropriate for students and families;
  - d. Academic and non-academic approaches that enable children to learn, including those with behavioral health needs, and that promote success in school;
  - e. School policies, procedures, and protocols that provide a foundation for schools to implement and support this work; and
  - f. Collaboration with students and families where students, parents/guardians, and families are included in all aspects of their children's education.

### **RATIONALE FOR THE CODE OF CONDUCT**

THE CODE OF CONDUCT is based upon the laws, rules, regulations, and policies that seek to allow access to education for all while protecting the due process rights of the individual. Discipline, as defined by the Code, must have the qualities of understanding, fairness, flexibility and consistency. It is the responsibility of the school personnel, students, parents/guardians, and the community to contribute to a school atmosphere which promotes a safe, healthy, and supportive whole-school environment that is conducive to learning. Preventive and positive discipline is a shared responsibility for students, administrators, teachers, parents/guardians, and the community.

The Code of Conduct is intended to be instructive, not punitive, and is based on the principle of preventive and positive discipline (i.e. interventions, skill building and consequences) will be aimed at addressing the causes of misbehavior, resolving conflicts, meeting students' needs, and keeping students in school. In addition, the Code is intended to create clear expectations and graduated levels of support and intervention for all students with consequences for misbehavior that are individualized, consistent, reasonable, fair, age appropriate and that match the severity of the student's misbehavior. Minor infractions and first offenses shall be treated in a manner consistent with progressive discipline. Factors such as age and grade level of the student, the student's social, emotional and intellectual development, and overall student rights and responsibilities shall also be considered at all times.

The Code shall be aimed at creating a safe and supportive whole school environment, supporting the social and emotional development of all students, and teaching alternatives to violence and respect for all members of the school community. By viewing social development as a critical aspect of a school's responsibility, schools shall anticipate and respond to school disciplinary matters in a manner that is consistent with students' sense of dignity and self-worth. The purpose of discipline must be to understand and address the causes of behavior to resolve conflicts, while teaching new skills and repairing the harm done, restore relationships and reintegrate students into the school community. In addition, particular attention and intervention support shall be provided to vulnerable families and youth at risk of being excluded from school.

## **RIGHTS AND RESPONSIBILITIES OF STUDENTS**

### **A. RIGHTS OF STUDENTS**

It is not possible to list exhaustively all of the rights of students. Therefore, the following list of rights shall not be construed to deny or limit others retained by students in their own schools, in their capacity as members of the student body, or as citizens.

1. In accordance with the United States Constitution and applicable federal and state laws and regulations, no student shall be excluded from or discriminated against in admission to any Boston public school, or in obtaining the advantages, privileges and courses of study of such public school (including the right to participate fully in classroom instruction and extracurricular activities) on account of race, color, ethnicity, national origin, religion, sex, sexual orientation, gender identity, handicap, disability, age, active military status or genetics
2. Students have the right to an education of the highest standards.
3. Students have the right to a meaningful curriculum consistent with the Academic Achievement Framework and the right to voice their opinions in the development of such a curriculum.
4. Students have the right to physical safety and protection of personal property.
5. Students have the right to safe and sanitary facilities.
6. Students have the right to consult with teachers, counselors, and administrators and anyone else connected with the school if they so desire at appropriate times.
7. Students have the right to free election by secret ballot of their peers in student government and the right to seek and hold office.
8. Students have the right to have their voices heard in matters affecting them.
9. Students have the right to participate in the development of rules and regulations to which they are subject and the right to be notified of such rules and regulations.
10. Parents/guardians and students (if either 14 years of age or in the 9th grade or above) have various rights under state and federal student records laws, including the right to see all the student's records, to control

who outside the school may see them, and to appeal decisions concerning the records. Upon notice of transfer, the complete student record may be forwarded to the receiving district without the Parent, Guardian or Authorized Caregiver's permission. However, the Parent, Guardian or Authorized Caregiver must be notified that the record has been sent. (A more detailed summary of these rights is distributed annually to all students and parents/guardians. Additional information and copies of the actual regulations are available at each school upon request and from the Massachusetts Department of Education).

11. Students in their own schools may exercise the rights of free speech, assembly, press, and association, in accordance with the First Amendment of the United States Constitution and Part 1, Article XVI of the Massachusetts Declaration of Rights.

In exercising these rights, students shall refrain from any expression which is libelous or obscene according to current legal definitions, or which is intended to and likely to incite the commission of illegal acts, or which can reasonably be forecast to cause substantial disruption of school or classroom activity, as defined in Section 7.10 of this Code.

Consistent with the foregoing, and subject to applicable law, students have the right to:

1. Wear political buttons, armbands, and other badges of symbolic expression.
2. Distribute printed materials and to circulate petitions on school property, including inside school buildings, without prior authorization by school administrators, except that:
  - a. materials distributed and petitions circulated on school property shall bear the name and address of the individual or sponsoring organization (including the name and address of at least one member of the group) distributing or circulating the material or petition; and
  - b. the person(s) distributing or circulating materials or petitions must be a student in the school involved; and
  - c. the time for such distribution or circulation shall be limited to periods before school begins, after dismissal, and during lunchtime to prevent interference with the school program; and
  - d. the places for such distribution or circulation in each school shall be reasonably restricted so as to permit the normal flow of traffic within the school and at exterior doors; and
  - e. the manner of such distribution or circulation shall be reasonably restricted so as to prevent undue levels of noise and disruption; and
  - f. students shall be subject to reasonable requirements for removing litter resulting from such distribution or circulation.
3. Use their own bulletin board(s) without censorship, provided:
  - a. all materials, notices, and other communications posted shall include the name and address of the individual or sponsoring organization (including the name and address of at least one member of the group) posting the material, notice, or other communication; and
  - b. all materials, notices, and other communications shall be dated before posting and removed after a reasonable time to assure full access to the bulletin board(s).
4. Reasonable use of the public address systems and other school media facilities, except that announcements shall be limited to before school, after dismissal, and other times when classes are not in session.
5. Form political and social organizations and to conduct activities in this connection, provided that group membership shall be open to any student, in accordance with Paragraph B.1 of the Rights and Responsibilities Section of this Code.
6. The protections provided by state and federal special education laws if the school had knowledge (as defined by federal and state law) that the students were students with a disability before the behavior that precipitated the proposed disciplinary actions occurred (applies to students who have not been determined

to be eligible for special education and related services, and who have engaged in behavior that violated any rule or code of conduct).

7. Present petitions, complaints, or grievances to appropriate school authorities regarding disciplinary and other school-related issues except where this Code provides for formal right of appeal.
8. Respect from teachers and administrators.
9. Personal privacy, including the right to determine their own appearance and select their own style of hair and clothing, subject to reasonable rules necessary for health and safety.
10. Use the restrooms, locker rooms, and other facilities consistent with their gender identity, or to use gender neutral facilities if the student prefers.
11. Be addressed by the name and pronoun of their choice.
12. Not be searched or to have their lockers, automobiles, or personal belongings subjected to searches and seizures. However, with reasonable cause, designated school administrators may search lockers, automobiles, and personal belongings. [See Superintendent Circular SAF3 – Student Locker Policy.]

## **B. RESPONSIBILITIES OF STUDENTS**

Responsibilities are not a substitute for rules which are included in the Code of Conduct. However, while it is not possible to list all student responsibilities, students who consistently behave in accordance with the following list of broad responsibilities will be in compliance with the rules of the Code.

Students have the responsibility to:

- ☐ Respect the rights of all persons involved in the educational process.
- ☐ Respect the authority of school staff.
- ☐ Respect the diversity of staff and students in the Boston Public Schools with regard to race, color, ethnicity, national origin, religion, sex, marriage, pregnancy, parenthood, sexual orientation, gender identity, primary language, disability, special needs, age, and economic class.
- ☐ Contribute to the maintenance of a safe and supportive educational environment.
- ☐ Apply their abilities and interests to the improvement of their education.
- ☐ Exercise the highest degree of self-discipline, to the best of their ability, in observing and adhering to rules and regulations.
- ☐ Recognize that responsibility is inherent in the exercise of every right.
- ☐ Assure that they exercise their voice in student government.

## **RESPONSIBILITIES OF ADMINISTRATION**

Administrators have the responsibility to:

1. Create supportive school environments and promote collaborative services to improve educational outcomes for all students, including students with behavioral health needs.
2. Protect the mental health and physical well-being of all students and staff.
3. Protect the legal rights of teachers, students, and parents/guardians.
4. Support school personnel in the fulfillment of their disciplinary responsibilities as defined by the Code of Conduct and individual school-based rules, by the provision of training on the Code to administrators, teachers and other school staff.
5. Provide a broad-based and varied curriculum that is consistent with the Massachusetts Curricular requirements and that meets individual needs.
6. Develop and implement preventive and positive disciplinary policies in cooperation with students, parents/guardians, and teachers and in conformance with School Committee policy and the Code of Conduct.



7. Contact and involve parents/guardians in dealing with disciplinary matters.
8. Inform the community, students, parents/guardians, and school staff about policies relating to student conduct in schools, at school-sponsored activities, and on school-provided transportation.
9. Collect the appropriate information on student discipline and interventions, provide the proper Information Management custodianship so the information can be made available to parents/guardians upon request or as otherwise required by law.
10. Provide qualified staff to meet the needs of students and to accomplish school goals and objectives.
11. Collaborate with community and government agencies on programs that promote safe, healthy and supportive learning environments.
12. Consistently maintain a fair, equitable and individualized approach with all students.
13. Incorporate the spirit of the Philosophy and Guiding Principles into decision making and lead by good example.
14. The Building Administrator or designee shall periodically review discipline data by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, and status as a student with a disability. In reviewing the data, the principal shall assess the extent of in-school suspensions, short- and long-term suspensions, expulsions, and emergency suspensions, 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 overreliance on expulsion, in-school or out-of-school suspension, or emergency suspensions, or the impact of such suspensions and expulsions on selected student populations compared with other students. The Principal/Headmaster shall report the data and the data review results to the school site council or governing board.

### **RESPONSIBILITIES OF TEACHERS**

Teachers have the responsibility to: Maintain a safe and supportive learning atmosphere

1. Exhibit qualities of competency, creativity, and self-control.
2. Respect each student as a person.
3. Demonstrate understanding and concern for the individual pupil and his or her needs, including referring pupils for special education evaluations in conformance with the requirements of state and federal special education law.
4. Inspire in students the desire for personal growth.
5. Guide students toward the development of self-discipline.
6. Keep informed about current rules and policies.
7. Enforce the policies, rules, and regulations of the School Committee and Code of Conduct, including preventive and positive disciplinary policies in cooperation with students, parents/guardians, and administrators.
8. Record data on student discipline as required by the administration.
9. Communicate with students and their parents or guardians.
10. Be conscious of professional ethics in relationships with students, fellow teachers, and administrators.

### **RIGHTS AND RESPONSIBILITIES OF PARENTS AND GUARDIANS**

#### **A. RIGHTS OF PARENTS AND GUARDIANS**

Parents, guardians, and families have the right to be included in all aspects of their child's education. This includes the following:

1. The right to a free public school education for their child in a safe and supportive learning environment.
2. The right to access information about their child's educational records, disciplinary data – as authorized by law – and any available information on educational programs and opportunities
3. The right to be given every available opportunity for meaningful participation in their child's education.
4. The right to file complaints and/or appeals regarding matters affecting their child's education.
5. Participation in decision-making processes affecting school policies and procedures.
6. Monitoring and evaluation of school policies and practices, including but not limited to the right to visit schools and classrooms.
7. Access to student disciplinary data as authorized by law

## **B. RESPONSIBILITIES OF PARENTS AND GUARDIANS**

Parents and guardians have the responsibility to:

1. Share the responsibility for the behavior of their child in school, at school-sponsored activities, and on the way to and from school.
2. Prepare the child to assume responsibility for attending school, and for his or her own behavior.
3. Foster in the child positive attitudes toward himself or herself, others, school, and the community.
4. Communicate with school personnel about the child.
5. Attend individual or group conferences.
6. Recognize that the school staff has the right to enforce the policies, rules, and regulations of the Boston School Committee.
7. Behave in a civil and non-disruptive manner when visiting the school.
8. Assure that their child brings to school only those things that are appropriate in a school setting.

## **RESPONSIBILITIES OF THE COMMUNITY AND SCHOOL SUPPORT AGENCIES**

The community has the responsibility to:

1. Help shape school goals.
2. Be informed about school goals and policies.
3. Support an effective, safe and supportive school system.

Agencies charged by the Boston Public Schools with providing support to students and their families have the responsibility to, with informed parental/guardian consent:

1. Address the needs of their clients that interfere with the learning process.
2. Collaborate with schools to deliver effective, safe and supportive support services.

## The Code of Conduct

### Section 1                    **EQUAL EDUCATIONAL OPPORTUNITY**

In accordance with the United States Constitution and applicable federal and state laws and regulations, no student shall be suspended, excluded, or otherwise disciplined on account of race, color, national origin, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, genetics, or active military status.

### Section 2                    **Eliminating Gaps and Inequities**

2.1 For students identified as eligible for special education services, additional supports may be provided through their Individualized Education Program (IEP) and such students retain all rights afforded to them under state and federal special education laws at all times.

2.2 To provide a culturally and linguistically responsive education with the supports needed to ensure equitable access to opportunities that promote language acquisition, bilingualism, biliteracy and lifelong learning, all written and oral notices required by this Code shall be in English **and** in the primary language spoken in the home. All notices shall be made in simple and commonly understood words to the extent possible. Other means of communication will be used as appropriate. Students shall not interpret for parents, guardians, caretakers, or BPS staff.

2.2.1 Students and parents have a right to an interpreter in their primary language at all hearings and conferences, all notices regarding hearings or conferences required by this Code shall inform students and parents of this right in the primary language spoken in the home.

### Section 3                    **SAFE AND SUPPORTIVE WHOLE-SCHOOL ENVIRONMENTS**

#### *3.1 Rationale and Framework*

The whole-school community includes students, teachers, administrators, counselors, social workers and other school staff, families and the surrounding neighborhood/community. In order to create safe, healthy and supportive environments, schools must provide support at three levels of care and instruction. As discussed in the guiding principles above, these three levels are:

Promotion. Schools foster the emotional well-being of *all* students through school-wide approaches to support positive behavioral health.

Prevention. Schools provide support to intervene early to minimize escalation of identified behavioral health symptoms through targeted collaborative supports; and

Intervention. Schools provide and participate in coordinated care for the small number of students demonstrating considerable need.

These three levels should not be treated as silos; activities to address each level must take place throughout the whole school, in classrooms, in small groups, and with individual students and families. Services may be school based or community based, and offered in the classroom or outside of the classroom.

3.1.1 BPS and individual schools shall tailor local solutions, which shall include non-exclusionary, preventive and positive approaches to school discipline, to address the needs of their communities at these three levels through organization by the following six-part framework:

Leadership by school and district administrators to create supportive school environments and promote collaborative services that reliably address each of the above three levels;

Professional development for school administrators, educators, and behavioral health providers through cross-disciplinary trainings and separately;

Access to resources and services by identifying, coordinating, and creating school and community behavioral health services to improve the school-wide environment. The framework recognizes the need for resources that are clinically, linguistically, and culturally appropriate for students and families;

Academic and non-academic approaches that enable children to learn, including those with behavioral health needs, and that promote success in school;

School policies, procedures, and protocols that provide a foundation for schools to implement and support this work; and

Collaboration with students and families where students, parents, and families are included in all aspects of their children's education. (See the Behavioral Health and Public Schools Framework established by the Massachusetts Behavioral Health and Public Schools Task Force 2012 Final Report, Appendix A).

### 3.2 ***Approaches to Promote Safe and Supportive Schools***

There are a variety of approaches to promote safe and supportive schools. Tiered interventions are provided by departments across BPS, and BPS follows the Academic Achievement Framework model of tiered services. Additionally, schools may choose to adopt proven school-wide positive and preventive approaches, such as Massachusetts Tiered System of Support (MTSS) and Restorative Practices. Information on each of these approaches is provided below, and more information on each can be found in the appendix. Any supports that are adopted should build upon students' strengths, promote success in school, maximize time spent in the classroom and minimize suspensions, expulsions, and other removals for students with behavioral health challenges.

#### 3.2.1. Tiered Interventions Provided by BPS:

There is currently an array of tiered interventions provided by various departments within BPS. This includes interventions to support 11 areas, each of which is listed below with several examples of the interventions available. A full list of tiered interventions is available in Appendix A.

Professional Development: Anti-bullying training, cyber safety training

School Visits/Technical Assistance: Bus safety, crisis intervention, individual therapy services

Curriculum: Conflict resolution grades K-12, drug awareness, violence prevention/mediation

Promotions/Communications: Healthy Connections website, CRA fact sheet

Data/Student Information System: Youth Risk Behavior Survey, Hotline database

Screenings/Assessments: Student Fitness Assessment, Suicide Risk and Assessment

Policy: BPS Bullying Prevention Policy, District Wellness Policy, Tobacco-Free Environment Policy

Prevention Programs: Trauma Sensitive Schools, Connecting Families, Operation Homefront

Family Engagement: Safe Schools and Bullying Prevention Hotline, parent intake meeting, family counseling

Extended Learning Time: Wellness-related partnerships (e.g., BOKS), Saturdays for Success

Student Engagement: Bullying prevention mentors, Action for Boston Community Development (ABCD)

PBIS: Positive Behavioral Intervention Services

### 3.22 Restorative Justice (RJ)

Restorative Justice is a philosophy and an approach to addressing misbehavior, conflict, and offenses while keeping students in school and making them accountable for their actions. RJ asks three questions: what was the harm caused to both the individual and the community; who is responsible for causing the harm and making things right; and how can the harm be repaired and relationships restored to the greatest extent possible. RJ often involves dialogue between two or more parties or group conferencing – meeting including the victim, the offender, and the affected community. The main goals are to: provide a safe space so that the victim and community have a say in how to fix the problem and help determine appropriate consequences; put a “face” on the problem so that the offender can understand the impact of their actions; and provide an opportunity for those responsible for the problem to fix it. This restores relationships and reduces the chances of future misbehavior.

For more information, see Appendix B or consult [www.safersanerschools.org](http://www.safersanerschools.org); [www.restorativejustice.org](http://www.restorativejustice.org); or [www.iirp.org](http://www.iirp.org).

### 3.23 Massachusetts Tiered System of Support (MTSS)

The MTSS provides a system level change across the classroom, school, and district to meet the academic and non-academic needs of all students, including students with disabilities. Three flexible tiers represent an increasing intensity of academic and non-academic support and interventions: 1) supportive school environments, 2) early interventions, and 3) intensive services.

The core components of the MTSS are high-quality core curriculum and instruction; research-based academic interventions and assessments; research-based behavioral interventions and supports; universal screening and progress-monitoring; and collaboration and communication between educators and parents.

For more information, see Appendix C.

**Section 4****OTHER STUDENT-CENTERED INTERVENTIONS AND APPROACHES****4.1** *Student-Centered Conferences*

Academic employees shall attempt to resolve disciplinary problems prior to referral to the Building Administrator or Designee. To this end, academic employees, upon witnessing or being informed of the commission of an offense prohibited under this Code, are encouraged to confer privately with the student at the earliest opportunity, and to confer with a parent by telephone or by letter. An academic employee or a student may invite a parent to a conference with the student and the employee at a mutually convenient time and place.

**4.1.1** Referral by Nonacademic Employees

Nonacademic employees or people servicing our schools who are non-employees, upon witnessing the commission of an offense prohibited under this Code, are encouraged to refer the matter to an academic employee supervising the student or, if none is available or known, to the Building Administrator who may designate an appropriate academic employee to initiate the procedure described in Section 5.2.

**4.1.2** Referral from Academic Employee Conference

When resolution at the academic employee conference is not successful, the academic employee shall inform the Building Administrator or Designee that the student is being referred for attempted resolution of problems or misbehavior. A written statement of the events leading to the referral, the offense the student is believed to have committed, the student response to the allegation of a violation, efforts of the teacher to resolve the problem, and the outcome of such efforts, shall be placed in the student's temporary record.

**4.1.3** Building Administrator Informal Conference

The Building Administrator or Designee shall attempt to arrange a time and place for an informal conference convenient to all participants. The Building Administrator or Designee may invite the parent to attend the informal conference, but failure of the parent to attend shall not delay the conference nor affect the duration or type of disciplinary action taken. If more than one student participated in the incident for which a referral is made, the Building Administrator or Designee may require, or the student may request, the attendance of all students involved.

