

STUDENT CODE OF CONDUCT

Philosophy of Discipline

Foxborough Regional Charter School strives to create and sustain a positive school culture and climate by creating systems, structures and procedures that promote positive student behavior, while responding swiftly and appropriately to challenging student misbehavior. Creating and sustaining a positive school culture and climate is the responsibility of all stakeholders including the board of trustees, staff, students, families, community partners, etc. Foxborough Regional Charter School is committed to fostering a school culture and climate where community members feel safe and supported. This includes assessing the function of behavior, while utilizing a multi-tiered system of support framework to determine interventions and respond to student needs. The purpose of disciplinary action is to restore acceptable behavior. When disciplinary action is necessary, it shall be administered with fairness and shall relate to the individual needs and the individual circumstances. Students violating any of the rules concerning student conduct may be subject to disciplinary action. The severity, frequency, and circumstances surrounding each incident shall impact the school's response.

Code of Conduct

The Foxborough Regional Charter School Code of Conduct is designed to promote a safe and orderly environment for learning to take place. Any member of the faculty observing a Code of Conduct violation is expected to respond consistent with the progressive discipline system described below. The Foxborough Regional Charter School Code of Conduct is a three-tiered disciplinary infraction system in which challenging student behaviors are categorized by offense and responded to with a corrective consequence or intervention consistent with the severity and frequency of the behavior. Classroom teachers manage Level 1 disciplinary offenses but are to refer Level 2 and Level 3 disciplinary offenses to the building-based school administration. Foxborough Regional Charter School teachers and administrators use two digital platforms, Educators Handbook and School Brains for, to record student Code of Conduct offenses and corrective actions and interventions. This assists FRCS with analyzing behavioral data, which in turn helps to inform school programs, practices and procedures.

Level 1 disciplinary offenses are considered minor infractions with interventions that the classroom teacher administers. Examples of Level 1 offenses include dress code violation, tardiness to class, disruptive/non-compliant behavior. A Level 1 offense can escalate to a Level 2 offense if there is a pattern of behavior, as evidenced by at least three separate incidents of committing the same offense; in these instances, the classroom teacher should make a referral to the building-based administration.

Level 2 disciplinary offenses are considered major behavioral infractions that may result in an administrative investigation and, in some circumstances, a referral to the School Resource Officer. Examples of Level 2 offenses include cutting class, cutting detention, internet usage violations, leaving class or school property without permission.

Level 3 disciplinary offenses also are considered major behavioral infractions that may result in an administrative investigation and, in some circumstances, a referral to the School Resource Officer; these offenses are aligned with a Massachusetts Department of Elementary and Secondary Education (DESE) code number. Examples of Level 3 offenses include assault of a staff member, bullying/cyberbullying, false alarm.

Discipline Procedure

In determining the consequences for particular misconduct, administrators consider all relevant circumstances, including the nature of the offense, its potential impact on other students, and factors related to the individual student (e.g. past misconduct since repeated violations may warrant more serious discipline; willingness to take responsibility for conduct; possible mitigating factors). In some instances, the misconduct may warrant FRCS to make a referral to the police department.

The Code of Conduct is in effect on school buses and school grounds as well as at school-sponsored events, whether or not such events take place on FRCS school property (including, but not limited to, any and all athletic activities and contests). Even misconduct that does not take place in school or a school sponsored event may result in discipline if it is of a serious nature and has a direct relationship to the school or causes substantial disruption to the school environment.

Also, in an effort to maintain security of all of its students, FRCS has the right to conduct searches of its students and their property if there is reasonable suspicion that the student is engaging in conduct that violates the Code of Conduct. If a search is conducted, the school will ensure that the privacy of the student is respected to the extent possible and that the student and the student's family are informed of the circumstances surrounding the search and the results of the search. School cubbies, desks, lockers, and school issued technology devices, applications and accounts (e.g. computers, Google Docs, e-mail account), which are assigned to students for their use, remain the property of FRCS. Students, therefore, should have no expectation of privacy in these areas and these areas are subject to search by school personnel at any time, with or without reasonable suspicion.

Below is a chart listing disciplinary offenses with a description of the offense, with the offenses classified as being Level 1, 2 or 3 offenses as well as minor or major offenses. Please note, however, that not every type of prohibited conduct can be listed. Students are expected to recognize that any conduct that is inconsistent with maintaining an appropriate environment on school buses, at school, or at a school-sponsored event may lead to discipline, including suspension or expulsion depending on the misconduct.

Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Abusive Language Profanity/Obscenities	Profanity	•	•		•	•
	Directed at an individual to bring ridicule		•			•
	A comment from a student that the teacher finds disruptive or inappropriate.	•	•		•	•
	Directed Cursing	•	•		•	•
	Threatening language or comments regarding religion, race, heritage, color, gender, sexual orientation, and/or disability.		•	•		•
Academic Dishonesty (Cheating/Plagiarism)	Any form of copying or cheating on assignments or assessments; Student copying another student's work or using cheat sheets or an electronic device to get answers.		•	•		•
Alcohol	Possession, use, distribution, sale, or being under the influence of alcohol.			•		•
Arson	Setting a fire including, but not limited to, burning paper, school grounds, school building		•	•		•
Assault/Battery	Assault is verbal threat or gesture that places another person in apprehension of harmful or offensive contact; battery involves unwanted touching of another person.			•		•
Assault on Staff Member or Trustee	Assault is verbal threat or gesture that places another person in apprehension of harmful or offensive contact; the threat does not have to be carried out to constitute an assault.			•		•

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Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Bullying/Cyberbullying	<p>Repeated use by one or more students or by a staff member of written, verbal, or electronic expression or physical act or gesture or any combination thereof, directed at a target that: causes physical or emotional harm to the target or damage to the target's property; places the target in reasonable fear of harm to self or of damage to target's property; creates a hostile environment at school for the target; infringes on the rights of the target at school; or materially and substantially disrupts education process or orderly operation of school. Bullying includes cyber-bullying which is defined in MGL ch. 71, s. 370.</p> <p>Please also see FRCS Bullying Prevention & Intervention Plan and Bullying Policy</p>			•		•
Bus Misconduct	<p>While on district transportation, conduct that is inappropriate or unsafe. See District Bus Policy for more details</p>		•	•		

Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Cutting Class	Students absent from any class without authorization from staff member.		•	•		•
Detention (Cutting Teacher/Administrative Detention)	Failing to attend detention as assigned.	•	•		•	•
Disruptive or Non-Compliant Behavior	Examples include failure to follow reasonable request by staff member; doing opposite of instructions; responding negatively to redirection; walking out of the learning environment without permission; arguing with staff.	•	•		•	•
Dress Code Violation	Student fails to wear clothing consistent with FRCS Dress Code Policy.	•	•		•	•
Drugs	Possession, use, distribution, sale, or being under the influence of a controlled substance (e.g. marijuana, cocaine, heroin or prescription drug not authorized by school nurse).			•		•
Electronic Devices—Inappropriate Use	Use or possession of cell phone, headphones, or electronic device without specific medical or other authorized permission is prohibited during school day.	•	•		•	•
False Alarm	Student sets off any school alarm system without reasonable cause or collaborates with other student(s) in setting off false alarm.			•		•

Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Fighting/Physical Aggression (K-12)	Includes hitting, pushing, or kicking someone or throwing objects at someone		•	•		•
Forgery, Alteration, or Misuse of Official School Documents or Parental Communication Forgery	Changing written information from parents or school staff (e.g. building passes, parent notes for early dismissal, tardiness or absence, report cards).		•			•
Gambling	Playing games of chance/bet for money or desired reward		•			•
Harassment	Unwelcome conduct on the basis of race, color, sex, homeless status, gender identity, religion, national origin, sexual orientation, disability, or age that is sufficiently severe, persistent or pervasive to create a hostile environment for individual at school. Harassment may include insults, name-calling, off-color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures, or other conduct which rises to the level of a hostile environment. Please also see FRCS Harassment policy.			•		•
Hazing	includes any conduct or method of initiation into any student organization that willfully or recklessly endangers the physical or mental health of any student or other person.			•		•

Commented [NN1]: Compare FRCS Harassment Policy to ensure handbook and policy are consistent.

Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Horseplay/Aggressive Behavior	Invasion of personal space without intent to harm	•	•		•	•
Inciting/Attempting to Incite Other Students to Create Disturbance; Disruption of School Assembly	Encouraging other students to participate in unacceptable behavior, through actions or verbal comments (e.g. verbally encouraging students participating in unacceptable behavior)		•	•		•
Internet Usage Violation	Student not complying with FRCS Internet Policy		•			•
Leaving Class or School Property Without Permission	Student leaving school grounds prior to their authorized dismissal time without permission from administrator, school nurse, or approved note from parent.		•			•
Possession of Staff Personal Information	Possessing or accessing staff personal information from district resources		•			•
Sexual Harassment	Conduct on basis of sex that meets one or more of the following: -An employee of the district conditioning provision of aid, benefit, or service on individual's participation in unwelcome sexual conduct; -Unwelcome conduct determined by reasonable person to be so severe, pervasive, & objectively offensive that it effectively denies person equal access to district's education programs or activities; or -Sexual Assault, domestic violence, dating violence, stalking as defined by federal laws Please also see FRCS Sexual Harassment policy.			•		•