**4.1.4** Elementary School Procedures

It is recognized that elementary schools do not have many of the organizational or programmatic structures that can provide preventive measures or alternative solutions at the secondary level. It is particularly important, therefore, that committees developing School-Based Rules at the elementary level under Section 5 build in support mechanisms within the school and between school staff and parents. Elementary school Building Administrator or Designees should work together with staff and parents to develop such resources.

#### 4.1.5 Contracting

School staff may design agreements with students to identify target behaviors, define expectations, and describe consequences. Such contracts may be written to manage student behavior while in school, going to and from school, on school-provided transportation, and at school-sponsored activities, during and beyond the regular school day. These contracts may involve other staff, parents, administrators, and other students, when appropriate. It is suggested that these agreements be written and reviewed at specific times. Students and, for students under age 18, their parents shall be informed that agreement to a contract is voluntary.

#### 4.2 Detention

One remedy for student misbehavior may be detention. Schools should use detention as an opportunity to provide educational support to students. A phone call, email and/or written notice to the student and his or her Parent, Guardian or Authorized Caregiver, in the language of the home of the student must be provided to inform of this decision within a reasonable amount of time. A student may be detained for not more than one hour after school on each of up to three (3) school days or may be required to arrive early for a definite number of days, provided the total detention time does not exceed three (3) hours per offense. If a Parent, Guardian or Authorized Caregiver cannot be reached by telephone, the student may be detained the following school day by sending written notice home with the student in the language of the home of the student. Provision must be made for students who receive "yellow bus" transportation. Notice is to be provided within a reasonable time prior to the detention. Failure to appear for a detention may trigger further disciplinary action. Students should be allowed to complete homework assignments during their detention.

##### 4.2.1 Loss of School Privileges: Field Trips, After-School Activities, etc.

If a field trip or school activity is required for teaching and learning taking place in the classroom or will result in a graded assignment, students shall not be deprived of the opportunity to participate. In other cases, one remedy for student misbehavior may be the temporary loss of school privileges, including field trips and after school activities. This remedy may be imposed after written notice to the student and Parent, Guardian or Authorized Caregiver in the language of the home of the student, but shall not permanently deny the student the right to participate in a continuing school activity. A student may be denied school privileges for no longer than one week at a time, or a total of three (3) weeks in a marking period, unless a hearing is held as defined in Section 9.5.

For schools that have adopted a mandatory uniform policy, students whose parents have requested a waiver of the policy will not be subjected to loss of any school privileges for failure to wear a uniform. In cases where a waiver has not been requested, the child may be subject to loss of privileges after notice has been given to the parent and a second offer made to the parent to request a waiver from the uniform policy. No student shall be suspended in-school or out-of-school for a uniform or dress code violation. Also, any student who does not have the uniform or clothing required for certain classes, including but not limited to, vocational and science classes, may not be suspended in-school or out-of-school.

#### 4.2.2 Long-term Adjustment of Class Schedule

After notice to the student and parent giving the reasons for the proposed class adjustment, and after a mediation session, if appropriate, with parent presence, a student's class schedule may be adjusted, but only to minimize contact between the student and a teacher or between the student and another student where there is evidence of an ongoing conflict between them.

Short-term schedule adjustments up to three (3) days may be made without notice to the parent.

#### 4.2.3 Probation

With written notice to, or after a conference with, the student and parent that the commission of an additional offense will lead to a particular disciplinary measure, a student may be placed on probation until the end of the marking period. Any disciplinary measure carried out in connection with probation shall be done in strict adherence to the Code.

#### 4.2.4 Restitution

After written notice to the student and parent, or after a conference with the student and parent, a student may be required to repair, restore, replace, or pay for damaged, vandalized, lost or stolen school property. Payment may be required either in cash or in appropriate, agreed-upon services, depending on the means of the student and family.

### 4.3 Denial of School-Provided Transportation

- 4.3.1 School-provided transportation, including free MBTA bus passes, may be denied for severe or repeated offenses, as described in sections 7.2 through 7.10 and section 14.1, when these occur on school property or public transportation. Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days).
- 4.3.2 Transportation may be denied whenever a student's actions endanger or will continue to endanger him/herself or others. The student would be denied access to the bus route upon which the incident occurred (the am or pm bus). *Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days).*
- 4.3.3. Denial of transportation for specific periods of time shall be consistent with the principle of progressive discipline and with the nature of the violation. Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days).



**EXHIBIT 1: Denial of Transportation Procedures****Reporting of Incidents**

- ☐ In case of an incident due to student behavior, bus driver will contact the Bus Contractor and inform Bus Contractor of the incident.
- ☐ Bus Contractor is responsible for informing the Transportation Department about the incident verbally, in writing or both.
- ☐ Depending on gravity of the incident, the following people will be contacted verbally and in writing: Building Administrator, Transportation Director, Deputy Superintendent, Chief Operation Officer, Network Superintendent, Transportation Director, Operational Leader, Bus Contractor Safety Desk, and assigned Transportation Officer.

Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days). See Attachment 6B

**Roles and Responsibilities of School Administrator**

For denial of transportation lasting less than four days:

- ☐ Building Administrator is responsible for investigating the incident and taking appropriate actions.
- ☐ If outcome is denial of transportation, it is the school's responsibility to inform the parent verbally and in writing in the language spoken at home.
- ☐ The school will fax the Denial of Transportation notification to its assigned Transportation Officer, who will then coordinate with the Bus Contractor the start and end date of the denial.

For denial of transportation lasting four days or more:

- ☐ Building Administrator is responsible for investigating the incident, holding a Hearing under the guidelines of section 9.5, and taking appropriate actions.
- ☐ If outcome is denial of transportation, it is the school's responsibility to inform the parent verbally and in writing in the language spoken at home.
- ☐ The school will fax the Denial of Transportation notification to its assigned Transportation Officer, who will then coordinate with the Bus Contractor the start and end date of the denial.
- ☐ If the denial of transportation is long term, please send information to Operational Leader
- ☐ If a student cannot get to school without the bus, the student must be marked excused. During this time the student must be provided the opportunity to continue making academic progress and earn credits during the exclusion, and a reasonable opportunity to make up all assignments and tests and shall receive academic credit for such work completed. As per MGL 222.

Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days).

***Roles and Responsibilities of Bus Driver and Bus Contractor***

- Drivers will notify the Bus Contractor, verbally and in writing, of any incident that occurs on the bus while students are riding to and from school.
- The Transportation Department will follow-up with the school staff in charge of coordinating the transportation denial.
- Bus driver will be able to make a recommendation to the school with regards to denying transportation privileges to a student that has been involved in 3 or more documented incidents. The recommendation will be submitted in writing to the Transportation Department, Bus Contractor and the School. A final determination will be made by the School.

Note: Students with disabilities whose IEP services include transportation cannot be denied bus transportation, in excess of 10 school days, unless a Manifestation Determination Meeting has been held and the Team determined that the behavior is unrelated to the disability (services must be provided if transportation is denied after 10 school days).

***4.4 Student Planning Centers***

After positive and responsible approaches have been tried, documented and unsuccessful within the classroom, the disruptive student may be referred to a student-planning center. The student remains in the planning center only long enough to be assisted in assessing present behavior and making a plan for more responsible behavior. The planning center provides the opportunity for the student to maintain classroom assignments, follow-up for the student's plan, and support for the staff. Removal to a student-planning center shall constitute an in-school suspension if a student is removed for 90 minutes or two class periods, whichever is shorter. Because removal constitutes an in school suspension, it requires notice, a hearing, an opportunity to make academic progress and the use of non-exclusionary alternative discipline. Refer to Sections 3 and 4 of the Code of Conduct.

***4.5 Behavior Management Systems***

Staff and students may design behavior management systems for classes, clusters, programs, and/or schools based on progressive levels of privileges and restrictions. Some examples of alternatives to removing the student from class are a behavior management contract with the student and peer counseling/conflict resolution. Behavior management systems include functional behavioral assessments with positive reinforcement or incentives for desired behavior.

***4.6 Additional Alternatives To Suspensions and Expulsions***

Conflict resolution process; Reminder and or re-direction; Re-teaching of expectations and skills; student / teacher conference; Written Apology; Mini-course/training on topics such as conflict resolution; Anger management, social skills, or appropriate behavior; Reflective essay or other reflective activity; Parental outreach; Saturday School (SMART Program); Saturdays for Success, Self-Charting of Behaviors (FBA); Frequent reports on behavior; Community Service; Mentoring; Referral to community-based services. In certain circumstances, some behavior as outlined in Section 7 of the Code of Conduct warrants immediate suspension or expulsion.

**Section 5****PROCEDURES FOR ESTABLISHING SCHOOL-BASED RULES  
ON DISCIPLINARY PROBLEMS**

5.1 This Code establishes uniform rules and procedures to be followed throughout the system in disciplinary actions, including non-exclusionary, positive and preventative approaches to student discipline, set out in Sections 4 and 5, which are intended to replace school exclusion for most disciplinary matters. The Boston Public Schools also requires the establishment of school-based rules, which should be adopted by and implemented in each school in accordance with the provisions of this section.

- 5.1.1 The Building Administrator in each school shall convene each spring a subcommittee of the school-site council to review and, if necessary, to revise the school-based rules for that school. These school-based rules shall not diminish or conflict with any procedures or rights described by this Code, and no rules shall provide for any form of corporal punishment.

School-based rules shall be written in a simple, clear, and precise style, and undefined terms and educational and legal jargon should be avoided. After review by the school-site council, school-based rules shall be translated into appropriate home languages for students in the school.

- 5.1.2 The school-based rules subcommittee shall consist of representatives from all constituencies in the school—administrators, teachers, parents/guardians, and others—and shall be reflective of the school population. In middle and high schools, the subcommittee shall also include students.

- 5.1.3 The Building Administrator of each school shall set up a mechanism to allow time for the representatives of parents/guardians, teachers, and students to involve their constituencies to the maximum in the development of the rules.

- 5.1.4 After the school-based rules have been developed pursuant to this Section, they shall be reviewed and adopted by the school-site council and approved by the Superintendent's designee to ensure alignment with the Code.

After adoption, the school-based rules and any subsequent changes shall not go into effect until they have been distributed to students, parents/guardians, and faculty members. Thereafter, before September 15 of each school year, the school-based rules shall be distributed to students, parents/guardians, and faculty members with the Boston Public Schools Policy Handbook for Parents & Students. The school-based rules shall be posted in conspicuous places within the school. The school based rules shall also be presented to staff and students at an orientation/training session by the third Friday in September of each school year. The school-based rules shall be distributed and presented at an orientation/training session at least one additional time during the school year. School-based rules adopted in September shall remain in effect until new rules are adopted the following September. The BPS Code of Conduct applies to students throughout the year, including during the summer months for summer school programs and school orientations.

- 5.1.5 Any person who believes this Code has not been followed in the establishment of school-based rules may file a complaint with the Boston Public Schools Office of Equity which shall investigate and make recommendations to the Superintendent.

5.1.6 The rules and solutions adopted pursuant to this Section shall be reevaluated in the same manner each year prior to June 1st.

5.2 The Building Administrator in each school shall convene each spring a subcommittee of the School-Site Council to review and, if necessary, to revise the School-Based Rules for that school describing non-suspendable disciplinary problems and solutions. These School-Based Rules shall not diminish or conflict with any procedures or rights described by this Code, and no rules shall provide for any demeaning, degrading, or physical punishment. However, they may provide for the denial of privileges, such as field trips and extracurricular activities, for limited periods of time.

School-Based Rules shall be written in a simple, clear, and precise style, and undefined terms and educational and legal jargon should be avoided. After review by the School-Site Council, School-Based Rules shall be translated into appropriate home languages for students in the school.

5.3 In keeping with Sections 3,4,and 5 of this Code, schools shall address the following, and any other areas, contemplated by school-based rules with preventive and positive approaches to discipline that respond to misbehavior with interventions and consequences aimed at addressing the causes of misbehavior, resolving conflicts, meeting students' needs and keeping students in school:

5.3.1 Searches of students and their property

5.3.2 Cheating

5.3.3 Eating of food in unauthorized areas of the building

5.3.4 Tardiness

5.3.5 Lost, vandalized, defaced and stolen textbooks and property

5.4 School-Based Rules shall also address the following items addressed by the Code of Conduct and other policies adopted by the Boston School Committee, to ensure that parents and students are aware of these policies:

5.4.1 Student records, including forwarding of records when students transfer to another school district (Superintendent's Circular, LGL-7: Student Record Procedures).

5.4.2 Loss of privileges

5.4.3 Lost, vandalized, defaced and stolen textbooks and property

5.4.4 Transportation, including the parent's responsibility when a student loses bus privileges (refer to Superintendent's Circular, TRN-2: Student Transportation Safety & Discipline)

5.4.5 Use of tobacco products, including e-cigarettes, on school property (refer to Superintendent's Circular, SHS-19: Smoking Policy)

5.4.6 School visits and presentations by parents and other third parties (refer to Superintendent's Circular, LGL-4: School Visitors Guidelines)

5.4.7 Detention

5.4.8 School uniform policy and/or dress code (refer to Superintendent's Circular SUP-18: School Uniform Policy)

5.4.9 Use of cell phone (refer to Superintendent's Circular: School Visitors Guidelines)

5.5 The Building Administrator of each school shall set up a mechanism to allow time for the representatives of parents, teachers, and students to involve their constituencies to the maximum in the development of the rules.

5.6 After adoption, the School-Based Rules and any subsequent changes shall not go into effect until they have been distributed to students, parents, and faculty members. Thereafter, before September 15 of each school year, the School-Based Rules shall be distributed to students, parents, and faculty members with the Boston Public Schools Policy Handbook for Parents & Students. The School-Based Rules shall be posted in conspicuous places within the school. The School-Based Rules shall also be presented to staff and students at an orientation/training session by the third Friday in September of each school year.

5.7 Any person who believes this Code has not been followed in the establishment of School-Based Rules may file a complaint with the Boston Public Schools Office of Equity which shall investigate and make recommendations to the Superintendent.

5.8 The rules and solutions adopted pursuant to this Section shall be re-evaluated in the same manner each year prior to June 1.

## **Section 6 TEMPORARY REMOVAL FROM CLASS**

6.1 The Building Administrator or Designee, upon the request of a teacher, may authorize the removal of a student from class to a supervised area within the school when the student's actions are causing and will continue to cause substantial disruption of classroom activity, as defined in Section 7.8.6. Removal from class shall last only as long as necessary to ensure that the conditions justifying the removal have ended, and in no case beyond the end of two (2) class periods or 90 minutes, whichever occurs first, (except when a student has been sent to a student planning center.) Where possible, safe, supportive and non-exclusionary remedies and processes described in Section 5 should be attempted prior to removal from class. When a student is removed from class beyond ninety minutes or two class periods, it will constitute a suspension and requires the notification of suspension procedures to be initiated.

6.2 When a student has been removed from the same class more than once, the Building Administrator or Designee who authorized the removal shall, within two (2) school days following the removal, mail a written report of the removal and reasons for it, prepared by the teacher, to the student's parent.

6.3 No student may be removed from the same class more than two (2) times per week or four (4) times per marking period unless the student is offered a hearing in accordance with Section 9.5.

## **Section 7 GROUNDS FOR SHORT-TERM SUSPENSION, LONG-TERM SUSPENSION, INDEFINITE SUSPENSION, OR EXPULSION**

The modifications in this edition of the Code of Conduct have been made to bring the Code in compliance with mandates of St. 93, C. 71, also known as the Massachusetts Education Reform Act of 1993, as amended by St. 93, C. 380; P.L.

103-382, §14601 (Improving America's Schools Act of 1994); 8 USC, §921 et seq. (United States Code); the

federal Individuals with Disabilities Education Act, Amendments of 2004 (IDEA-04); and Chapter 222 of the Acts of 2012.

Prior to taking disciplinary action for offenses described in section 7, review and follow Sections 4 and 5 of the Code of Conduct and document interventions and prevention strategies used with student into the Student Information System in use at the time. This practice is mandatory prior to the imposition of a suspension or expulsion. However, this requirement may be waived for certain more serious offenses (e.g. sexual assault) subject to short-term suspension following a review by the Building Administrator and Operational Leader.

This section describes the school-related disciplinary offenses for which a student, in accordance with other sections of this Code, may be subject to suspension, indefinite suspension, or expulsion.

## 7.1 *General Provisions for School Related Discipline*

7.1.1 For the purpose of this Code, “school-related disciplinary offense” refers to a violation of this Code occurring:

- While the student is on school grounds;
- During a school-sponsored activity and/or program;
- While on school-provided transportation on route to or from a school or a school-sponsored activity; or
- While walking to or from school, waiting for school-provided transportation, or waiting for or riding on public transportation to and from school.

7.1.2 A school-related disciplinary offense may also include circumstances in which evidence exists that serious misconduct *outside* the school—for example, a student's being charged with or convicted of the commission of a felony has a substantial detrimental effect on the welfare of the school.

7.1.3 Serious offenses that may result in exclusion/expulsion from school for up to one calendar year:

7.1.3.1 Possession of a dangerous weapon, including, but not limited to, a firearm, a knife, or electrical weapon (e.g. Taser).

7.1.3.2 Possession of a controlled substance including, but not limited to, marijuana, cocaine, and heroin.

7.1.3.3 Assault of educational staff.

7.1.3.4 Felony Conviction – If the Building Administrator determines the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

The indefinite suspension of a student who has been charged with a felony is allowed if the Building Administrator determines that the student's continued presence would have a substantial detrimental effect on the general welfare of the school. To be effective, discipline should be administered as soon as possible after the violation of the Code has occurred or been documented

7.1.4 Refer to Section 21 of the Code of Conduct for the definitions of key terms: firearm, dangerous weapon, dangerous object, felony, and others.

7.1.5 With the exception of 7.1.3 offenses, no exclusion from school, for one or more disciplinary offense, shall exceed 90 school days for an offense or offenses that occurred in the same school year. No suspension shall extend beyond the school year in which it was imposed.

7.1.6 For all students excluded from school (suspension or expulsion), the Building Administrator or Designee shall ensure student has the opportunity to make academic progress during the period of exclusion, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers and projects missed.

7.1.7 A Building Administrator may, in his or her discretion, allow a student to serve a suspension in school.

A student will, as a last resort, be subject to suspension, indefinite suspension, or expulsion for the following offenses:

## 7.2 *Assault & Battery / Bodily Harm / Threats / Bullying / Cyber bullying*

The following offenses may result in short-term or long-term suspension:

7.2.1 Assault on school staff resulting in physical injury [see Section 21.3].

7.2.2 Sexual assault [see Section 21.42].

7.2.3 Assault on any person. (see Section 21.3)

7.2.4 Assault and battery on any person causing physical injury, except when the student's actions are reasonably believed necessary to protect himself or herself as determined by the Building Administrator (or designee) on the evidence presented.

7.2.5 Endangering the physical safety or mental/emotional health of another by the use of force or threats of force communicated by any means including written, spoken, or through the use of technology or any electronic means. This offense includes: threats of force (some overt act, expressed by any means, which reasonably places the victim in fear of imminent bodily injury), hazing [see Section 21.31, Hazing], graffiti, and other threats communicated by any means: written, spoken, or through the use of technology or any electronic means.

7.2.6 Bullying / Cyber bullying Definition and Prohibition:

Bullying is defined as the repeated use by one or more students of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, directed at a victim that:

- ☐ Causes physical or emotional harm to the victim or damage to the victim's property;
- ☐ Places the victim in reasonable fear of harm to himself or of damage to his property;
- ☐ Creates a hostile environment at school for the victim;
- ☐ Infringes on the rights of the victim at school; or
- ☐ Materially and substantially disrupts the education process or the orderly operation of a school.

Cyber-bullying is bullying through the use of technology or any electronic means. This includes both the creation of a web page or blog in which the creator impersonates another person or the distribution or posting of information online if these acts create any of the conditions listed above.

State law prohibits bullying:

- ☐ At school and at all school facilities;

- ☐ At school-sponsored or school-related functions, whether on or off school grounds;
- ☐ On school buses and school bus stops;
- ☐ Through the use of technology or an electronic device owned, licensed or used by a school; and
- ☐ at non-school-related locations and through non-school technology or electronic devices, if the bullying affects the school environment.

7.2.7 Retaliation related to Bullying: State law prohibits retaliation against a person who reports bullying, provides information during an investigation of bullying, or who is a witness to or has reliable information about bullying.

### 7.3 *Possession of Firearms, Dangerous Weapons and Dangerous Objects*

The following offenses may result in short-term or long-term suspension:

- 7.3.1 Possession of any firearm [see Section 21.26] may result in suspension of not more than 90 school days within an academic school year, to be determined by the Building Administrator (as per M.G.L. 222).
- 7.3.2 Possession of a dangerous weapon [see Section 21.14], or object of no reasonable use [see Section 21.38], which is used in a threatening manner in school and/or at a school-sponsored activity.
- 7.3.3 Possession of any knife or dangerous weapon prohibited by law, other than a firearm [see Section 21.27], or object of no reasonable use [see Section 21.37]. This offense may result in referral to the Counseling & Intervention Center. A second offense may result in referral to the Counseling & Intervention Center and/or long-term suspension.
- 7.3.4 Use of any object in a dangerous or threatening manner [see Section 21.13].
- 7.3.5 Endangering the safety of others by setting or attempting to set a fire on school property, at school-sponsored activities, or while on school-provided transportation.
- 7.3.6 Possession of an object of no reasonable use [See Section 21.38].

### 7.4 *Felony or Felony Delinquency Charges or Convictions*

The following offense may result in indefinite suspension pending disposition of the felony charge [see Attachment 3.4, Notification of Hearing for Indefinite Suspension: Felony Complaint]:

- 7.4.1 Felony charge (or felony delinquency charge for a student **under 17**); and the Building Administrator, after a hearing, determines and states in writing as part of the decision that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

The following offense may result in expulsion [see Attachment 3.5, Notification of Hearing for Expulsion: Felony Conviction]:

- 7.4.2 Felony conviction (or adjudication or admission in court of guilt for a felony or felony delinquency); and the Building Administrator, after a hearing, determines and states in writing as part of the decision that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.



### 7.5 *Harassment and Violations of Civil Rights*

The following offenses may result in short-term suspension, or long-term suspension, and must be reported to the Office of Equity (please refer to Superintendent Circulars EQT-3, EQT-6, EQT-8, and EQT-9):

- 7.5.1 Violation of the civil rights of others.
- 7.5.2 Committing acts of sexual harassment which are defined as sexually related physical contacts or offensive sexual insults or comments.
- 7.5.3 Committing acts of harassment related to actual or perceived membership in a protected class (race, ethnicity, religious identity, disability, sexual orientation, and/or gender identity).
- 7.5.4 Using racial or ethnic slurs in a persistent and/or abusive manner.
- 7.5.5 Using profanity or obscene language in a persistent and/or abusive manner.

### 7.6 *Theft and Vandalism*

The following offenses may result in short-term suspension, or long-term suspension:

- 7.6.1 Attempting by force or threat of force to steal private property.
- 7.6.2 Damaging or stealing school or private property, including tampering with school records.

### 7.7 *Unacceptable Use of Networks, Including the Internet and Electronic Mail (E-mail)*

The following violations of the Boston Public Schools Acceptable Use Policy will result in loss of Internet and/or e-mail privileges and may result in short-term suspension, or long-term suspension:

- 7.7.1 Use of the network for any illegal or commercial activity.
- 7.7.2 Sending information, or uses language, that others will find offensive.
- 7.7.3 Violation of copyright laws.
- 7.7.4 Revealing personal information about another individual, such as address, telephone number, credit card numbers, social security number, etc.
- 7.7.5 Tampering with the system.
- 7.7.6 Altering, deleting or destroying files or data belonging to another user.
- 7.7.7 "Sexting", including dissemination of child pornography.

- ☐ Sexting is the act of sharing or sending sexually explicit messages or photos electronically, usually via computers, cell phones, PDAs, or other electronic devices.

- Sexting may be considered dissemination of child pornography in violation of M.G.L. Chapter 272, Section 28.

NOTE: If reasonable suspicion exists, BPS will confiscate any and all materials or devices (including cell phones and other electronic devices) that contain evidence of sexting or unacceptable use of networks. Any evidence of sexting confiscated as part of an investigation under this Code will be turned over to the Boston Police Department as evidence of potential criminal activity.

## 7.8 *Other Disruptions*

The following offenses may result in short-term suspension (long-term suspension attaches only if cumulative days of suspension exceed ten):

- 7.8.1 Refusing to identify self on the reasonable request of staff or giving false identification.
- 7.8.2 Presence in a part of the school building or grounds off limits to students.
- 7.8.3 Leaving the school building without permission.
- 7.8.4 Excessive cutting of classes.

The penalty of suspension for excessive cutting shall only be assessed after alternatives such as adjustment of class schedule, if appropriate, alternative programs, parental conferences, student conferences, and detention have been attempted, and documentation maintained at the school. Excessive cutting may then result, in a progressive disciplinary measure that must be in accordance with Sections 3 and 4. Suspension of no more than three-days, in-school, regardless of the student's age, is recommended.

- 7.8.5 Intentionally impeding an investigation of school officials into alleged violations of this Code.

## 7.8.6 *Substantial Disruptions*

Substantial disruption of school or classroom activity in a repeated, aggravated, or flagrant manner may result in short-term suspension, or long-term suspension. Substantial disruption of school or classroom activity is defined as one or more of the following acts:

- 7.8.7 Occupying any school building, school grounds, or part, depriving others of its use.
- 7.8.8 Blocking the entrance or exit of any school building, corridor, or room, depriving others of lawful access to or from, or use of, the building, corridor, or room.
- 7.8.9 Preventing or attempting to prevent by physical act the safe functioning of any part of any school.
- 7.8.10 Continuously and intentionally making noise or otherwise seriously disrupting and/or preventing the normal functioning of the school or the teaching of other students. This includes repeated, unauthorized use of cellular phones.

- a. Students are permitted to use cell phones *only* during the following times:
  - Before school hours outside or inside the school building;
  - After school hours outside or inside the school building;
  - At after-school or sports activities, only with the permission of the coach, instructor or program director;
  - At evening or weekend activities inside the school building.
- b. The use of cell phones for any purpose – including telephone calls, text messaging, taking photographs and/or video, and other functions – is not permitted at any other time on school grounds.
- c. Cell phones must not be visible during the school day (See exceptions listed 7.8.10 a.)
- d. Cell phones must be turned completely off (not simply on silent or vibrate mode) during the school day.

Consequences for students found to be in violation of the cell phone policy will be as follows (**note: students must turn off cell phones prior to turning phones over to the school, and phones will remain off**):

- a. First offense: Student's cell phone will be confiscated and returned to the student at the end of the school day.
- b. Second and subsequent offenses: For a period of no more than 10 days, students will be obligated to drop their phones off at the main office at the beginning of the school day, prior to attendance, and pick up their phones at the end of the school day.
- c. Students committing repeated violations of this policy may be subject to additional disciplinary action, consistent with the *Code of Conduct*.

NOTE: If reasonable suspicion exists that a cell phone contains evidence of a violation of the Code by the phone's owner, then the phone may be searched by BPS personnel and held during the investigation, but for no longer than 3 school days before being returned to the student or, where necessary, turned over to the police. The search of the phone must be reasonable in scope and limited to the data about which reasonable suspicion exists, and, when practicable, conducted in the presence of the student.

7.8.11 Making a bomb threat.

7.8.12 Pulling/Reporting a false fire alarm.

## 7.9 *Repeated and Flagrant Violations*

Repeated and flagrant violations of one or more of the offenses described in Section 7.2 through 7.9 may result in short-term or long-term suspension if they occur in the same school year.

7.9.1 Consequences for repeated and flagrant violations of the Code shall be consistent with the principle of progressive discipline, with consideration given to the age and the social, emotional and intellectual development of the student.

7.9.2 Students who violate the Code of Conduct at the elementary level (Kindergarten-grade 5) shall not be considered "repeat offenders" if the second violation takes place at the secondary level (grades 6-12)

## 7.10 Possession and Use of Alcohol, Tobacco and other Drugs

The following offenses may result in short-term or long-term suspension:

7.10.1 Possession of any non-prescribed controlled substance, including, but not limited to: opioids, including but not limited to: narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana), alcoholic beverage, or intoxicant of any kind. The violation is considered to impede upon the general welfare and safety of the other students and staff at the school.

7.10.2 Use of tobacco products (including e-cigarettes, hookah paraphernalia, and vapor cigarettes) on school property, at school-sponsored activities, or while on school provided transportation.

#### 7.11 *Referrals to the BPS Counseling & Intervention Center*

7.11.1 Students may be referred to the Counseling & Intervention Center for any violation of the Code of Conduct, as described in Section 7.

7.11.2 All students attending the Counseling and Intervention Center, shall have the opportunity to make academic progress during the period of exclusion, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers and projects missed. (per M.G.L.222)

7.11.3 Any time a student who has an IEP or 504 Plan is referred to the CIC a second time, the case will be flagged for review by the Office of Special Education for a Manifestation Determination Meeting and or reconvene of the IEP Team.

7.11.4 The following offenses may result in short-term or long-term suspension following a hearing conducted by the Building Administrator of the assigned school:

- a. Failure to attend, or to consistently attend, the Counseling & Intervention Center without reasonable extenuating circumstances. [If a student commits an expellable offense, and is sent to the CIC as an intervention, yet fails to attend, the sending school can follow through with the expulsion hearing for the original alleged incident.]
- b. Violation of the Code of Conduct while attending the Counseling & Intervention Center. A violation of 7.1.3 while attending the CIC may result in expulsion.

## Section 8 PROCEDURES FOR EMERGENCY SUSPENSION

8.1 The Building Administrator may temporarily suspend a student from school until the reason for the emergency suspension has ceased, but in no case for longer than two school days following the day of the incident, when all four of the following criteria are met:

8.1.1 The student is alleged to have committed a suspendable offense by violating Section 7.1 through 7.12, *and*

8.1.2 The student's presence poses a continuing danger to persons or property or of material interference with the instructional process; *and*

8.1.3 There is no alternative available to alleviate the danger or interference; *and*

8.1.4 It is impossible because of the student's behavior to provide the student with notice and hearing prior to the emergency suspension. Although prior notice cannot be given, the school must record the exact

reason for exclusion and the alternative measures taken to ensure correction of behavior prior to the suspension.

NOTE: The Building Administrator or Designee will hold the disciplinary hearing within 24 hours of the incident, or one school day, following the incident. If a delay is necessitated, the emergency suspension will only continue if the criteria above continue to be met on each successive day.

NOTE: An administrator's unavailability is insufficient cause to suspend a student under this section prior to a hearing.

NOTE: A day of Emergency Suspension counts as such when calculating total days of suspension.

- 8.2 *Notice to the Parent.* The Building Administrator authorizing the emergency suspension shall as soon as possible to make reasonable efforts to reach by telephone a parent of the student to inform the parent. A student subjected to emergency suspension shall not be put out of the school until adequate provisions have been made for transportation and safety. No parent or student may be penalized because of a parent's unavailability to pick up a student from school pursuant to an emergency suspension.

Within 24 hours of the beginning of the emergency suspension, the administrator shall notify the student's parent of the specific basis for determining that an emergency suspension was necessary under Section 8.1. If the parent is present in the school, the parent shall be given a letter. If the parent is not in the school, the school shall notify the parent by telephone, email *and/or* by certified mail to the student's home. In addition, if the student is in the school, the student shall also be given a letter. All correspondence regarding the emergency suspension must be in English *and* the primary language spoken in the home, if different. The letter shall inform the student and parent of the right to a hearing under Section 9.5, the right to the opportunity to make academic progress, and the decision(s) to be considered at that hearing.

The Building Administrator shall also immediately notify the Superintendent in writing of the emergency suspension, the reason for it, and describe the danger presented by the student.

- 8.3 *Hearing.* The student is entitled to a hearing under Section 9.5 as soon as possible (but no later than one school day after the emergency suspension began) and to an appeal under Section 9.8. If the Hearing is delayed by Parent unavailability, the emergency suspension may be extended through the duration of the (up to) 48 hour postponement if the Section 8.1 criteria remain in effect. If the hearing or the appeal demonstrates that the emergency suspension was unwarranted because any of the factors in Section 8.1 were not met, then all references to the emergency suspension shall be expunged from the student's records. The Building Administrator shall render a decision orally on the same day as the hearing, and in writing no later than the following school day. If it is found that the emergency suspension was warranted, and the continued need for suspension exists, the suspension may be extended up to limits provided by this Code for the particular offense. Time spent out of school during the emergency suspension shall count toward any additional suspension imposed after this hearing.

## Section 9

### SHORT-TERM SUSPENSION: DEFINITION AND PROCEDURES

*Definition and Rationale* Short-term Suspension means the short-term exclusion of a student from the school premises and regular classroom activities. The term "suspension" shall include and "in-school" suspension for purposes of calculating the total number of days of exclusion from school.

- 9.1 When a student is removed from class beyond ninety minutes or two class periods, whichever is less, it will constitute a suspension and requires the notification of suspension procedures to be initiated.

Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days. [See section 10 for definition of long-term suspension.]

- 9.1.1 The Building Administrator or Designee may impose suspension if a student has committed a violation of Section 7 and non-exclusionary alternatives under Sections 4 and 5 have been tried and documented. Schools must provide evidence at suspension hearings that such non-exclusionary alternatives have been tried and documented. Following a review by the Building Administrator and Operational Leader, this requirement may be waived for certain more serious offenses subject to short-term suspension. The term "suspension" shall include any "in-school" suspension. Disciplinary removal from school at any point prior to dismissal shall constitute a suspension.

- 9.1.2 Principal shall notify the Superintendent of any out of school suspension for students in grades K-3 prior to the suspension taking effect. The notification must include a description of the alleged conduct and the reason for an out of school suspension.

- 9.1.3 Parental guidance and involvement will be encouraged as a key component of the disciplinary process.

## 9.2 *Due Process*

- 9.2.1 No suspension, except emergency suspension, shall be imposed until the parent has been notified and a hearing pursuant to Section 9.5 has been held at the school, unless the parent has waived the right to a hearing in writing [see Section 9.4.6 and Attachment 3.2].
- 9.2.2 Both the Massachusetts Superior Court and the Supreme Court of the United States have upheld the due process obligation in school-based hearings. It is necessary that due process be followed in conducting a hearing for suspension or the proceedings may be declared invalid.

## 9.3 *Frequency and Duration of Suspensions*

- 9.3.1 A single short-term suspension may not exceed three (3) school days for a student fifteen years of age or younger or five (5) school days for a student sixteen years of age or older.
- 9.3.2 A student shall not be suspended twice for the same incident.
- 9.3.3 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.
- 9.3.4 In the event that a student not identified as having disabilities is suspended for more than five (5) days in any quarter (45 days) or excluded from school, the Building Administrator or Designee must determine within five (5) days of this occurrence whether or not it is appropriate to refer the student to the Student Support Team or for a special education evaluation and inform the parent in writing: 1.) if a referral is being made, and 2.) of the parent's right to make a referral.

#### 9.4 *Procedures Preceding the Suspension Hearing*

9.4.1 Prior to holding the hearing for suspension, the Building Administrator or Designee shall make all possible efforts to contact the parent and/or parent-appointed representative orally and in writing. If the parent is present in the school, he or she shall be given a letter [see Attachment 3.1]. If he or she is not in the school, the school shall notify the parent by telephone, email *and/or* by certified mail to the student's home. In addition, if the student is in the school, he or she shall also be given a letter. The Building Administrator or Designee shall maintain in the Student Information System a log of efforts to contact the parent.

To conduct a hearing without the parent present, the Building Administrator or Designee must have sent written notice and be able to document at least two (2) attempts to contact the parent in the manner specified by the parent for emergency notification to inform parent of the hearing.

9.4.2 Correspondence regarding the recommendation for suspension must inform the student and parent of the charges and the reason for possible suspension, the potential length of the suspension, the right to a hearing to discuss/dispute the charges prior to the exclusion taking effect, the right of the parent to attend the hearing, the right to review the student's record and any relevant documents or evidence collected in advance of the hearing, the right to an interpreter if requested, and their right to appeal any decision. It must also refer students and parents to Superintendent's Circular LGL-07: Student Record Procedures. [see Attachments 3.6, 3.7]. Upon request, copies of any relevant documents (including those regarding alternatives to exclusion) or evidence collected by that time should be included with the hearing notice. A copy of Attachment 5, a list of Legal Services and other advocacy groups, will be included,

9.4.3 All correspondence with the student and parent concerning the suspension must be in English and the primary language spoken in the home, if different.

9.4.4 If the parent expresses intent to participate in the hearing, or if the parent cannot be contacted, the hearing may be delayed up to 48 hours to permit the parent to attend. If a hearing for suspension is delayed at the request of the parent, a student may be held out of a particular class or activity (in accordance with the provisions of Section 6) if the Building Administrator or Designee has a substantial reason, based on discussions with the student and/or the teacher, for believing that the student's presence in the class or activity will lead to disruption.

9.4.5 In scheduling a hearing for Limited English Proficiency students, the administrator must refer to Section 2.2 concerning students' and parents' rights to have an interpreter present at hearings and conferences.

9.4.6 A parent may waive the right to a hearing. Such waiver must be written, and copies forwarded to the Operational Leader [see Attachment 3.2].

### 9.5 *Procedures for Conducting the Suspension Hearing*

See Exhibit 2, Suggested Script to conduct a Suspension Hearing, page 37.

- 9.5.1 *Hearing Officer.* The Building Administrator or Designee will conduct the hearing for suspension. Whenever there is clear conflict of interest—for example, if the Building Administrator or Designee is the alleged victim in an incident—the Building Administrator or Designee must remove himself or herself from the case. In such instances, the Building Administrator or Designee may refer the case to the Assistant Building Administrator or Designee or, if there is none, to the Superintendent's Hearing Officer to schedule a hearing.
- 9.5.2 *Attendance.* In attendance at the hearing for suspension will be the student, the parent (if the parent chooses to attend), and other persons determined by the Building Administrator or Designee. The Hearing may take place without the Parent/Guardian/Authorized Caregiver only after documented reasonable efforts are made to include the Parent, Guardian or Authorized Caregiver by the Building Administrator or Designee.
- 9.5.3 *Charges.* The Building Administrator or Designee will state the charges and determine that the student understands them.
- 9.5.4 *Witnesses.* If the student disputes the charges, persons with direct knowledge of the alleged incidents shall be summoned by the Building Administrator or Designee, or by the student. Student witnesses cannot be compelled to testify by the accused student. All witnesses presenting testimony for or against the student shall appear in person at the hearing, and no statements for or against the student shall be presented unless the persons making the statements are so present.

There are four exceptions to this provision:

1. Student witnesses / victims do not have to be summoned if the Building Administrator or Designee specifically rules, orally or in writing, at the hearing that identification of the student witness, or the presence of a known witness / victim at the hearing, would endanger his or her physical safety, mental/emotional health, or cause intimidation. In these cases, the student witness may submit written or recorded testimony, with signature, to a school official.
2. If a criminal case is pending, the District Attorney's office may request that the victim not testify.
3. In cases where a witness cannot attend the hearing (e.g. is not able to be released from work or is out of the Boston area), the witness may submit written or recorded testimony, with signature, to a school official.
4. The accused shall have the right to call and cross-examine witnesses, but the Building Administrator or Designee maintains the right to halt or disallow a line of questioning if it is determined to be disrespectful, intimidating (subject to section "1" above) or irrelevant.



- 9.5.5 *Evidence.* The student shall have the right to be present during the presentation of evidence. The Building Administrator shall present any documented evidence at the Hearing to be used in rendering a decision. This documentation must include evidence of alternative interventions being utilized prior to the imposition of exclusion. The student, parent, or the student's representative shall have the right to cross-examine any witness who testifies at the hearing. After the case against the student has been presented, the student shall be allowed to submit evidence in his or her own defense, including the presentation of witnesses, and to testify on his or her own behalf, but shall not be compelled to do so. The Building Administrator (or other Hearing Officer) should advise the student that any testimony given by the student may be used against him or her in another proceeding.
- 9.5.6 The student, the parent, or their representative may object to the admission of any testimony or evidence. If the Building Administrator (or other Hearing Officer) determines that evidence has been improperly obtained, is irrelevant, or is undocumented, such evidence shall be inadmissible if in the professional judgment of the Building Administrator (or other Hearing Officer) such a ruling is warranted in light of the totality of the circumstances. The scope of the hearings shall be confined to the charges contained in the notice.
- 9.5.7 The student is entitled to a presumption of innocence, and the burden of proof rests upon the person(s) presenting the case against the student.
- 9.5.8 *Decision.* The Building Administrator or Designee shall determine if the student committed a suspendable offense as charged. This decision shall be reached impartially and shall be based exclusively on the evidence. The Building Administrator will avoid using short-term suspension as a consequence until alternatives to suspension have been tried and documented. There are limited exceptions to this provision discussed in the Section 7 introduction.