Offense	Description	Level 1	Level 2	Level 3	Minor	Major
Tardy to Class	Not being in assigned classroom on time when bell rings to signify start of each period.	•	•		•	•
Tardy to School	Not being in homeroom/1st period class when school day begins.	•	•		•	•
Theft For Violation of Personal Property	Includes stealing from someone or the school or looking through someone's personal belongings without permission.		•	•		•
Threat to Staff, Student(s) or Trustee	Verbal, written or gestural communication of intent to harm or otherwise injure another or their property		•	•		•
Tobacco	Possession, use, distribution or sale of tobacco products, electronic cigarettes, vape and/or related paraphernalia (e.g. matches, lighters, vaporizing liquid)			•		•
Vandalism	Destruction or defacement of school property.		•	•		•
Weapon	Includes, but is not limited to a gun or a knife.			•		•

Commented [NN2]: Need to add (1) "Weapon" as offense; "includes, but is not limited to a gun or a knife." (2) "Hazing" as offense; "includes any conduct or method of initiation into any student organization that willfully or recklessly endangers the physical or mental health of any student or other person." And (3) "Vandalism" as offense; "destruction or defacement of school property."

SUSPENSION & EXPULSION

Drugs, Weapons, & Assault on School Staff (M.G.L. c. 71, § 37H)

Under M.G.L. c. 71, § 37H, students may be subject to suspension or expulsion for the following offenses:

- 1.) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in M.G.L. c. 94C, including, but not limited to, marijuana, cocaine, and heroin.
- 2.) Any student who assaults any educational staff on school premises or at school-sponsored or school-related events, including athletic games.

Felonies (M.G.L. c. 71, § 37H1/2)

Under M.G.L. c. 71, § 37H1/2, students may be subject to suspension or expulsion for the following offenses:

- 1.) Suspension only: The issuance of a criminal complaint against a student charging that student with a felony or the issuance of a felony delinquency complaint against the student.
- 2.) Suspension or Expulsion: Student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency

Handbook Violations (M.G.L. c. 71, § 37H3/4)

M.G.L. c. 71, § 37H 3/4 governs the discipline of students for offenses not covered by Section 37H or Section 37H1/2 (i.e. a “handbook violation” as opposed to a statutory offense). Students may face suspension for violating the Code of Conduct. Section 37H3/4 imposes a maximum suspension length of 90 school days for handbook violations, and suspensions under Section 37H3/4 cannot extend beyond a school year.

Due Process Rights

In-School Suspension (M.G.L. c. 71, § 37H3/4)

The Assistant Principal, Dean of Culture, or another Principal designee (Administrator) may impose an in-school suspension for student Code of Conduct violations; an in-school suspension is the removal of a student from regular classroom activities, but not from school premises. Prior to imposing an in-school suspension, the Administrator shall inform the student of the disciplinary offense charged and the basis for the charge, and provide the student with an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident. If the Administrator determines that the student committed the disciplinary offense, the Administrator shall inform the student of the length of the student’s in-school suspension, which shall not exceed ten days, cumulatively or consecutively, in a school year. However, if a student is placed in an in-school suspension for more than ten days, cumulatively or consecutively, during the school year, any day beyond ten days is deemed to be a long-term suspension for due process, appeal, and reporting purposes.

On the same day as the in-school suspension decision, the Administrator shall make reasonable efforts to notify the parent orally as soon as possible of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The Administrator shall also invite the parent to a meeting to discuss the student’s academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meeting shall be scheduled on the day of the suspension if possible, and if not, as soon thereafter as possible. If the Administrator is unable to reach the parent after making and documenting at least two attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.

The Administrator shall send written notice to the student and parent about the in-school suspension, including the reason and the length of the in-school suspension and inviting the parent to a meeting with the principal for the purpose set forth in 603 CMR 53.10(4), if such meeting has not already occurred. The written notice also shall include the right of the student to have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the in-school suspension. The Administrator shall deliver such notice on the day of the suspension by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent. In-school suspension determinations are final and not subject to appeal.