## 9.6 Consequences

- 9.6.1 If it is determined that the student has committed a suspendable offense, and after non-exclusionary alternatives under Sections 3 and 4 have been tried and documented, the student may be suspended, in accordance with the limitations described in Section 9.3.
- 9.6.2 If suspension is imposed, the Building Administrator or Designee shall orally notify the student, and within 24 hours after the hearing shall give written notice, or other means of communication where appropriate, to the student and to the parent of the specific acts for which the student is being suspended, the length of the suspension, the date on which the student may return to school, and the right to appeal pursuant to Section 9.8, and the right to make academic progress. A copy of Attachment 5, a list of Legal Services and other advocacy groups, will be included,

The Building Administrator or Designee shall make a reasonable effort to communicate directly the information described in the preceding sentence. If the parent is present in the school, the parent shall be given a letter [see Attachment 3.6, 3.7]. If the parent is not in the school, the school shall notify the parent by telephone, email *and/or* by certified mail to the student's home. In addition, if the student is in the school, the student shall also be given a letter. All correspondence regarding the imposition of suspension must be in English *and* the primary language spoken in the home, if different.

### 9.7 *Attendance Procedure during Suspension*

A suspension is coded for attendance purposes as “suspended,” which is comparable to “constructively present.” Suspended students should not be coded as “absent.” For all students excluded from school (suspension or expulsion), the Building Administrator or Designee shall ensure student has the opportunity to make academic progress during the period of exclusion, to make up assignments and earn credits missed including, but not limited to, homework, quizzes, exams, papers and projects missed.

### 9.8 *Appeal to Suspension*

Within ten (10) school days of the imposition of a suspension, a student or parent may lodge a request for an appeal with the Superintendent's Hearing Officer [see Exhibit 3, The Appeal Process, Step by Step, page 38]. Parent may request one extension of the filing deadline of up to seven (7) calendar days. The procedure used in the appeal shall comply with the following requirements:

#### 9.8.1 *Time-Frame*

The Hearing Officer will schedule the appeal hearing (sending written notice of such) to take place within three (3) days of receipt of the request making efforts to schedule it on a day/time enabling the Hearing Officer and the parent(s) to attend. Parent may request one extension of the appeal hearing of up to seven (7) calendar days.

#### 9.8.2 *Review of Evidence*

The Building Administrator or Designee shall first address the Hearing Officer and may summarize any evidence presented at the hearing for suspension. The student, parent, and/or representative (including an attorney) may then ask questions of the Building Administrator or Designee and may address the Hearing Officer on the evidence and the appropriateness of the penalty. The student shall have the right to present oral and written testimony and cross-examine witnesses. Any witness or evidence may be introduced at the discretion of the Hearing Officer. Student witnesses cannot be compelled to testify by the accused student. Students also have the right to counsel.

All witnesses presenting testimony for or against the student shall appear in person at the hearing and no statements for or against the student shall be presented unless the persons making the statements are so present.

#### **There are four exceptions to this provision:**

- a) Student witnesses / victims do not have to be summoned if the Hearing Officer specifically rules, orally or in writing, at the hearing that identification of the student witness, or the presence of a known witness / victim at the hearing, would endanger his or her physical safety, mental/emotional health or cause intimidation. In these cases, the student witness may submit written or recorded testimony, with signature, to a school official.
- b) If a criminal case is pending, the District Attorney's office may request that the victim not testify.
- c) In cases where a witness cannot attend the hearing (e.g. is not able to be released from work

or is out of the Boston area), the witness may submit written or recorded testimony, with signature, to the Hearing Officer.

- d) The accused shall have the right to call and cross-examine witnesses, but the Hearing Officer maintains the right to halt or disallow this questioning if the Hearing Officer determines it to be disrespectful, intimidating (subject to section “a” above) or irrelevant.

#### 9.8.3 *Decision*

The Superintendent's Hearing Officer shall specifically determine if there was sufficient evidence to find that the violation occurred and that expulsion is appropriate. The Hearing Officer will use the evidence presented at the hearing and the appeal to render a decision. The Superintendent's Hearing Officer shall render a decision within five (5) calendar days of the hearing. The Hearing Officer's written 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 Hearing Officer; and identify the length and effective date of the suspension, as well as a date of return to school. Copies of the decision, as well as copies of any relevant documents presented during the hearing, shall be included in the student's records and mailed to the student, the student's parent, and the Building Administrator or Designee for their records.

If the Hearing Officer determines that no violation of the Code has occurred, that non-exclusionary alternatives were either not tried and documented (and an exception to this rule was not sought or appropriate), or that the student and/or parent were not notified in accordance with the Code *and* that this resulted in a violation of the student's right to due process, the provisions of Section 17 shall be adhered to concerning expunging records. If the suspension has not already been fully served, the Hearing Officer may determine that the student be readmitted immediately.

The Hearing Officer may not impose a more serious penalty than that imposed by the Building Administrator.

## EXHIBIT 2: Suggested Script for Building Administrators as Hearing Officers to Conduct a Short-Term Suspension Hearing – NO Change of Placement

[Audio recording **NOT** required.]

*Building Administrator or Designee:*

Good morning. My name is \_\_\_\_\_. I am the (Principal) (Headmaster) of the \_\_\_\_\_ School. I shall be serving as the Hearing Officer for this matter.

The purpose of this hearing is to consider the possible [short-term suspension of \_\_\_\_\_ (student) for alleged violation(s) of the Code of Conduct Section(s) \_\_\_\_\_, namely \_\_\_\_\_ (describe the alleged offense).

I will first share with you the evidence of alternative behavioral interventions that have been used with \_\_\_\_\_ (student). [share documentation of non-exclusionary approaches that were tried before seeking short-term suspension]

*Building Administrator or Designee to parent/representative:*

Did you receive notification of this hearing? Did you receive notification of your right to representation? [parent replies.]

*Building Administrator or Designee to parent/representative:*

Do you need interpreting services? [parent replies.]

*Building Administrator or Designee to all present:*

Before we begin it is important to go over the ground rules of the hearing. I am the Hearing Officer and as such will be in charge of the conduct of the hearing. The school will state its case first. I will call witnesses into the hearing room one at a time. **[Student witnesses / victims need not be summoned if the administrator has ruled, orally or in writing, that the identification and / or presence of the witnesses / victims would endanger their physical safety or cause harm or intimidation; see Section 9.5.4.]** The witness will give his or her version of the events. There may be some questions I will have. When I have concluded my questioning, you as parent/representative will have the opportunity to ask questions of the witness. I have the right to halt a line of questioning if I determine it to be disrespectful, intimidating or irrelevant. When that witness is finished, he or she will be dismissed, and the next witness will present testimony. We will continue in this fashion until all witnesses have testified.

When the witnesses for the school have concluded, you will have an opportunity to present witnesses. The student will also have an opportunity to state his or her version of the events, [keeping in mind his or her rights under the Miranda law, that this testimony may be subpoenaed for use at a later date in a civil or criminal court]. If the accused chooses not to testify, such refusal is not an indication of guilt. However, it leaves me to make a decision on the testimony presented.

Are there any questions? I will now call the first witness.

*The first witness identifies self and presents testimony. At the conclusion, the Building Administrator or Designee makes sure the following questions have been answered in the witness's testimony:*

Q. Who was involved in the event?

Q. When did it take place?

- Q. Where did it take place?
- Q. What occurred?
- Q. What was the motive, if known?

*Building Administrator or Designee to parent/representative:*

Do you have any questions of the witness?

*Building Administrator or Designee, when witness has concluded:*

Thank you. Will you please ask \_\_\_\_\_ (the next witness) to come in?

*Building Administrator or Designee to parent/representative, when school has concluded its case:*

Do you have any witnesses to present?

*If yes and the parent/representative present witnesses, the Building Administrator or Designee asks pertinent questions as above at testimony conclusion.*

*Building Administrator or Designee to student, when parent's/representative's case is concluded:*

Did you wish to testify on your own behalf? Tell us what happened.

*Building Administrator or Designee must ask student the key questions at conclusion of testimony:*

- Q. Did you commit the offense?
- Q. Why did you do it?
- Q. Did you say it?
- Q. Why did you say it?

**FOR A STUDENT WITH DISABILITIES:**

*Building Administrator or Designee to Special Education and Student Services Coordinator:*

Is \_\_\_\_\_ (student) subject to the Code of Conduct of the Boston Public Schools?

*Coordinator identifies self and replies:*

The Team met and made the appropriate determination for this student who is subject to all provisions of the Code of Conduct.

*Building Administrator or Designee at conclusion of hearing:*

**IF EVIDENCE SUPPORTS SHORT-TERM SUSPENSION:**

After listening to the testimony of all the witnesses, I find sufficient evidence that \_\_\_\_\_ (student) did commit a suspendable violation against the Code of Conduct, Section(s) \_\_\_\_\_. I am, therefore, suspending \_\_\_\_\_ (student) for the period beginning \_\_\_\_\_, 20\_\_\_\_, and ending on \_\_\_\_\_, 20 \_\_\_\_.

You have the right to appeal this suspension within ten (10) school days provided that you have the right to request and be granted an extension of up to seven (7) calendar days. The appeal must be in writing and must be sent to the Superintendent's Hearing Officer, Boston Public Schools, 2300 Washington Street, Boston, MA. 02119, FAX 617-635-9206

You also have the right to make academic progress during the period of suspension, to make up assignments and earn credits missed, including but not limited to homework, quizzes, exams, papers and projects missed. Are there any questions? If there are no further questions, I will conclude this hearing.

**EXHIBIT 3: The Appeal Process, Step by Step:****Short-Term Suspension, Long-Term Suspension, Indefinite Suspension, and Expulsion**

*See Sections 10, 11 and 12 of the Code of Conduct for complete procedures.*

- STEP 1** Building Administrator or Designee schedules disciplinary hearing and sends or gives parent the Notification of Disciplinary Hearing letter (Attachment 3.1 or 3.4), list of Legal Services and other advocacy groups (Attachment 5), and Parent Waiver of Disciplinary Hearing (Attachment 3.2 – *if applicable*)
- STEP 2** Disciplinary hearing takes place.
- STEP 3** Building Administrator or Designee informs parent of decision and of parent's right to appeal the decision (Attachment 3.6, 3.7, 3.8, 3.9, 3.10 or 3.11). At the hearing, and/or by letter if parent did not attend the hearing, parent is advised that if s/he wishes to appeal the disciplinary action, s/he must do so within ten (10) school days provided that s/he may request an extension up to seven (7) Calendar days. This appeal must be in writing and must be sent or faxed to:
- Superintendent's Hearing Officer  
Boston Public Schools  
2300 Washington St,  
Boston, MA 02119  
FAX: 617-635-9206
- STEP 4** Within two days of all disciplinary hearings EXCEPT short-term suspension, Building Administrator or Designee submits to the Operational Leader the Request for Review (Attachment 4.1 or 4.2) and all relevant materials. Before a student in kindergarten through grade 3 may be suspended, the Building Administrator will notify the Superintendent in writing of the alleged misconduct and the reason for an out-of-school suspension.
- STEP 5** If parent submits a written appeal of the disciplinary action, Hearing Officer notifies Building Administrator and Operational Leader of the request.
- STEP 6** Building Administrator or Designee sends all documentation of the original suspension hearing to Hearing Officer. School should retain a file copy of all documentation and correspondence.
- STEP 7** Hearing Officer reviews documentation and schedules the appeal hearing (within three (3) calendar days unless the Parent/Guardian/Authorized Caregiver or student requests an extension of up to seven (7) additional calendar days) and notifies participants. An advocate or attorney may accompany parent. Building Administrator or program director must attend.
- STEP 8** Hearing Officer hears the case, makes a decision and notifies (in writing) all participants of the finding in writing. Decision will be reached within 5 calendar days of the appeal hearing.

## Section 10 LONG-TERM SUSPENSION AND INDEFINITE SUSPENSION: DEFINITION AND PROCEDURES

### 10.1 *Definition and Rationale*

- 10.1.1 **Long-term suspension** means the exclusion of a student from regular school activities for more than ten (10) consecutive or cumulative school days, in a given school year. Disciplinary removal from school at any time prior to regular dismissal constitutes a day of suspension. (See Section 6) Long-term suspension shall include any “in-school” suspension that is more than ten (10) consecutive or cumulative school days, in a given school year. [See Section 9 for definition and procedures for short-term suspension].

A suspension of any duration (even one or two days) that will result in a students’ total number of days of exclusion exceeding ten (10) days will be considered a long-term suspension necessitating the due process procedures of a long-term suspension outlined below.

- 10.1.2 The Building Administrator may impose long-term suspension when the student has repeatedly violated Section 7 of this Code, despite having been subject to action under Sections 4 and 5. A long-term suspension may also be imposed if, in the judgment of the Building Administrator, a single suspendable offense is of such severity that it would constitute an ongoing threat to the physical safety of others.
- 10.1.3 **Indefinite suspension** means the exclusion of a student from regular school activities for an indefinite period of time when the student has been charged with a felony and, in the judgment of the Building Administrator; the student’s presence is having, and will continue to have, a substantial detrimental effect on the school’s general welfare. The suspension will be for a period of time determined appropriate by the Building Administrator but not to exceed disposition of the felony charge. [See Section 7.4]

### 10.2 *Due Process*

- 10.2.1 The due process obligation in school-based hearings has been upheld by both the Massachusetts Superior Court and the Supreme Court of the United States. It is necessary that due process be followed in conducting a hearing for long-term suspension or the proceedings may be declared invalid.
- 10.2.2 No long-term suspension shall be imposed until the parent has been notified and a hearing pursuant to Section 9.5 has been conducted by the Building Administrator.

### 10.3 *Frequency and Duration of Long-Term Suspension*

- 10.3.1 A long-term suspension is exclusion for more than ten (10) consecutive or cumulative school days in a school year. The Building Administrator shall include any time the student has been suspended in and out of school as part of the overall long-term suspension penalty.
- 10.3.2 Long-term suspension shall not continue beyond the end of the academic year in which it was imposed.
- 10.3.3 A student shall not be suspended twice for the same incident.
- 10.3.4 In accordance with Massachusetts General Law, Chapter 71, Section 37H ½, and in consultation with the appropriate Operational Leader, a Building Administrator determines the length of the suspension

for students suspended under Section 7.4 charged with a felony or felony delinquency. However, the period of time is not to exceed disposition of the felony charge.

- 10.3.5 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.
- 10.3.6 Upon expiration of the long-term suspension, student will return to the school from where he/she was suspended (unless a new placement determination is agreed upon).

#### 10.4 *Hearing Procedures*

Follow the procedures set forth in Sections 9.4 through 9.7: *Procedures Preceding the Disciplinary Hearing, Procedures for Conducting the Suspension Hearing, Consequences, and Attendance Procedure during disciplinary hearing.*

In addition to the rights afforded in Section 9 students faced with long-term suspension shall also be afforded the following procedure:

- 10.4.1 Records. An audio recording will be made by the Building Administrator or Designee in all hearings which are expected to result in long-term suspension, indefinite suspension or expulsion. Upon written request, in a case where a tape is made, a copy of the tape must be made available to the student or parent within five school days of the request for purposes of review.

See Exhibit 2, Suggested Script for Conducting a Disciplinary Hearing, page 42.

#### 10.5 *Request for Review*

- 10.5.1 No later than two (2) school days after the long-term suspension hearing, the Building Administrator must submit to the Operational Leader the form, Request for Review [Attachment 4.1 or 4.2], with all relevant materials attached. Those materials include copies of the Notification of Disciplinary Hearing Letter, Long-Term Suspension Notification Letter, a recommendation for the length of the long-term suspension, documentation of intervention and prevention strategies used with the student, student records (demographics, report cards, transcript, conduct history, action history, student attendance, academic standing report) and an audio recording of the hearing if one was required under Section 9.5.5, as well as any additional materials related to the incident (such as police reports). The Request for Review must be complete and signed by the Building Administrator.
- 10.5.2 The Operational Leader will review the case and all materials for procedural and evidentiary compliance with the Code of Conduct. No later than three (3) school days after receiving the Request for Review and all materials, the Operational Leader must decide to either let stand the Building Administrator's decision or to overturn it.
- 10.5.3 If the Operational Leader supports the long-term suspension, he or she notifies the Building Administrator. The Building Administrator must immediately notify the parent in writing in the primary language spoken in the home.
- 10.5.4 The Operational Leader may overturn the Building Administrator's decision if procedural guidelines,



particularly as they apply to due process—e.g., notification and evidentiary requirements—have not been followed.

#### 10.6 *Appeal to Long-Term Suspension*

Follow the procedures set forth in Section 9.8, *Appeal to Suspension*. See Exhibit 3, page 38.

#### 10.7 Suggested Timeline

Follow the procedures set forth in Section 13 Expulsion: Definition and Procedures, See Exhibit 5, p.46

## Section 11

### CUMULATIVE SUSPENSIONS – PROGRESSIVE MEASURES

11.1 After a student has been subjected to short-term suspension twice in a marking period *or* a total of fifteen (15) school days *or* four (4) times in a school year, whichever occurs first, the Building Administrator (this duty may *not* be delegated) shall schedule a meeting to explore non-punitive solutions to the problems resulting in suspensions. No further suspensions, except emergency suspensions, may be authorized until this meeting is held or refused. The Building Administrator shall invite to the meeting the following: the student, the student's parent, a school counselor or other appropriate professional invited by the student or parent, any teacher or staff member who has recommended the student for suspension more than once, and any other staff member whose presence would be deemed appropriate.

11.2 The student and the parent shall be sent a written notice at least five (5) school days prior to the meeting. The student and parent shall be notified of their right to invite to the meeting any persons from within or outside the school system whom they deem helpful in discussing the student's behavior.

At the meeting, the following shall be among the non-punitive solutions discussed:

11.2.1 Adjustment of class schedule;

11.2.3 Professional or peer counseling;

11.2.4 Referral to a social service agency;

11.2.5 Consideration of referral to the evaluation team for possible classification as a student with special needs;

11.2.6 Tutoring and other forms of academic assistance.

11.3 No actions shall be taken as a result of this meeting except with the consent of the student and parent. Within 48 hours after the meeting, the Building Administrator shall mail letters to the student and the parent describing solutions, if any, agreed to at the meeting and any actions that the student, parent **or** school should take to follow through on those solutions.

11.4 In the case of any student for whom suspension beyond five (5) school days in a marking period, or expulsion is recommended, the Building Administrator shall determine whether the student should be referred to the Student Support Team as part of the pre-referral process.

- 11.5 In the event that a student not identified as having disabilities is suspended more than five (5) days during any quarter (45 days) or excluded from school, the Building Administrator or designee must determine within five (5) days of this occurrence whether or not it is appropriate to refer the student to the Student Support Team or for a special education evaluation and inform the parent in writing: 1.) if a referral is being made, and 2.) of the parent's right to make a referral.
- 11.6 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.

## **Section 12 EXPULSION: DEFINITION AND PROCEDURES**

### *12.1 Definition of Expulsion*

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 violation of section 7.1.3. The period of expulsion, consisting of placement in an alternative program, will not exceed one calendar year without student/guardian consent. A decision regarding the student's ability to return to that school must be made by the Building Administrator, and coincide with the decision to expel.

In the case of students with disabilities, such action may be taken only after a Team determination that the conduct in question was not a manifestation of the student's disability. Moreover, during any period of expulsion, the student must receive a free appropriate public education [see Section 15—Students with Disabilities].

Prior to the expiration of the expulsion period, a student who has been expelled will be assigned to a school based on a reentry plan developed by the Counseling and Intervention Center, Operational Leader, and Educational Options. The recommendation of the Building Administrator will be considered in determining the best placement for the student.

### **EXHIBIT 4: Suggested Script for Building Administrators as Hearing Officers to Conduct a Disciplinary Hearing Recommending Long-Term Suspension, Indefinite Suspension or Expulsion**

**[Turn on audio recorder.]**

*Building Administrator:*

Good morning. My name is \_\_\_\_\_. I am the (Principal) (Headmaster) of the \_\_\_\_\_ School. I shall be serving as the Hearing Officer for this matter. The date is \_\_\_\_, 20\_\_ . The time is \_\_\_\_\_ A.M./P.M. This hearing is being conducted at \_\_\_\_\_ (site).

The purpose of this hearing is to consider the possible (a) long-term suspension (b) indefinite suspension (c) expulsion of \_\_\_\_\_ (student) for alleged violation(s) of the Code of Conduct Section(s) \_\_\_\_\_, namely \_\_\_\_\_ (describe the alleged offense).

I will first share with you the evidence of alternative behavioral interventions that have been used with \_\_\_\_\_ (student). [Share documentation of non-exclusionary interventions that were tried before seeking expulsion]

[Pass sign-in sheet for all present to sign.]

*Building Administrator:*

Will those present please identify themselves for the record?

*If the student is charged with a criminal offense, Building Administrator adds:*

As Hearing Officer, I must warn you that the records of this hearing may be subpoenaed into court. Therefore, if you (student) wish to remain silent, you may do so, and the fact that you remain silent will not in any way be interpreted as an admission of guilt.

*Building Administrator to parent/representative:*

Did you receive notification of this hearing to consider [name of penalty, e.g. expulsion]?

Did you receive notification of your right to representation?

*After the parent/representative replies, add:*

Let the record show that the Parent/Guardian/Authorized Caregiver \_\_\_\_\_ [name] has answered affirmatively.

*Building Administrator to parent/representative:*

Is there a need for you to have interpreting services?

*After the parent/representative replies, add:*

Let the record show that the Parent/Guardian/Authorized Caregiver \_\_\_\_\_ [name] has answered \_\_\_\_\_.

*Building Administrator to all present*

Before we begin, it is important to go over the ground rules of the hearing. I am the Hearing Officer and as such will be in charge of the conduct of the hearing. The school will state its case first. I will call witnesses into the hearing room one at a time. **[Student witnesses / victims need not be summoned if the administrator has ruled, orally or in writing, that the identification and / or presence of the witnesses / victims would endanger their physical safety, or cause harm or intimidation; see Section 9.8.2.]** The witness will give his or her version of the events. There may be some questions I will have. When I have concluded my questioning, you as parent/representative will have the opportunity to ask questions of the witness. I have the right to halt a line of questioning if I determine it to be disrespectful, intimidating or irrelevant. When that witness is finished, he or she will be dismissed, and the next witness will present testimony. We shall continue in this fashion until all witnesses have testified.

When the witnesses for the school have concluded, you will have an opportunity to present witnesses. The student will also have an opportunity to state his or her version of the events.

Keeping in mind his or her rights under the Miranda law, that this testimony may be subpoenaed for use at a later date in a civil or criminal court. If the accused chooses not to testify, such refusal is not an indication of guilt. However, it leaves me to make a decision on the testimony presented.

We are recording this hearing for the protection of all parties involved. You will have a right to a copy of this tape within five days of the conclusion of this hearing should you so indicate in writing.

Are there any questions? I will now call the first witness.

*The first witness identifies self for tape purposes and presents testimony. At the conclusion, the Building Administrator makes sure the following questions have been answered in the witness's testimony:*

- Q. Who was involved in the event?
- Q. When did it take place?
- Q. Where did it take place?
- Q. What occurred?
- Q. What was the motive, if known?

*Building Administrator to parent/representative:*

Do you have any questions of the witness?

*Building Administrator, when witness has concluded:*

Thank you. Will you please ask \_\_\_\_\_ (the next witness) to come in?

*Turn off tape until the next witness is ready. Same process occurs for succeeding witnesses.*

*Building Administrator to parent/representative, when school has concluded its case:*

Do you have any witnesses to present?

*If yes and the parent/representative present witnesses, the Building Administrator asks pertinent questions as above at testimony conclusion.*

*Building Administrator to student, when parent's/representative's case is concluded:*

Did you wish to testify on your own behalf? Tell us what happened.

*Building Administrator needs to ask student the pointed questions at conclusion of testimony:*

- Q. Did you commit the offense?
- Q. Did you say it? Why?
- Q. Why did you do it?

**FOR A STUDENT WITH DISABILITIES:**

*Building Administrator to Special Education and Student Services Coordinator:*

Is \_\_\_\_\_ (student) subject to the Code of Conduct of the Boston Public Schools?

*Coordinator identifies self for tape and replies:*

The Team met and made the appropriate determination for this student who is subject to all provisions of the Code of Conduct.

*Building Administrator at conclusion of hearing:*

## 1. IF EVIDENCE SUPPORTS LONG-TERM SUSPENSION:

After listening to the testimony of all the witnesses, I find sufficient evidence that \_\_\_\_\_ (name of student) did commit a violation against the Code of Conduct, Section(s) \_\_\_\_\_. I am, therefore, recommending that \_\_\_\_\_ (student) be suspended for the period beginning \_\_\_\_\_, 20\_\_\_\_, and ending \_\_\_\_\_, 20\_\_\_\_. The Operational Leader will review this decision within five days. I will notify you in writing of the outcome of the review.

## 2. IF EVIDENCE SUPPORTS INDEFINITE SUSPENSION: After listening to the testimony of all the witnesses, I

find sufficient evidence that \_\_\_\_\_ (student) did commit a violation against the Code of Conduct, Section(s) \_\_\_\_\_. Furthermore, \_\_\_\_\_ (student) has been charged with a felony complaint/felony delinquency. Therefore, I am recommending an indefinite suspension until the disposition of the felony charge. The Operational Leader will review this decision within five days. I will notify you in writing of the outcome of the review.

3. IF EVIDENCE SUPPORTS EXPULSION: After listening to the testimony of all the witnesses, I find that alternatives to exclusion have been tried and documented for this student and that sufficient evidence that \_\_\_\_\_ (student) did commit an expellable violation against the Code of Conduct, Section(s) \_\_\_\_\_. The Operational Leader will review the audio recording and all reports concerning this case within five days. While we await the decision of the Operational Leader, \_\_\_\_\_ (student) will return to the Counseling and Intervention Center.

I will notify you in writing of my decision whether or not to expel \_\_\_\_\_ (student) during his/her stay at the Counseling and Intervention Center.

*Building Administrator to all present:*

You have a right to appeal this disciplinary action within ten school days. The appeal must be in writing and must be sent to the Superintendent's Hearing Officer, 2300 Washington Street .....

Are there any questions? If there are not further questions, please verify your address and phone number before I conclude this hearing.

The time is \_\_\_\_\_ A.M./P.M.

[Turn off audio recorder]

**EXHIBIT 5: Suggested Timeline for Expulsion,  
Indefinite and Long-Term Suspension Procedures**

<b>TIMELINE</b>	<b>ACTION</b>	<b>CODE OF CONDUCT</b>	<b>ATTACHMENT</b>
Day of Incident	Notification of Long-Term Hearing letter to parent .....	3.3 and 5	
	<input type="checkbox"/> Notification of Expulsion Hearing .....	3.3.1	
	<input type="checkbox"/> Notification of Hearing for Felony Charge.....	3.4	
School Day #1	<input type="checkbox"/> Suspension hearing takes place (unless parent waives right to hearing)		
	<input type="checkbox"/> Letter sent to parent: Notification of Suspension.....	3.6 or 3.7	
	<input type="checkbox"/> Suspension Day		
	<input type="checkbox"/> Schedule Counseling & Intervention Center (CIC) Notify Operational Leaders		
School Day #2	<input type="checkbox"/> Suspension Day		
	<input type="checkbox"/> ..... If long-term suspension or indefinite suspension: send packet to Operational Leader for review	4.1 or 4.2	
School Day #3	<input type="checkbox"/> Suspension (last possible day for under age 16)		
	<input type="checkbox"/> Notification of Long Term Suspension Hearing letter to parent (under age 16).....	3.3	
School Day #4	<input type="checkbox"/> CIC assignment begins (under age 16)		
	<input type="checkbox"/> If no CIC referral: return to school (under age 16)		
	<input type="checkbox"/> Suspension continues (age 16 and over)		
School Day #5	<input type="checkbox"/> Suspension: last possible day (age 16 and over)		
	<input type="checkbox"/> ..... Notificati on of Accept Hearing letter to parent (age 16 and over).....	3.3.1	
	<input type="checkbox"/> Expulsion hearing (under age 16); send packet and Request for Review to Operational Leader.....	4.1 or 4.2	
School Day #6	<input type="checkbox"/> CIC assignment begins (age 16 and over)		
	<input type="checkbox"/> If no CIC assignment: return to school (age 16 and over)		
	<input type="checkbox"/> CIC assignment ends (under age 16)		
	<input type="checkbox"/> Review of expulsion (under age 16) by Operational Leader		
School Day #7	<input type="checkbox"/> CIC (age 16 and over)		
	<input type="checkbox"/> Notification of Expulsion letter to parent (under age 16).....	3.12	
	<input type="checkbox"/> If denied: Notification of Expulsion Denial letter.....	3.13	
	<input type="checkbox"/> If no expulsion: return to school (under age 16)		
School Day #8	<input type="checkbox"/> CIC (age 16 and over)		
School Day #9	<input type="checkbox"/> CIC (age 16 and over)		

- School Day #10 ☐ CIC (age 16 and over)  
☐ Expulsion hearing (age 16 and over); send packet and Request for Review to Operational Leader.....4.1 or 4.2
- School Day #11 ☐ CIC (age 16 and over)
- School Day #12 ☐ CIC (age 16 and over)  
☐ Review of expulsion (age 16 and over) by Operational Leader
- School Day #13 ☐ CIC (age 16 and over)  
☐ Notification of Expulsion letter to parent (age 16 and over) ..... 3.12  
☐ If denied: Notification of Expulsion Denial letter..... 3.13
- School Day #14 ☐ CIC (age 16 and over)
- School Day #15 ☐ CIC (age 16 and over): last day
- School Day #16 ☐ If no expulsion: return to school (age 16 and over)

### **Section 13      *Due Process***

The due process obligation in school-based hearings has been upheld by both the Massachusetts Superior Court and the Supreme Court of the United States. It is necessary that due process be followed in conducting a hearing for expulsion or the proceedings may be declared invalid.

The responsibility for recommending expulsion and conducting a formal hearing rests with the Building Administrator, with a mandatory due process review by the Operational Leader prior to notifying the student and parent of the decision. That review requires that the Operational Leader apply rigorous standards to ensure the Building Administrator followed all procedures with respect to the letter and spirit of both the law and the Code of Conduct.

To recommend expulsion, the Building Administrator must find, and the Operational Leader must confirm, that there is a preponderance of the evidence, limited solely to evidence presented at the hearing, that there has been a violation of Section 7.1.3 of the Code and that the due process rights of the student were respected.

Under the law, the Building Administrator shall exercise discretion in addressing the behaviors leading to consideration of expulsion, consider ways to re-engage the student in the learning process, and avoid using expulsion as a consequence until other remedies and consequences have been documented and employed on a case-by-case basis. For example, in cases involving a weapon, the Building Administrator may consider factors such as whether the student exhibited intent to cause physical injury and whether the student has a history of violent conduct.

At the same time, the Code of Conduct ensures that a student who is accused of an expellable offense is given a fair and prompt formal hearing; is informed of his or her right to be represented by counsel, call witnesses, and present evidence at that hearing; and is made aware of the right to appeal the Building Administrator's decision to the Superintendent (or designee).

### 13.1 *The Education Reform Act*

The Education Reform Act of 1993, as amended, identifies four particular instances in which a Building Administrator, rather than the Superintendent, may expel a student. See section 7.1.3 for the list of offenses

### 13.2 *Procedures Preceding the Expulsion Hearing*

- 13.2.1 When a student commits an expellable offense that does not fall within the parameters of the emergency suspension provisions (see Section 8), the Building Administrator must hold a suspension hearing, may suspend the student for up to five (5) school days (three days if he or she is 15 years old or younger), and may refer the student to the Counseling & Intervention Center for ten (10) school days, to start at the end of the suspension. This sequence may take up to fifteen (15) school days [see Exhibit 5, page 46]. During the period of suspension, school and law enforcement authorities gather evidence, and prepare the case for the expulsion hearing.

In some cases, a suspension hearing prior to the expulsion hearing is not necessary because the student has already been removed from the school. For example, the student may be incarcerated or hospitalized.

- 13.2.2 During the period of suspension, and if his or her findings warrant it, the Building Administrator must All students found at a suspension hearing to have committed an expellable offense may be referred to the Counseling & Intervention Center for counseling purposes, even if a second offense is involved. Students shall be marked constructively present during the period of assignment to the Counseling & Intervention Center. Students with unique needs who may require specialized support services should be identified and brought to the attention of the Director of the Counseling & Intervention Center prior to assignment. The assignment of the student to an alternative setting shall be the responsibility of the Executive Director of Educational Options or his/her designee.

### 13.3 *The Expulsion Hearing: Notification*

- 13.3.1 The expulsion hearing must be scheduled to be held within the first three (3) days of the student's assignment at the Counseling & Intervention Center. With this timeline, the Building Administrator can ensure that both the formal expulsion hearing and the procedural review by the Operational Leader take place before the student completes his or her assignment to the Counseling & Intervention Center and thus help ensure due process.

Once they are notified of the date of the hearing, the student and parent have the right to one postponement of not more than five (5) additional days. The hearing will be held on the rescheduled date, whether or not the parent attends, provided that the Building Administrator, or designee, has made and documented reasonable efforts to include the parent.

- 13.3.2 By the end of the suspension, any student charged with an expellable offense, and his/her parent, must be notified in writing of an opportunity for a formal hearing before the Building Administrator, including date, time, and place of the hearing.
- 13.3.3 The Notification of Expulsion Hearing must be in English and in the primary language spoken in the home, if different [see Attachment 3.3]. It must also include the following specific information:



1. A statement that expulsion has been recommended to the Building Administrator
  2. A complete description of the alleged offense requiring expulsion, including a reference to the appropriate section of this Code
  3. Documentation of any methods of progressive discipline, as described in Sections 3 and 4.
  4. If requested, a statement of the facts and evidence as presented to the Building Administrator, including copies of any relevant documents or evidence collected by that time
  5. Specific notice of all procedural rights, including the student's right to have a private hearing, to have his or her parent present at the hearing, to have an attorney or other representative of his or her choice at the hearing, to present witnesses, to cross-examine witnesses against the student, and to have an audio recording of the hearing made by the Boston Public Schools, and upon written request, to have a tape of the same made available, at no cost, to the student or parent within five (5) school days for the purpose of appeal.
  6. Notice that, when the Building Administrator reaches a decision, the student and parents will be provided the detailed reasons for the decision,
  7. Provide a list of Legal Services offices and other advocacy groups [Attachment 5]
  8. Specific reference to the rights of the student and/or parent to have access to the student's school records in advance of the hearing as required by law [see *Guide to the Boston Public Schools for Families and Students* and *Superintendent's Circular LGL-07: Student Record Procedures*]
  9. Specific reference to the right of the parent to obtain a referral for special education evaluation, if the parent feels the student may need special education services [see *Guide to the Boston Public Schools for Families and Students* and Attachment 3.14].
- 13.3.4 If the parent is present in the school, the parent shall be given two copies of the Expulsion Hearing Letter, one for their own use and one to sign and return to the Building Administrator. In addition, if the student is in the school, the student shall also be given the letter. If neither is in the school, two copies of the Notification of Expulsion Hearing letter should be sent to the student's home. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school. Copies of all correspondence must be kept on file and forwarded to the Operational Leader.

Building Administrators are encouraged to make every effort to reach the student and parent, calling the parent at work, for instance, to make arrangements to deliver the letter. The Building Administrator must send the letter by certified mail to the home address and retain the receipt as proof of notification.

To conduct a hearing without the parent present, the Building Administrator or Designee must have sent written notice and be able to document at least two (2) attempts to contact the parent in the manner specified by the parent for emergency notification to inform parent of the hearing.

- 13.3.5 If the parent does not attend the formal expulsion hearing and has not requested a delay, the hearing should be rescheduled and held within forty-eight (48) hours. The parent should be informed that the hearing will be held on the rescheduled date, whether or not the parent attends. Documented efforts must be made to include the Parent, Guardian, or Authorized

#### **13.4 The Expulsion Hearing: Procedures**

See Exhibit 4, Suggested Script...for Disciplinary Hearing Recommending a Change of Placement, page 42.

A formal hearing to consider expulsion shall be conducted in accordance with the due process rights for a student faced with a long-term suspension (See Sections 9.4 through 9.7 & 10.4) and the following rules:

13.4.1 The Building Administrator, who serves as Hearing Officer, unless the Building Administrator is a witness or victim, conducted the investigation and/or is not available to conduct the hearing in accordance with prescribed timelines, must conduct the expulsion hearing. In this role, the Building Administrator is obligated to develop and maintain a working knowledge of the Code of Conduct and all pertinent laws and regulations. He/she must follow all procedures outlined in the Code of Conduct without exception; including the recording of the hearing, the admissibility of hearsay evidence, and the "preponderance of the evidence" standard for finding the student guilty as charged [see Section 13.2].

13.4.2 The hearing shall be private unless the Building Administrator (or other Hearing Officer) agrees with a student's or parent's request that it be made public.

13.4.3 An audio recording shall be made by the Building Administrator (or other Hearing Officer) and, upon written request, made available at no cost to the student or parent within five (5) school days of the hearing for purposes of appeal. The recording, transcript, evidence, and records of the expulsion hearing shall be held confidential in the offices of the Building Administrator and Operational Leader. The student and parent should be advised, however, that the recording, transcript, records, and evidence may be subject to subpoena and are admissible in court and may be used as evidence against them in a court proceeding.

13.4.4 A suggested script for use by the Building Administrator (or other Hearing Officer) in conducting a formal hearing is outlined in Exhibit 4.

#### **13.5 Options Following the Expulsion Hearing**

Following the formal hearing, the Building Administrator can choose to expel the student, add additional days of suspension, or not expel the student. In making his or her decision, the Building Administrator may take into consideration the full record of the student.

13.5.1 If the evidence concerning the incident supports expulsion but the past record of the student does not, the Building Administrator should inform the Operational Leader in the Request for Review [Section 13.8 and Attachment 4.1 or 4.2] that the decision reached at the hearing was not to expel, but rather (1) to allow the student to continue at the school; or (2) to extend the suspension for five more days before the student returns to the school. In addition, the letter should note that, "in the opinion of the Building Administrator, the continued presence of this student will not pose a threat to the safety, security and welfare of the other students and staff in the school."

13.5.2 If the evidence of the incident supports expulsion, the Building Administrator should inform the

Operational Leader in the Request for Review [Attachment 4.1 or 4.2] that a decision to expel the student has been made and should be reviewed. The Building Administrator must also include a decision on whether or not the student should have the ability to return to the sending school following the period of expulsion. Copies of all required documentation must be attached to this memorandum as noted below in Section 13.8.

### 13.6 *Request for Review*

13.6.1 No later than two (2) school days after the formal expulsion hearing, the Building Administrator must submit to the Operational Leader the Request for Review form [Attachment 4.1 or 4.2], with all relevant materials attached. Those materials include copies of the Notification of Expulsion Hearing, Notification of Expulsion, a recommendation for the length of the expulsion, whether or not the student should have the ability to return, student records (address, report cards, progress reports, transcript), conduct history, action history, student attendance, academic standing report and an audio recording of the hearing, as well as any additional materials related to the incident: records from the Counseling & Intervention Center, and other materials. For students with disabilities, additional documentation is required [see Section 15]. The Request for Review must be completed and signed by the Building Administrator.

13.6.2 The Operational Leader will review the case and all materials for procedural and evidentiary compliance with the Code of Conduct. No later than three (3) school days after receiving the Request for Review and all materials, the Operational Leader must decide to either let stand the Building Administrator's decision or to overturn it.

13.6.3 If the Operational Leader supports the expulsion, he or she notifies the Building Administrator. The Building Administrator must notify the parent in writing, in the primary language spoken in the home.

13.6.4 The Operational Leader may overturn the Building Administrator's decision if procedural guidelines, particularly as they apply to due process—e.g., notification and evidentiary requirements—have not been followed.

13.6.5 Expelling a student who is identified, as a student with disabilities requires a rigorous review according to both federal and state special education laws. Disciplinary procedures already in place for students with disabilities must be followed. These procedures are based on federal and state laws and regulations and are set forth in Section 15.

### 13.7 *Issuance of Findings and Notification of Student and Parent*

After this review by the Operational Leader, the student and parent shall be notified by the Building Administrator, of the decision.

13.7.1 In the event a decision has been made to expel the student and that decision has been supported by the Operational Leader, the Building Administrator must inform the student and parent in writing, in English and the primary language spoken in the home, if different, or other means of communication where appropriate [see Notification of Expulsion, Attachment 3.12]. That letter must identify the disciplinary offense, the date on which the hearing took place, the participants at the hearing, set out the key facts and conclusions of the Building Administrator, include notice of the student's right to continue receiving educational services and make academic progress, a list of Legal Services offices and other advocacy groups [Attachment 5], and explain the right of the student and parent to appeal the expulsion to the Superintendent within ten (10) days of receiving the letter, provided that, if requested, an extension of

seven (7) additional days shall be granted. Two copies of the Notification of Expulsion letter should be delivered to the student's home. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school. Copies of all correspondence shall be kept on file by the school and the Operational Leader.

13.7.2 In the event a decision has been made not to expel the student (or that a preponderance of evidence to support an expulsion ruling has not been presented) and that decision has been supported by the Operational Leader; the Building Administrator must inform the student and parent in writing [see Attachment 3.13]. Two copies of the letter should be delivered to the student's home. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school. Copies of all correspondence should be kept on file by the school and the Operational Leader.

### 13.8 *Appeal to Expulsion*

All provisions provided to students for the appeal of a suspension detailed in sections 9.8 and 10.6 apply to the appeal of an expulsion. Additionally, the following provisions apply to an expulsion hearing:

See Exhibit 3, The Appeal Process Step by Step: Expulsion, page 38.

The expelled student and parent shall have ten (10) school days in which to request in writing a private appeal and hearing before the Superintendent (or designee). The Hearing Officer will schedule the appeal hearing (sending written notice of such) to take place within three (3) days of the receipt of request making efforts to schedule it on a day/time enabling both the Hearing Officer and parent(s) to attend. Parent may request one extension of the appeal hearing of up to seven (7) calendar days.

Issues related to due process, evidence, and appropriateness of the penalty (including ability to return) may be challenged on appeal and thereby reviewable by the Hearing Officer.

13.8.1 The imposition of the expulsion may be stayed by the Hearing Officer pending review.

13.8.2 If the student is expelled during the first marking period, the Superintendent's Hearing Officer will hold an automatic review within the first three weeks of the third marking period.

13.8.3 *Felony Conviction.* In accordance with Massachusetts General Law, Chapter 71, Section 37H ½, a student expelled for conviction of a felony may appeal the expulsion to the Superintendent. The student must request the appeal no later than ten (10) school days following the date of the expulsion, provided that a student or parent may request, and if so requested, shall be granted an extension of up to seven (7) days. The Superintendent (or designee) must hold a hearing with the student and the student's parent within three (3) school days of the request and render a decision within five (5) school days of the hearing. Standard procedures for conducting a hearing and appeal will be followed.

### 13.9 *Alternative Education and the Expulsion Period*

13.9.1 Following an expulsion decision, the District shall continue to provide educational services. The services shall provide the opportunity to continue making academic progress and earn credits during the exclusion, and a reasonable opportunity to make up all assignments and tests and shall receive academic credit for such work completed. The Executive Director of Educational Options or his/her designee shall meet with the student and the parent to explore a range of available alternatives that would allow the student to

continue his or her education during the expulsion period, including, but not limited to: home study, adult education programs (day, evening, and modified combination), and alternative programs.

## **Section 14 SUBSTANCE ABUSE**

14.1 For students accused of having violated Section 7.1.3.2 (possession of a controlled substance) or 7.11.1 (possession or use of alcohol) the school discipline process will be temporarily halted and Section 14 procedures will be implemented. Upon completion of this process, the Building Administrator, with input from the Counseling and Intervention Center and the Operational Leader will determine if discipline will be pursued. In addition, a school shall apply the procedures of Section 14 to a student suspected (see 14.2) of being under the influence of a controlled substance.

14.2 In cases involving a controlled substance or alcohol trained school staff (in the absence of this call School Police at 617-635-8000) must determine "Reasonable Suspicion" of drug or alcohol use/activity by the student, resulting in the violation of district policy. To determine "Reasonable Suspicion," the following factors are possible, but not exclusive, indicators or elements to consider in conjunction with other relevant information, including the student's explanation:

14.2.1 The physical symptoms or manifestations of drugs or alcohol use such as altered or slurred speech or repeated incoherent statements; dilated or constricted pupils, flushed skin, excessive sweating; excessive drowsiness or loss of consciousness, excessive scratching, picking of scabs, red or yellow eyes, shakes, grinding teeth without reasonable explanation.

14.2.2 Unexplained, abrupt or radical changes in behavior such as violent outbursts, hyperactivity, paranoia, delusions, frequent and/or extreme fluctuations of mood swings without reasonable explanation.

14.2.3 Inability to walk steadily or in a straight line, or perform normal manual functions essential the schoolwork without reasonable explanation.

14.2.4 Unexplained sensory or motor skill malfunctions.

14.2.5 Smell of alcoholic beverage on the student.

14.2.6 The direct observation of drugs or alcohol use while at school.

14.2.7 A report of reasonable suspicion by a reliable and credible source.

14.3 The procedures for referral under Section 14 (Alcohol/drug usage or possession or use of any non-prescribed controlled substance, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind in school) shall be as follows:

14.3.1 *Day 1.* If a student is found to be in possession of a controlled substance/alcohol or found to be under the influence per section 14.2, Parent/Guardian/Caretaker will be contacted regarding a Wellness Conference to be held that day. If determined to be necessary, an intake appointment will be set up for the CIC for the following day.

14.3.2 *Day 2.* The student and parent will report to the CIC for an intake meeting with the CIC Addiction Specialist. CIC staff will review the record in collaboration with the Operational Leader and make a determination of eligibility for the Substance Abuse Program. If enrolled, the minimum stay will be 5 days, while 10 days or more may be recommended if further treatment

is required.

14.3.3 Days 3-4. Evaluation and assessment will continue.

14.3.4 Day 5. A recommendation will be made to the school and family for continued follow-up treatment and the length of stay at the CIC. A recommendation will also be made to the school in relation to whether school-based discipline should proceed.

## Section 15

### STUDENTS WITH DISABILITIES

15.1 Students with disabilities and/or students on Section 504 plans, as defined by federal law and regulations, shall be subject to the provisions of this Code, except as otherwise provided by this Section (*Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities*) and by the Student's IEP and/or 504 Plan. The definition of a student with a disability is found in Section 21.19.

15.2 Special education staff, including the Special Education Coordinator/Program Director or designee, shall be involved in all administrative decisions under this Code involving students with disabilities.

#### 15.2.1 CIC Referrals

Any time a student who has an IEP or 504 Plan is referred to the CIC a second time, the case will be flagged for review by the Office of Special Education for a Manifestation Determination Meeting and/or a reconvene of the IEP Team.

15.3 Prior to an administrative decision under this Code, the Building Administrator shall verify:

- a. Whether or not the student has been designated a student with disabilities or has been referred for a special education evaluation, but not yet determined to have disabilities; and
- b. That the Individualized Education Program (IEP) of every student with disabilities will indicate why the student is or is not expected to meet the Code of Conduct, and, if not, what modification of the Code is required. If modifications to the Code are required, such modifications shall be described in the IEP.

15.3.1 If the decision will not impact the student's placement and/or not result in a cumulative suspension of more than ten (10) days during a school year, a Manifestation Determination Meeting **of relevant Team members** is not required.

15.3.2 If the decision will impact the student's placement and/or result in a cumulative suspension of more than ten (10) days during a school year, a Manifestation Determination Meeting *of relevant Team members* is required.

#### 15.4 Students Not Yet Eligible for Special Education

Under state and federal laws and regulations, a student who has not been determined to be eligible for special education and related services, and who has engaged in behavior that violated any rule or Code of Conduct, may assert any of the protections provided to students with disabilities if the school had knowledge that the student was a student with a disability **before** the behavior that precipitated the disciplinary action occurred.

15.4.1 The school department is deemed to have knowledge the student is a student with a disability if prior to

the incident:

- 15.4.2 The parent of the student has expressed concern in writing to school department staff that the student is in need of special education services; (*Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities*).

15.4.2.1 The parent has requested an evaluation of the student; or

15.4.2.2 The teacher of the child or other school personnel has expressed specific concerns about the pattern of behavior of the child to the Director of Special Education or other special education personnel.

- 15.4.3 If there is no prior knowledge of disability, the student may be subject to the same disciplinary measures as those applied to students without disabilities with the following limitations:  
If a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation should be conducted in an expedited manner; and

15.4.3.1 Until the evaluation is completed, the student remains in the educational placement determined by school authorities.

- 15.5 The following provisions shall apply whenever a school proposes one of the following actions: to suspend a student with disabilities for more than ten (10) cumulative school days in a school year; or to expel a student with disabilities. The definition of a student with a disability is found in Section 21.19.

A free appropriate public education (FAPE) must be provided to students with disabilities during any period of suspension of more than ten (10) cumulative days, alternative placement, or expulsion.

- 15.5.1 In accordance with federal laws and regulations, the Building Administrator or Designees of the Boston Public Schools:

1. will notify the Deputy Superintendent of Individualized Learning, or designee, of the misconduct for which suspension of a student with disabilities for more than ten (10) cumulative school days is proposed so that the procedures required by federal and state laws and regulations can be implemented consistently;
2. Will record and maintain the number and duration of suspensions of students with disabilities;
3. Will ensure that no student with disabilities is suspended, or out of placement for more than ten (10) cumulative school days in the school year except as provided by federal laws and regulations.

- 15.5.2 Any time a student who has an IEP or a 504 Plan is referred to the Counseling and Intervention Center a second time, the case will be flagged for review by the Office of Special Education for Manifestation Determination Meeting and/or reconvene of the IEP Team.

- 15.5.3 Manifestation Determination Meeting

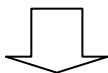
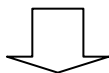
When it is known that the suspension(s) and of a student with disabilities will accumulate to more than ten (10) cumulative school days or if the student with disabilities is out of placement for more than 10 days, in a school year, due to involvement in a behavioral incident, a review of the IEP must be

conducted by relevant members of the student's Special Education Team prior to the exclusion taking place. Parent must be invited in writing to this Manifestation Determination Review Team meeting.

- a) At that review, the Team will determine if the student's misconduct was a manifestation of the student's disability (See procedures outlined in Section 15.4.3). This must take place within ten (10) school days of the occurrence of the behavioral incident. Depending on the result of that determination, the proposed suspension hearing may or may not be held. *(Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities; Attachment C).*
- b) At the same time, the Team, if it has not already done so, must also conduct a Functional Behavioral Assessment (FBA) of the student's behavior, and develop a Behavior Intervention Plan
- c) (BIP) to address the targeted behavior as soon as possible.
- d) If the student has a Behavior Intervention Plan, the Team must review and modify it as necessary to address the targeted behavior.



**STEP 3** Within 10 **school** days of the occurrence of the behavioral incident, the Coordinator holds a Team meeting to review the IEP, conducts a Manifestation Determination Meeting and Functional Behavioral Assessment, and develops a Behavioral Intervention Plan.



If **YES** to Manifestation, process stops.

School-based Team may consider a reevaluation to determine if placement is appropriate.

If **NO** to Manifestation, process continues:

- STEP 4** Building Administrator holds expulsion hearing. The Coordinator and/or liaison must attend.
- STEP 5** If the Hearing Officer recommends an expulsion, school-based Team develops an alternative IEP **amendment** identifying (1) services necessary to enable progress in the general curriculum and IEP goals, and (2) site of services.
- STEP 6** Supervisor reviews alternative IEP **amendment** and authorizes Coordinator to obtain parent signatures.
- STEP 7** Copy of expulsion packet forwarded to appropriate Operational Leader. [See Attachment 4.2.] Packet to include:
- Manifestation Determination form
  - Functional Behavior Assessment
  - Alternative IEP **amendment** with parent signature.
- STEP 8** Operational Leader reviews for due process and obtains parent signature on expulsion notice.
- STEP 9** Once parent signature is obtained on expulsion notice, the 625A is completed and forwarded by the Operational Leader to the Chief of Staff for processing.
- STEP 10** Director of Educational Options, or his/her designee, in consultation with Director of Special Education's designee, arranges intake process.

15.5.4 Circumstances under which the student may not be excluded for more than ten (10) cumulative school days:

- A. If relevant members of the Team conclude that the student's misconduct is a manifestation of the student's disability, the student shall not be excluded. In making the determination, the Team must decide the following (i):

First consider, in terms of the behavior subject to disciplinary action, all relevant information, including:

- Evaluation and diagnostic results, including the results of other relevant information supplied by the parents of the student;
- Observations of the student; and
- The student's IEP and placement.

Then determine:

- Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability;
- Was the conduct in question the direct result of the District's failure to implement the student's IEP

- B. If relevant members of the Team and other qualified personnel determine that any of the standards in 15.4.3(a) (ii) were not met, the behavior must be considered a manifestation of the student's disability.
- C. The review described in 15.4.3 (a, b) may be conducted at the same Team meeting that is convened under 15.4.2.
- D. If a new program or placement is designed for the student as a result of the review, the new program or placement shall be implemented immediately following parental approval of the IEP. If the parent rejects the IEP, the school or parent may request either mediation or a hearing before the Bureau of Special Education Appeals (BSEA) of the Massachusetts Division of Administrative Law to determine the appropriateness of the program. Pending mediation or a hearing, the student shall remain in the placement in effect when the dispute arose, unless another placement is agreed to by the school and the student's parent, or a court order, or a BSEA Hearing Officer permits the school to change the student's placement based on a showing that the student's continued presence in school presents a substantial likelihood of injury to the student or to others

15.5.5 Circumstances under which the exclusion may be imposed for more than ten (10) cumulative school days:

- a. If the school proposes to impose an exclusion which will result in more than ten (10) cumulative school days of exclusion in the school year, and the Team concludes that the student's misconduct is not a manifestation of the student's disability, the school shall:
  1. Ensure that the Team members develop an alternative education plan that provides a free appropriate public education to the student during the period of exclusion, which shall be referred to as "the interim alternative education plan";
  2. Present the interim alternative education plan to the student's parent along with the written notice required by federal and state laws and regulations [Parent's Notice of Procedural Safeguards]. The failure or refusal of the parent to consent to the provision of services under the interim alternative education plan shall not prevent implementation of the exclusion. Nevertheless, if the parent requests a hearing to

contest the placement, Manifestation Determination or the exclusion, the provisions of Section 15.4.4 (b) shall apply.

- 15.5.5.1 If the parent requests a hearing the student will continue in the interim alternative education placement pending the result of the hearing or until the conclusion of the exclusionary period. If Parent prevails at hearing, the student will be immediately placed according to the decision of the Hearing Officer. If the District prevails, student will remain in the interim alternative educational setting through the conclusion of the period of exclusion.
- 15.5.6 A change in placement, determined by the Team, may be made with or without the parent's permission to an interim alternative education setting for a period of up to but not exceeding forty-five (45) calendar days regardless of whether the behavior is a manifestation of the student's disability, as long as a free appropriate public education (FAPE) is provided, if one or more of the following apply:
- i. A student carries or possesses a weapon at school or to a school function;
  - ii. A student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function.
  - iii. A student has inflicted serious bodily injury upon another person while at school or at a school function. "Serious bodily injury" is defined as that involving a substantial risk of death or extreme physical pain.
  - iv. The system has demonstrated at an administrative hearing at the BSEA by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others. In this case, the change of placement may be ordered by a BSEA hearing officer.
- 15.5.7 Notice to and Review by the Deputy Superintendent of Student Support Services or Designee
- a) Whenever a proposed suspension or expulsion will result in exclusion of a student with disabilities from school for more than ten (10) cumulative school days in the school year, the school shall immediately, send written notice of the proposed suspension or expulsion to the Deputy Superintendent of Student Support Services (or designee) for review and comment.
  - b) Such written notice shall demonstrate that:
    - The school has provided due process as required by the Code of Conduct;
    - The Team has determined that the behavior resulting in the violation of the Code was not a manifestation of the student's disability;
    - A functional behavior assessment or review of an existing behavior plan has been completed;
    - The disciplinary action is for a stated and limited number of days;
    - The action is necessary in light of the needs of the student and other students in the school;
    - The administrators have conferred with appropriate special education staff as to the disciplinary

action and have followed all the procedures outlined in this paragraph, including notice to the Parent, Guardian or Authorized Caregiver of the right of appeal.

The Deputy Superintendent of Student Support Services (or designee) will review all the information presented by the school officials and, within an appropriate period of time after receipt, inform the school and Operational Leader that the plan and process comply with the Code of Conduct and Special Education regulations.

## **Section 16                      DISCIPLINE AND SCHOOLWORK**

- 16.1     A student who misses any class because of disciplinary exclusion shall be given the opportunity to continue making academic progress during the exclusion, and have a reasonable opportunity to make up all assignments, tests, homework, quizzes, papers, and projects and shall receive academic credit for such work completed. (See Section 13.11 for procedures regarding education of expelled students.)
- 16.2     Principals shall develop a school-wide education service plan for students who miss any class because of disciplinary exclusion totaling more than 10 cumulative days. The school shall provide to the student and the Parent/Guardian/Authorized Caregiver of the student with a list of alternative educational services and contact information for the Office of Educational Options. The services shall provide the opportunity to continue making academic progress and earn credits during the exclusion, and a reasonable opportunity to make up all assignments and tests and shall receive academic credit for such work completed.

In no case shall punishment for violation of this Code or for violation of school rules established pursuant to Section 5 of this Code include any mandated reduction of grades. The services shall provide the opportunity to continue making academic progress during the exclusion.

## **Section 17                      EXPUNGING and DISCLOSING RECORDS**

### **17.1**

Whenever it is determined by a hearing, appeal, or informal administrative decision that a student did not commit a violation with which he or she has been charged, all references to the incident and the disciplinary proceedings shall be expunged immediately from the student's record. A suspension or appeal overturned for procedural errors shall result in the days of suspension/expulsion being expunged from the student record, but the Hearing Officer will determine the extent to which additional references to the incident will be removed from the student record. The hearing officer shall inform parents and students in writing the records to be expunged.

### **17.2**

School employees shall not disclose to institutions of post-secondary education any portions of a student's record that includes information about in-school suspensions, out of school suspensions, dismissals, expulsions or any other disciplinary violation or misconduct. No school employee, including college or guidance counselors shall release to or discuss with any institution of post-secondary education any information pertaining to a student's disciplinary history unless required by law.

**Section 18                      PHYSICAL FORCE**

A student shall not be subject to corporal punishment. School employees may use reasonable and prudent physical force to restrain a student whose actions it is reasonably believed are likely to result in any physical injury to any person including the student. Any school employee who uses plainly unreasonable or unjustified force will be subject to discipline.

**Section 19                      Behavioral Emergencies: Physical Restraint Policy**

Physical restraint is used only in emergency situations after other less intensive alternatives have failed or have been deemed inappropriate. Physical restraint should be administered only when needed to protect a student or other students and staff from imminent, serious physical harm as a measure of last resort. When necessary, physical restraint should be administered in the least intrusive manner possible and should be used to prevent or minimize harm to the student.( See Superintendent's Circular 111.)

The Massachusetts Department of Elementary and Secondary Education established regulations governing the use of physical restraints on students. These regulations supersede all previously established procedures. The Boston Public Schools is required to follow the provisions of 603 CMR 46.00 which regulates the use of physical restraint on students in Massachusetts public school districts, charter schools, collaborative and special education schools.

**Section 20                      PROMULGATION AND DISTRIBUTION****20.1                      *Uniformity***

This Code, together with any additional rules and alternative measures established under Sections 3, 4, and 5, shall constitute the sole rules and regulations of the Boston Public Schools governing the behavior of students and procedures for discipline and shall be in effect in all Boston Public Schools.

**20.2                      *Effective Date***

This Code and a statement highlighting its major provisions shall be effective upon approval by the Boston School Committee and filing with the Commissioner of Education in accordance with Massachusetts General Laws Chapter 71, Section 37H. Additional rules and alternative measures established under Sections 3, 4, and 5 of this Code shall become effective upon the distribution required under those sections and filing with the Commissioner under M.G.L. Chapter 71, Section 37H.

**20.3                      *Notice and Distribution***

Subsequent to the approval of this Code and within two weeks of the beginning of each school year thereafter, a summary of this Code shall be distributed to all staff, to students at the secondary level, and to parents. It shall be disseminated to parents in English and in the primary language spoken in the home of the student.

The Code will be published and disseminated to administrators, Building Administrators, teachers, and other staff in the school system; and a copy will be made available to any person upon request and without cost.

This Code and a statement highlighting the major provisions, which shall be prepared prior to the effective date of

the Code, shall also be permanently posted in conspicuous places in each Boston Public School; shall be orally

presented to students attending each school within one month of its effective date and, thereafter, within two weeks of the first day of school each school year. Such oral presentation may be made at an assembly conducted for that purpose, by homeroom teachers, administrators, the student government, or in any other manner calculated to provide effective oral notice to all students.

## Section 21 DEFINITIONS

As used in this Code, the following words shall have the meanings set forth below:

- 21.1 ACADEMIC SCHOOL EMPLOYEE:** includes only building administrators, assistant building administrators, directors, assistant directors, supervisors, teachers, substitute teachers, librarians, guidance counselors, guidance advisors and community field coordinators, and such other persons as may be actively engaged in the teaching process.
- 21.2 ACCEPTABLE USE POLICY FOR NETWORKS, INCLUDING THE INTERNET:** a BPS policy to assure that BPS students and staff use school-owned technology to access the network in a responsible, legal and ethical manner.
- 21.3 ASSAULT:** "Assault" is an attempt or threat to physically harm another person with the apparent present ability to do so and the victim has reasonable fear or apprehension of immediate bodily harm. Assault is committed without physical contact. *A completed assault is typically referred to as a battery.*
- 21.4 BEHAVIORAL INTERVENTION PLAN (BIP):** a plan developed by a special education Team based on information obtained from the Functional Behavioral Assessment to address the student's behavior.
- 21.5 BOSTON PUBLIC SCHOOLS COUNSELING & INTERVENTION CENTER** (previously named the Barron Assessment & Counseling Center): a program that provides counseling services, decision-making and social emotional skill building to students who have committed applicable violations of the Code of Conduct
- 21.6 BUILDING ADMINISTRATOR:** the person primarily responsible for carrying out the administration of school policy in the school building: the principal, headmaster, or program director.
- 21.7 BULLYING:** the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.
- 21.8 CAREGIVER:** individual currently providing for the student who has completed the notarized "Caregiver Authorization Affidavit" granting education decision making rights.
- 21.9 CIVIL RIGHTS VIOLATION:** any action taken or derisive statement made regarding a person's race, color, national origin, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, genetics, or active military status, including statements made in person or by telephone, posted, or

electronic mail, or any other means of communication, if sufficiently severe, pervasive, or persistent that they (a) interfere with or limit an individual's ability to participate in or obtain the advantages, privileges or course of study in the Boston Public Schools or from any Boston Public School program or activity; or (b) create an intimidating, threatening, or abusive educational environment.

- 21.10 **CONSTRUCTIVELY PRESENT (CP):** Attendance code used for students who are out of school while at the Counseling and Intervention Center, cannot get to school because of a bus suspension, or are visiting an alternative placement.
- 21.11 **CONTROLLED SUBSTANCE:** any drug or substance listed in Massachusetts General Laws Chapter 94C.
- 21.12 **CYBER-BULLYING:** bullying through the use of technology or any electronic communication, which shall *include*, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.
- 21.13 **DANGEROUS OBJECT:** any item, object or device used in a dangerous or threatening manner, such as pencils, rulers, hair picks, etc.
- 21.14 **DANGEROUS WEAPON:** Any item, object or device that, because of its nature and/or the way it is used, is capable or reasonably perceived as being capable of causing serious injury. As defined in 18 USC, Section 930, a "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade less than 2 ½ inches.

As further defined by Massachusetts General Law Chapter 269, Section 10, a dangerous weapon includes any of the following, without limitation:

- Firearm, loaded or unloaded
- BB gun or air rifle
- Stiletto, dagger, or a device or case which enables a knife with a locking blade to be drawn at a locked position
- Ballistic knife or any knife with a detachable blade capable of being propelled by any mechanism
- Dirk knife, any knife having a double-edged blade, or a switch knife
- Knife having an automatic spring release device by which the blade is released from the handle, having a blade of over 1 ½ inches
- Sling shot, blowgun, blackjack, metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles.
- nunchaku, zoo bow, also known as klackers or Kung Fu sticks, or any similar weapon consisting of two sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather
- Shuriken or any similar pointed star like object intended to injure a person when thrown
- Any armband, made with leather which has metallic spikes, points, or studs, or any similar device

made from any other substance or a cestus or similar material weighted with metal or other substance and worn on the hand

- A manrikigusari or similar length of chain having weighted ends.

As further defined by Massachusetts General Law Chapter 140, Section 131J, a dangerous electrical weapon includes portable devices or weapons from which an electrical current. Impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill, e.g., Taser.

- 21.15 **DAY, BUSINESS:** any day when Boston School Dept. administrative offices are open, i.e. Monday through Friday, excluding federal, state and county holidays.
- 21.16 **DAY, CALENDAR:** any day.
- 21.17 **DAY, SCHOOL:** any day on which school is in session and students are required to be present. Unless otherwise specified, references to “day” or “days” in this Code shall mean “school day” or “school days.”
- 21.18 **DESIGNEE:** a person specifically assigned by the Building Administrator or Superintendent to act in his or her place (Assistant Principal, Dean of Students, Community Field Coordinator, School Climate Coordinator, Student Support Team staff, Special Education and Student Services Coordinator, etc.) in fulfilling the requirements of this Code.
- 21.19 **DISABILITY, STUDENT WITH A:** a student who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services, including a school age child who requires only a related service or related services if said service or services are required to ensure access of the child with a disability to the general education curriculum.
- 21.20 **DUE PROCESS:** the provision of proper notice to all parties of the charges, the opportunity to present evidence and, the right to representation and to the cross-examination of witnesses **notwithstanding those exceptions articulated in sections 9.5 and 13.6**, and the obligation to inform the accused of the right to appeal.
- 21.21 **EMANCIPATED MINOR:** a minor who is self-supporting and independent of parental control, usually as a result of a court order terminating rights and duties of the parent(s).
- 21.22 **EVIDENCE, PREPONDERANCE OF THE:** evidence of greater weight or more convincing than the evidence which is offered in opposition to it. Such evidence shall be clear and unambiguous.
- 21.23 **EVIDENCE, SUBSTANTIAL:** beyond a preponderance of the evidence; evidence that a reasonable mind might accept as adequate to support a conclusion.
- 21.24 **EXPULSION:** the removal of a student from the school premises, regular classroom activities, and school activities for more than ninety (90) schools, indefinitely, or permanently for violation of section 7.1.3. The period of expulsion, consisting of placement in an alternative program, will not exceed one calendar year without student/guardian consent. See Section 13 of the Code for further explanation and required procedures; and Section 15 for details and procedures for students with disabilities.]



21.25 **FELONY:** any crime punishable by death or imprisonment in the state prison. All other crimes are misdemeanors [M.G.L. Chapter 274, Section 1]. Examples of felonies include:

- unnatural and lascivious acts with children under 16
- breaking and entering and stealing property
- breaking and entering with intent to commit a felony
- forging a check with intent to defraud
- manslaughter
- possession or sale of narcotic drugs (also intent to sell narcotic drugs)
- receiving stolen goods
- possession of firearms
- murder
- indecent assault and robbery
- mayhem
- armed robbery
- unarmed robbery but with force and violence
- rape
- arson
- larceny of a firearm
- larceny over \$250
- theft of a motor vehicle \*
- carrying firearms
- carrying knives or other dangerous weapons \*
- subsequent weapons offenses
- selling or distributing silencers \*
- use of tear gas in commission of a crime

\* *These crimes may be considered misdemeanors.*

21.26 **FIREARM:** any of the following, as defined by the federal Gun-Free Schools Act [Section 921 of Title 18 of the United States Code]:

- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive
- the frame or receiver of any weapon described above
- any firearm muffler or firearm silencer
- any explosive, incendiary, or poison gas:
  - (1) bomb
  - (2) grenade
  - (3) rocket having a propellant charge of more than four ounces
  - (4) missile having an explosive or incendiary charge of more than one-quarter ounce
  - (5) mine or
  - (6) similar device
- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter
- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

**21.27 FREE APPROPRIATE PUBLIC EDUCATION (FAPE):** special education and related services as consistent with the provisions set forth in 20 U.S.C. 1400 et seq., its accompanying regulations, and which meet the education standards established by statute or established by regulations promulgated by the board of education.

**21.28 FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA):** an assessment of behavior conducted by members of a special education Team which assists them in developing appropriate behavioral strategies to address the student's behavior in the future. This should be held within ten (10) school days.

**21.29 GENDER IDENTITY:** a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose. [M.G.L. Chapter 4, Section 7]

**21.30 GOSS V. LOPEZ:** a United States Supreme Court case which recognizes that students are due some form of process in the suspension/expulsion context.

**21.31 HAZING:** any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person [M.G.L. Chapter 269, Section 17-19, and 603 C.M.R. 33.03].

**21.32 HEARSAY:** An oral or written statement made by a person not testifying at a hearing/trial, which is offered at the hearing/trial to prove the truth of the matter(s) asserted in the statement.

**21.33 MANIFESTATION DETERMINATION (MD):** a meeting of the school district, parent, and relevant members of a student's IEP Team conducted within ten (10) **school** days to determine if the misconduct which occurred was caused by, or had a direct and substantial relationship to the student's disability or if the conduct in question was the direct result of a failure to implement the student's IEP.

**21.34 MISDEMEANOR:** a crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement in a place other than state prison.

**21.35 MOCK GUN:** any device which looks reasonably like a firearm and is intended to put the victim in fear.

**21.36 NONACADEMIC SCHOOL EMPLOYEES:** school secretaries, custodians, cafeteria workers, lunchroom monitors, transitional aides, bus monitors, instructional aides, security aides, student teachers or interns, and such other school employees as are not actively engaged in the teaching process.

**21.37 OBJECT OF NO REASONABLE USE:** Any object that is of no reasonable use to a student in school, including but not limited to: any knife not defined as a dangerous weapon, drug paraphernalia (eg. grinders, rolling papers, hookah pipes, etc), a rock, brick, mock gun, fireworks, or laser pointer. Note that under a City Ordinance, laser pointers are not permitted in school buildings.

- 21.38 PARENT:** a student's mother or father or both or guardian, or a person or agency legally authorized by court order to act on behalf of the child in place of or in conjunction with the mother, father, or guardian.
- 21.39 SECTION 504:** refers to Section 504 of the Rehabilitation Act of 1973. Its purpose is to ensure that no individual is excluded from participation in, or denied the benefits of, or denied access to, any program or activity based solely on their disability. Certain students who may not be eligible for services under Chapter 766 may still be determined to have a disability within the definition of Section 504. A group of persons knowledgeable about a student in this category must develop an Accommodation Plan for the student which the school must implement.
- 21.40 SEXTING:** the act of sharing or sending sexually explicit messages or photos electronically, usually via computers, cell phones, PDAs, or other electronic devices.
- 21.41 SEXUAL ASSAULT:** any sexual act against another person either by force, against their will, or by threat of bodily injury. It also includes any sexual act against another person who is incapable of giving consent either because of her/his temporary or permanent mental or physical incapacity or because s/he is a minor. Such crimes as indecent assault and battery, rape, rape with force, rape and abuse, assault with intent to rape and unnatural and lascivious acts constitute a sexual assault.
- Indecent assault and battery includes, but is not limited to, inappropriate and unwanted touching of private parts of the body. A person under the age of 14 is legally unable to consent to this type of sexual activity.
- Sexual assault can occur adult to adult, adult to student, student to adult, male to female, female to male, female to female and male to male.
- 21.42 SEXUAL HARASSMENT:** unwelcome conduct of a sexual nature which includes unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:-- (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment. [M.G.L. Chapter 151C, Section 1]. Under Title IX, sexual harassment is conduct based on sex that is so severe, pervasive or persistent that it creates a hostile environment by denying or limiting a student's ability to participate in, or receive the benefits, services or opportunities of, the school's services, programs, and activities. Sexual Violence is a form of sexual harassment.
- 21.43 STUDENT RECORDS:** all information concerning a student maintained in any form by the Boston Public Schools that is organized on the basis of the student's name or in a way that the student can be individually identified. Refer to Superintendent's Circular, LGL-7: Student Record Procedures.
- 21.44 SUSPENSION:** the removal of a student from the school premises and regular classroom activities. "Suspension" applies to short-term suspension and long-term suspension unless otherwise stated. (Refer to section 7 for consistent language.)
- A single short-term suspension may not exceed three (3) school days for a student age 15 or younger or five (5) school days for a student age 16 or older. A long-term suspension is a removal for more than ten (10) consecutive or cumulative school days.

**21.45 SUSPENSION, EMERGENCY:** a temporary suspension imposed for not longer than the day of the alleged incident and two (2) additional days of school. It may be imposed when the student has allegedly committed a suspendable offense, *and* his/her presence poses a continuing danger to persons or property or of interference with the instructional process, *and* there is no alternative available to alleviate the danger or interference, *and* it is impossible because of the student's behavior to provide the student

with notice and hearing prior to the emergency suspension.

**21.46 SUSPENSION, IN-SCHOOL:** removal of a student from regular classroom activities, but not from the school premises, for no more than ten (10) consecutive school days, or for more than ten (10) school days cumulatively for multiple infractions during the school year. In-school suspension exceeding ten (10) consecutive or cumulative days shall be considered a long-term suspension for due process, appeal and reporting purposes.

**21.47 SUSPENSION, INDEFINITE:** a suspension that may be imposed when a student has been charged with a felony (age 17 or older), or felony delinquency (under age 17), if the principal or headmaster of the school in which the student is enrolled determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. Prior to such suspension taking effect, the student shall receive written notification of the charges and the reasons for such suspension. In addition, the student shall also receive written notification of his right to appeal and the process for appealing such suspension. Any such suspension shall remain in effect prior to any appeal hearing. [M.G.L. Chapter 71, Section 37H ½].

**21.48 SUSPENSION OF A STUDENT WITH DISABILITIES:** any action which results in the removal of a student from the program prescribed in his or her IEP. The term includes in school suspension as well as any exclusion from transportation services which prohibits the student's participation in his or her prescribed program.

**21.49 TEAM:** in reference to special education, the group of individuals responsible for creating and implementing a student's Individualized Education Plan (IEP). Team membership can and should vary depending upon the educational needs of individual students. Participants usually include:

- the classroom teacher(s)
- the school administrator or designee (COSESS)
- parents or legal guardians and, if appropriate, the student
- other school-based and district support staff if they have been involved in assessing the student's strengths and needs, or are going to be involved in the delivery of the IEP.

**21.50 WEAPON:** see 21.14, Dangerous Weapon; and 21.27, Firearm.

## Appendix A: Comprehensive Student Support Services

This tiered student support system aims to provide students a safe and healthy learning environment as well as to equip faculty with the means to accomplish such a goal. The first tier is available to all students and serves as a fundamental set of support systems, centered on prevention of harmful misbehaviors. The second and third tiers provide services for a smaller number of students who demonstrate a need for greater individualized care and attention. The second level uses a basic set of interventions ranging from mentoring to emergency management. The third tier encompasses a set of high-intensity support systems, which require a concentration of resources and institutions within and outside BPS. The third tier is only reached when the student demonstrates a high need for aid and support. Overall, this escalated intervention series promotes safe and supportive schools.

TIER I: PREVENTION SERVICES	TIER 2: INTERVENTION SERVICES	TIER 3: INTENSE INTERVENTION SERVICES
<b>Professional Development</b>		
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Bullying (brochures, modules, and trainings)</li> <li>❖ Threat Assessment Training</li> <li>❖ Bus Safety</li> <li>❖ CPR/AED Committee</li> <li>❖ Code of Conduct</li> </ul> <p><b><i>Educational Options:</i></b></p> <ul style="list-style-type: none"> <li>❖ DCF (services)</li> <li>❖ Computer Training</li> <li>❖ School Level Services</li> </ul> <p><b><i>Health and Wellness Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Physical Education</li> <li>❖ Fitness Assessments/ FITNESSGRAM</li> <li>❖ Health Education</li> <li>❖ Wellness Council and Champions</li> <li>❖ Cyber Safety Training (for teachers, students, and parents)</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ PREPaRE 1 and PREPaRE 2</li> <li>❖ CPI</li> <li>❖ Behavior Management</li> <li>❖ School Specific Requests</li> <li>❖ Parent Training</li> </ul>	<p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Solution Focused Groups (Skills specific)</li> <li>❖ FBA/BIP</li> <li>❖ Mentoring</li> <li>❖ School Specific Requests</li> <li>❖ Parent Training</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Sexual Assault/ DCF/ SOA</li> <li>❖ CPR/AED Committee</li> <li>❖ CPI Training</li> <li>❖ Child Advocacy Center</li> <li>❖ Drug and Alcohol Awareness</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Internalizing Behaviors</li> <li>❖ Externalizing Behaviors</li> <li>❖ Threat Assessment</li> <li>❖ Parent Training</li> <li>❖ School Specific Requests</li> </ul>
<b>School Visits/Technical Assistance</b>		

<b>TIER I: PREVENTION SERVICES</b>	<b>TIER 2: INTERVENTION SERVICES</b>	<b>TIER 3: INTENSE INTERVENTION SERVICES</b>
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Bus Safety; Fire Safety</li> <li>❖ School Bullying Triage</li> <li>❖ School Visit to Every School</li> <li>❖ Boston v Bullies</li> <li>❖ SEL Walk-through</li> </ul> <p>Health and Wellness</p> <ul style="list-style-type: none"> <li>❖ Phys. Ed. &amp; Health Ed. Instructional Coaching</li> <li>❖ Wellness Councils and Champions Technical Assistance</li> <li>❖ FITNESSGRAM</li> <li>❖ Cyber-safety mentors Presentations at schools</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Consultation</li> <li>❖ Case Management</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Bus Safety Intervention</li> <li>❖ Fire Safety Intervention</li> <li>❖ Threat Assessment</li> <li>❖ Solution Teams</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Consultation</li> <li>❖ Case Management</li> <li>❖ School Climate</li> <li>❖ AAF Service Teams/SST</li> <li>❖ Solution Focused Groups (Skills Specific)</li> <li>❖ Group Therapy</li> <li>❖ Talk About Touch</li> <li>❖ Crisis Intervention</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Follow-up with schools</li> <li>❖ Discharge Summary</li> <li>❖ Follow-up contact with school</li> <li>❖ Consultation for recent d’c students</li> <li>❖ Consultation with principals</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Consultation</li> <li>❖ Case Management</li> <li>❖ School Climate</li> <li>❖ AAF Service Teams/SST</li> <li>❖ Therapy Techniques</li> <li>❖ Group Therapy</li> <li>❖ Talk About Touch</li> <li>❖ Crisis Intervention</li> </ul>
<b>Curriculum</b>		
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Bullying Prevention (K-12)</li> <li>❖ Violence Prevention (6-12)</li> <li>❖ Conflict Resolution (K-12)</li> <li>❖ Drug and Alcohol Awareness (6-12)</li> <li>❖ Healthy Relationships</li> <li>❖ Welcoming Schools</li> <li>❖ Boston v Bullies</li> <li>❖ Saturdays for Success</li> </ul> <p><b><i>Health and Wellness:</i></b></p> <ul style="list-style-type: none"> <li>❖ Physical Education (K-12)</li> <li>❖ Health Education (K-12)</li> <li>❖ Phys. Activity – Cross Curricular Lessons Involving Movement, Movement Breaks and Recess</li> </ul>	<p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Coping Cat</li> <li>❖ Keeping Your Cool</li> <li>❖ Action: CBT for Depression</li> <li>❖ Talk about touch</li> <li>❖ Stop and think - impulsivity</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Drug Awareness</li> <li>❖ Violence Prevention/Mediation</li> <li>❖ Group and Individual Counseling</li> </ul> <p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Therapy Techniques</li> <li>❖ Individual Therapy</li> <li>❖ Talk About Touch</li> </ul>

TIER I: PREVENTION SERVICES	TIER 2: INTERVENTION SERVICES	TIER 3: INTENSE INTERVENTION SERVICES
<p><b><i>Behavioral Health Dept:</i></b></p> <ul style="list-style-type: none"> <li>❖ Second Step</li> <li>❖ Open Circle</li> <li>❖ PBIS</li> <li>❖ Talk about Touch</li> </ul>		
<b>Promotions/Communications</b>		
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ CIC Website</li> <li>❖ Boston Globe</li> <li>❖ Common Ground newspaper</li> <li>❖ C-Span</li> <li>❖ CNN</li> <li>❖ Boston Herald</li> <li>❖ NPR, WBUR</li> </ul> <p><b><i>Health and Wellness:</i></b></p> <ul style="list-style-type: none"> <li>❖ Healthy Connections &amp; H&amp;W Dept. Websites</li> <li>❖ Monthly Newsletter</li> <li>❖ Events and Forums</li> <li>❖ Staff Wellness Promotions</li> <li>❖ Competitive Food and Beverage Toolkits</li> <li>❖ School-based Physical Activity Promotions</li> <li>❖ District and Cross-Departmental Events</li> </ul> <p><b><i>OIIT:</i></b></p> <ul style="list-style-type: none"> <li>❖ <a href="http://www.bpscybersafety.org">www.bpscybersafety.org</a></li> <li>❖ Cyber safety posters</li> <li>❖ Acceptable Use Policy Materials</li> </ul>	<p><b><i>Educational Options:</i></b></p> <ul style="list-style-type: none"> <li>❖ CRA Fact Sheet</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ CIC Website</li> <li>❖ Conference, press releases, BPS media</li> </ul>
<b>Data/Student Information System</b>		
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Identify trends (weapons,</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Hotline Database</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Firesetters/CIC/SMART/SFS</li> </ul>

<b>TIER I: PREVENTION SERVICES</b>	<b>TIER 2: INTERVENTION SERVICES</b>	<b>TIER 3: INTENSE INTERVENTION SERVICES</b>
<p>violations, cluster)</p> <p><b>Health and Wellness:</b></p> <ul style="list-style-type: none"> <li>❖ Active School Day Evaluation</li> <li>❖ Physical Education for Progress Data Collection</li> <li>❖ Youth Risk Behavior Survey</li> <li>❖ PE/PA Health Education Policies and Program Survey</li> <li>❖ SOFIT – PA during PE</li> <li>❖ Wellness Champions Tracking Logs</li> <li>❖ FITNESSGRAM Student, School and District Reports</li> <li>❖ Resource Map</li> <li>❖ Wellness Action Plans and Scorecards</li> <li>❖ Comprehensive School Physical Activity Profiles</li> </ul>	<p><b>Health and Wellness</b></p> <ul style="list-style-type: none"> <li>❖ Health and Wellness Resource Map</li> </ul>	
<b>Screenings/Assessment</b>		
<p><b>Health and Wellness Dept:</b></p> <ul style="list-style-type: none"> <li>❖ FITNESSGRAM</li> <li>❖ Environmental Scans</li> <li>❖ Healthy Schools Inventory</li> </ul>		<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Child, family, and parent fire risk</li> <li>❖ CIC Student intake Questionnaire</li> <li>❖ PEAR Holistic Assessment</li> <li>❖ Clinical Interview</li> <li>❖ Suicide Risk and Assessment</li> <li>❖ Behavioral Intervention Log</li> <li>❖ Bullying Pre and Post Test</li> <li>❖ Exit Questionnaire</li> </ul>
<b>Policy</b>		
<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Bullying Prevention Policy</li> <li>❖ Acceptable Use Policy</li> <li>❖ DESE Bullying Reporting Policies</li> <li>❖ Code of Conduct</li> </ul> <p><b>Educational Options:</b></p> <ul style="list-style-type: none"> <li>❖ Attendance Policy</li> <li>❖ CRA Law</li> </ul>	<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ BPS Bullying</li> </ul>	<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Counseling and Intervention Policies</li> <li>❖ School Bus Reporting</li> <li>❖ Code of Conduct</li> <li>❖ Fire Reporting Policy</li> </ul>



<b>TIER I: PREVENTION SERVICES</b>	<b>TIER 2: INTERVENTION SERVICES</b>	<b>TIER 3: INTENSE INTERVENTION SERVICES</b>
<p><b>Health and Wellness:</b></p> <ul style="list-style-type: none"> <li>❖ District Wellness Policy</li> <li>❖ Tobacco-Free Environment Policy</li> <li>❖ Water Access Policy</li> <li>❖ Competitive Food and Beverages Policy</li> <li>❖ Phys. Ed and Activity Policy</li> <li>❖ Concussion</li> </ul> <p><b>OIIT:</b></p> <ul style="list-style-type: none"> <li>❖ Acceptable Use Policy</li> </ul>		
<b>Prevention Programs</b>		
<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Elementary School Violence Prevention</li> <li>❖ Bullying Prevention Trainings</li> <li>❖ Parent University</li> </ul> <p><b>Educational Options:</b></p> <ul style="list-style-type: none"> <li>❖ Connecting Families</li> <li>❖ Parent University/Workshops</li> <li>❖ City Year</li> </ul> <p><b>Health and Wellness Dept.:</b></p> <ul style="list-style-type: none"> <li>❖ Wellness Champions</li> <li>❖ Staff Wellness</li> <li>❖ Walk/Ride Day Program</li> <li>❖ Stress Reduction</li> <li>❖ Enhanced Recess</li> <li>❖ Let's Move Campaign</li> <li>❖ Phys. Ed. Library</li> <li>❖ Tobacco Prevention Mini-Grants</li> </ul> <p><b>Behavioral Health Dept.:</b></p> <ul style="list-style-type: none"> <li>❖ Trauma Sensitive Schools</li> <li>❖ School Climate Initiatives</li> <li>❖ Emergency Management</li> </ul>	<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Operation Homefront</li> <li>❖ Bully Hotline</li> <li>❖ Train the Trainer</li> <li>❖ Operation Countertop</li> <li>❖ Threat Assessment</li> </ul> <p><b>Educational Options</b></p> <ul style="list-style-type: none"> <li>❖ Connecting Families</li> <li>❖ Parent University/Parent Workshops</li> </ul> <p><b>Health &amp; Wellness Dept.:</b></p> <ul style="list-style-type: none"> <li>❖ Tobacco Cessation Programs for BPS Staff</li> <li>❖ Physical Education for Progress Program</li> </ul> <p><b>Behavioral Health Dept.:</b></p> <ul style="list-style-type: none"> <li>❖ Emergency Management Exercises</li> </ul>	<p><b>Counseling &amp; Intervention Ctr:</b></p> <ul style="list-style-type: none"> <li>❖ Operation Homefront</li> <li>❖ Violence is Preventable</li> <li>❖ Threat Assessment</li> <li>❖ Fire Sense</li> </ul> <p><b>Behavioral Health Dept.:</b></p> <ul style="list-style-type: none"> <li>❖ CBT</li> <li>❖ Crisis Interventions</li> </ul>
<b>Family Engagement</b>		

<b>TIER I: PREVENTION SERVICES</b>	<b>TIER 2: INTERVENTION SERVICES</b>	<b>TIER 3: INTENSE INTERVENTION SERVICES</b>
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li>❖ Parent Bullying Prevention Training</li> <li>❖ Family Consultation</li> <li>❖ Bully Hotline</li> </ul> <p><b><i>Educational Options:</i></b></p> <ul style="list-style-type: none"> <li>❖ Work with Community Field Coordinators</li> </ul> <p><b><i>Health and Wellness Dept.:</i></b></p> <ul style="list-style-type: none"> <li>❖ FITNESSGRAM – Individual Student Reports</li> <li>❖ Parent University</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Operation Homefront</li> <li><input type="checkbox"/> Parent Intake Meeting</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Operation Homefront</li> <li><input type="checkbox"/> Parent Intake Meeting</li> <li><input type="checkbox"/> Follow-Up Meetings</li> <li><input type="checkbox"/> In home FAST team referrals</li> <li><input type="checkbox"/> Family Counseling and Intervention</li> </ul>
<b>Extended Learning Time</b>		
<p><b><i>Health and Wellness:</i></b></p> <ul style="list-style-type: none"> <li>❖ Brokering Partnerships</li> <li>❖ Cyber mentors</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> SMART Boston</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Afterschool drop in program</li> <li><input type="checkbox"/> Saturdays for Success</li> </ul>
<b>Student Engagement</b>		
<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> AED Training</li> <li><input type="checkbox"/> Bullying Prevention Mentors</li> <li><input type="checkbox"/> Workforce Development</li> </ul> <p><b><i>Educational Options:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Meet with Parent and School of High Risk</li> </ul> <p><b><i>Health and Wellness Dept.:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Students Taking Charge</li> <li><input type="checkbox"/> The 84 Chapters</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> School Dept.</li> <li><input type="checkbox"/> Boston Police Dept.</li> </ul>	<p><b><i>Counseling &amp; Intervention Ctr:</i></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Summer Programs/Camps</li> <li><input type="checkbox"/> Therapeutic Mentors</li> <li><input type="checkbox"/> Suffolk County District Attorney</li> <li><input type="checkbox"/> ABCD</li> <li><input type="checkbox"/> Organizations: Street workers, Dorchester Court Probation, Youth Polices, Juvenile Justice System, DCF, BEST Team, YPVC, BPRI, Boston Med. Center, Children's Hospital Boston</li> </ul>

TIER I: PREVENTION SERVICES	TIER 2: INTERVENTION SERVICES	TIER 3: INTENSE INTERVENTION SERVICES
<b>OIIT:</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> Cyber Mentors lead trainers/presenters</li> <li><input type="checkbox"/> Students create all BPS materials</li> </ul>		

## **Appendix B: Restorative Justice**

### **Restorative Practices and Restorative Justice**

Restorative practice is a social science that studies how to build connection between individuals and achieve social discipline through participatory learning and decision-making. The use of restorative practices in schools helps to:

- ☐ improve human behavior
- ☐ develop and maintain relationships
- ☐ Explore learning opportunities
- ☐ teach leadership and personal accountability

Restorative justice is a set of formal and informal responses to harms large and small after they occur. In keeping with restorative practices' respect for human dignity, participation in any restorative practice must always be entirely voluntary. The fundamental premise of restorative practices is that people are happier, more cooperative and productive, and more likely to make positive changes when those in authority do things with them, rather than to them or for them.

Restorative Justice asks three questions:

1. What was the harm caused to both the individual and the community?
2. Who is responsible for causing the harm and making things right?
3. How can the harm be repaired and relationships restored to the greatest extent possible?

### **Goals and Process of Restorative Justice**

Restorative Justice often involves dialogue between two or more parties or group conferencing – meeting including the harmed party, the responsible party, and the affected community member or members. The main goals are to:

1. Provide a safe space so that the impacted party or parties, and community, have a say in how to fix the problem and help determine appropriate consequences;
2. Put a “face” on the problem so that the responsible party can understand the impact of his/her actions; and
3. Provide an opportunity for those responsible for the problem to fix it.

This restores or transforms relationships and reduces the chances of future misbehavior.

As part of a safe and supportive whole school behavioral health strategy, Restorative practices should be used regularly

in the classroom in order to develop school community and climate, build relationships between students, and address disruptive behavior before it escalates. Teachers, administrators, counselors, support staff and students themselves shall use restorative problem solving techniques that increase communication and provoke student reflection on how their actions impact others

Restorative Justice can also be used as problem solving interventions done “with” any misbehaving school community member, along with the people who were harmed by that member's behavior. These practices are driven by fairness as much as possible as well as on repairing the harm to the extent possible. Restorative justice focuses on the harm and how it can be made right.

Restorative practices result in a plan, created and agreed to by all parties, in which the responsible party agrees to take concrete steps tailored specifically to repair the harm involved, such as but not limited to a letter of apology, restitution (e.g. restore, replace, or pay for damaged, vandalized, lost or stolen school property), or service. Procedures shall be implemented such that information disclosed in the course of these restorative practices shall not be used against the student should the practice break down and the case be later referred to law enforcement.

In a preparation for restorative justice intervention, an assessment of the incident/conduct will be performed by trained staff, and a determination will be made by the school or District whether a face-to-face meeting with all parties is appropriate.

### **Restorative Leadership Teams**

Schools establish Restorative Leadership Teams to implement restorative practices, using a process that considers available data and that solicits input from the entire school community, including administrators, teachers, staff, parents/guardians, secondary school students, and community organizations. The Teams shall periodically recruit new members from the school community so that the knowledge and leadership on restorative practices is shared by different members of the community, and so that youth are always part of the process.

The Restorative Leadership Team is responsible for disseminating information about restorative practices and engaging all members of the school community in supporting its implementation on campus. The Team is responsible for gathering input from the broader school community and developing a plan for what restorative practices trainings shall be provided to staff, students and parents or guardians and what structures, policies and practices shall be created. The Restorative Planning Team shall also reach out to community-based organizations and other actors in the community to build support for and opportunities to engage in restorative practices inside and outside of the school.

When an incident occurs that is appropriate for restorative practices, members of the Restorative Leadership Team shall meet with the students involved, the faculty or staff involved, and any other community members who wish to participate as impacted parties or to support the youth, and shall work collaboratively with these other community members to recommend the most appropriate restorative practice, and, where applicable, to prepare them for the restorative practices. Practices shall be tailored to the needs of the students and the nature of the incident or issue.

### **Professional Development Training**

The district's professional development calendar shall allow sufficient time and flexibility for professional development in the components of restorative practices and restorative justice in schools. Specific school administrators, faculty and staff personnel will be identified for advanced training in particular components of restorative practices to build capacity of the program and sustainability of the model and to maintain safe and supportive school communities. The school administrators shall actively support the leadership team by providing adequate resources for fulfilling its responsibilities, implementation materials and ongoing trainings. The Leadership Team shall undergo a training of at least two to three days per year, provided by skilled trainers on restorative practices.

## **Examples of Restorative Practices**

### **a. Circles**

Circle process creates a distinctive kind of space for restorative dialogue, one that gives voice to all participants, equalizes power, and builds toward consensus and cooperation. Circles are fashioned so that interconnectedness, interdependence, and equality within the community are highlighted. Participants are encouraged to share a sense of mutual responsibility for the well-being of the community and the individuals within it, and an understanding that what happens to one person affects all. All participants in the circle, regardless of role or status, age or experience, color or creed, are considered of equal importance, with equal voice. Everyone in the circle is invited to speak and listen from the heart, or to initiate silence. No one sits above or below others, or outside of the circle.

Circles are run by a “circle keeper,” who sits in the circle and ensures that all participants are treated with respect and have the opportunity to talk, without interruption, when it is their turn to talk. Many circle keepers utilize a “talking piece” that is handed around the circle to the person whose turn it is to speak, ensuring an orderly circle process. The use of a talking piece slows the pace of dialogue, encourages quieter people to have an equal voice, assists participants in modulating and shaping the expression of strong emotions, and allows for deeper conversation, more careful listening and thoughtful expression.

Circles may be used in the classroom to strengthen community relationships, or convened specially to address specific issues or conflicts. Circles create a space for participants with varying values, experiences, and backgrounds to discuss difficult topics in a safe space, and help students create new understandings by engaging in a constructive and generative dialogue. Circles are most appropriate as a response to harm when the harm has affected multiple members of a school class or school community.

Teachers may use restorative circles as a classroom teaching method to work collaboratively with students to set academic goals, explore the curriculum and set classroom norms for behavior, including:

- a. Morning “check-in” circles for teachers and students to share what is going on in their lives, center themselves and focus on the day ahead;
- b. Afternoon “check in” circles for teachers and students to close the day together, and share the day’s highs and lows; and
- c. Discussion circles to talk about a topic students are currently studying and delve more deeply into the subject.

### **b. Restorative Group Conferencing**

Restorative group conferencing is a process that seeks to identify, repair and prevent harm, based in restorative justice values including meaningful accountability. A restorative group conference is led by a trained facilitator and involves face-to-face contact among one or more people impacted by the harm or their representatives, the person or persons who committed the harm, supporters for both, and other people who are affected. Participation must be completely voluntary. Restorative group conferencing is more hierarchical than circles, and work is done both by the parties in separate subgroups as well as face to face.

Restorative group conferencing usually involves a smaller group of people than a circle. Participants in a restorative group conference may include the students involved, friends, family, or teachers. Students responsible for the harm are provided an opportunity to take responsibility, apologize to those who have been harmed, and work with the other parties involved to identify appropriate ways of repairing the harm.

### **c. Restorative Dialogues**

Restorative dialogues are structured, small group dialogues between parties to a conflict. They are smaller than restorative conferences and may at the minimum contain only the responsible party, the impacted party, and the

facilitator.

#### **d. School-Wide Forums**

School-wide restorative practices include, but are not limited to:

- a. Discussions about how members of the school community should treat one another;
- b. Creating a welcoming environment where parents or guardians and community members are invited to volunteer and participate in the school community.

## **Appendix C: Massachusetts Tiered System of Support (MTSS)**

### **Overview of the MTSS**

The MTSS provides a system level change across the classroom, school, and district to meet the academic and non-academic needs of all students, including students with disabilities. Three flexible tiers represent an increasing intensity of academic and non-academic support and interventions: 1) supportive school environments, 2) early interventions, and 3) intensive services.

The core components of the MTSS are:

- ☐ High-quality core curriculum and instruction
- ☐ Research-based academic interventions and assessments
- ☐ Research-based behavioral interventions and supports
- ☐ Universal screening and progress-monitoring
- ☐ Collaboration and communication between educators and parents

Non-academic supports focus on the optimization of positive and productive functioning. Proactive and predictable classroom routines and a positive school climate are essential. The school climate should support positive relationships with adults/teachers/mentors to provide additional support and encouragement.

### **Process**

A universal screening system is in place to assess the strengths and challenges of all students in academic achievement and social, emotional, and behavioral concepts, skills, and behaviors. Data from continuous progress monitoring drive instructional decisions throughout the tiered process. Progress-monitoring data indicate student response to intervention. Academic and non-academic progress is monitored with increasing frequency as the student receives more intensive additional tiered support and interventions.

Teams use data-driven decision-making and problem-solving processes at the school, classroom, and individual student levels to make academic and non-academic decisions. Responsibility is shared among all educators. Parents are involved in the decision-making process across all tiers. School-level, grade-level, and student-centered teams meet collaboratively to review assessment data and make decisions.

Creating a climate that promotes mental health and positive social, emotional, and intellectual growth for students is understood and practiced by every member of each school community. Policies, procedures, and practices are also implemented to 1) reduce suspensions, exclusions, and other discipline referrals; 2) minimize dropping out; and 3) recover dropouts.

### **Leadership Teams**

Schools shall establish Leadership Teams (or utilize an existing school-level team or decision-making body) to implement MTSS, using a process that considers available data and that solicits input from the entire school community.

- a. School administrators shall use a democratic approach to solicit stakeholder involvement in the leadership team, which shall include representatives of all stakeholder groups, including an administrator, a general education and a special education teacher, support staff, students, parents or guardians and other relevant community members.
- b. The leadership team shall have regular meetings, a clear purpose, efficient internal processes and build caring relationships.
- c. The school district and school administrators shall actively support the leadership team by providing adequate resources for fulfilling its responsibilities, implementation materials and ongoing trainings. The Leadership Team shall undergo a training of at least two to three days provided by skilled trainers on MTSS.
- d. The Leadership Team is responsible for securing school-wide agreements and support from the entire school community for the implementation of MTSS on the:
  - i. Nature and priority of staff development efforts and needs;
  - ii. Long term (3-4 year) commitment and investment in the effort; and
  - iii. Importance of taking a preventative and instructional approach to behavior management and school-wide discipline.

### **Professional Development Training**

The district's professional development calendar shall allow sufficient time and flexibility for professional development in the components of the tiered system of support. Specific school personnel are identified for advanced training in particular components of the tiered model (data analysis, interventions, progress monitoring) to build capacity of the program and sustainability of the model. The school administrators shall actively support the leadership team by providing adequate resources for fulfilling its responsibilities, implementation materials and ongoing trainings. The Leadership Team shall undergo a training of at least two to three days per year, provided by skilled trainers on MTSS.

## **Appendix D: Legal Aid and Advocacy Groups**

### **LEGAL AID AGENCIES**

Disability Law Center, Inc. 11 Beacon Street, #925  
Boston, MA 02108  
617-723-8455  
800-827-9992 (toll free)

The Edlaw Project  
44 Bromfield Street, 2<sup>nd</sup> Floor Boston, MA 02108  
Helpline: 617-988-8460

Greater Boston Legal Services 197 Friend Street  
Boston, MA 02114  
617-371-1234  
TDD 617-371-1228

Lawyers' Committee for Civil Rights & Economic Justice 294 Washington Street, #443  
Boston, MA 02108  
617-482-1145

Legal Advocacy & Resource Center 197 Friend Street  
Boston, MA 02114  
800-342-5297  
Hot Line: 617-603-1700

Massachusetts Advocates for Children 25 Kingston Street, 2<sup>nd</sup> Floor  
Boston, MA 02111  
617-357-8431  
Helpline: 617-357-8431, x224

Mental Health Legal Advisors Committee 24 School Street, 8<sup>th</sup> Floor  
Boston, MA 02108  
617-338-2345  
800-342-9092 (toll free)

### **ADVOCACY GROUPS**

Federation for Children with Special Needs  
The Schrafft Center, 520 Main Street, Suite 1102  
Boston, MA 02129 617-236-7210, 800-342-9092 (toll free)

Parent/ Professional Advocacy League (PPAL) 45 Bromfield Street  
10th Floor  
Boston, MA 02108 866-815-8122 (toll free)

Urban PRIDE (Partnership Resources and Information on Disability and Education) One Westinghouse Plaza  
Building D, Suite 11 Hyde Park, MA 02136 617-206-4570