Emergency Removal (M.G.L. c. 71, § 37H3/4)

Any student who has been charged with a disciplinary offense under M.G.L. c. 71, § 37H3/4 (i.e. a Handbook Violation) may be temporarily removed from the school premises if the Administrator determines the student's continued presence in school poses a danger to persons or property, or materially and substantially disrupts the order of the school, and in the view of the Administrator, there is no alternative to alleviate the danger or disruption. Temporary emergency removal shall not exceed two school days following the day of the emergency removal, during which time the Administration shall: 1) Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and oral notice of either a short-term or long-term suspension hearing; 2) Provide written notice to the student and parent of either a short-term or long-term suspension hearing; 3) Provide the student with an opportunity for either a short-term or long-term suspension hearing, in compliance with 603 CMR 53.08(2) or (3), as applicable, prior to the expiration of the two school days (unless a longer time is mutually agreed upon) to determine whether the student committed the offense charged and if so, what disciplinary consequences are appropriate, with the understanding that the parent has an opportunity to attend such hearing; 4) include notice of the right of the student to have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the emergency removal; 4) render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements for either a short-term or long-term suspension decisions, pursuant to 603 CMR 53.08(2)(c) and (d) or (3)(c) and (d), as applicable.

An Administrator may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

Out-of-School Suspension (M.G.L. c. 71, § 37H3/4)

Out-of-school suspensions may be short-term (meaning ten (10) school days or less, either consecutively or cumulatively in a school year), or may be long-term (meaning more than ten school days consecutively or cumulatively in a school year). All out-of-school suspensions prohibit the student from being on school premises and participating in school-related events while suspended. In every case of student misconduct for which suspension may be imposed, a principal shall not suspend or expel a student until alternative remedies have been employed and their use documented following and in response to the specific incident(s) in question unless specific reasons are documented as to why such alternative remedies are unsuitable or counter-productive and in cases where the student's continued presence in the school would pos a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in the school. exercise discretion in deciding the consequence for the offense; In any event, the principal shall consider ways to reengage the student in learning; and avoid using long term suspension from school as a consequence until alternatives have been tried. Administration will consider other consequences, including alternatives to suspension and ways to reengage the student in learning, prior to imposing an out of school suspension.

For all out-of-school suspensions (both short- and long-term) (M.G.L. c. 71 § 37H3/4):

- The Administrator shall make reasonable efforts to notify the parent orally of the opportunity to attend the hearing. To conduct a hearing without the parent present, the Administrator must be able to document reasonable efforts to include the parent. The Administrator is presumed to have made reasonable efforts if the principal has sent written notice and has documented at least two attempts to contact the parent in the manner specified by the parent for emergency notification.
- Written notices (both hearing notices and decision notices) to the parent may be made by hand delivery, first-class mail, certified mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the Administrator and parent.
- If the student is in a preschool program or in grades K through 3, the Administrator shall send a copy of the written determination to the Executive Director and explain the reasons for imposing an out-of-school suspension, before the out-of-school suspension takes effect.
- Students will not be suspended for a handbook violation for longer than ninety days in a school year, or beyond the end of the school year (whichever occurs first).

Short-Term Suspension (M.G.L. c. 71 § 37H3/4)

Prior to imposing a short-term out-of-school suspension (meaning ten (10) school days or less, either consecutively or cumulatively in a school year), the Administrator must provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language: (a) the disciplinary offense; (b) the basis for the charge; (c) the potential consequences, including the potential length of the student's suspension (short-term suspension not to exceed 10 school days consecutively or cumulatively in a school year); (d) the opportunity for the student to have a hearing with the Administrator concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident, and for the parent to attend the hearing; (e) the date, time, and location of the hearing; (f) the right of the student and the student's parent to interpreter services at the hearing if needed to participate.

The purpose of the short-term suspension hearing with the Administrator is to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction. At a minimum, the Administrator shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information. The student also shall have an opportunity to present information, including mitigating facts, that the Administrator should consider in determining whether other, remedies and consequences may be appropriate as set forth in 603 CMR 53.05, including ways to re-engage the student in learning. The Administrator shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the Administrator should consider in determining consequences for the student. Based on the available information, including mitigating circumstances, the Administrator shall determine whether the ~~student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.~~ student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.

The Administrator shall not suspend a student until alternative remedies have been employed and their use documented following and in response to the specific incident(s) in question unless specific reasons are documented as to why such alternative remedies are unsuitable or counter-productive and in cases where the student's continued presence in the school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in the school. In any event, the principal shall consider ways to reengage the student in learning

The Administrator shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other schoolwork as needed to make academic progress during the period of removal, as provided in 603 CMR 53.13(1). The determination shall be in writing and may be in the form of an update to the original written notice.

The Administrator's short-term suspension decision is final, with no right of appeal.

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Long-term Suspension (M.G.L. c. 71, § 37H3/4)

Prior to imposing a long-term out-of-school suspension (meaning more than 10 consecutive or cumulative school days of suspension in a school year), the Administrator must provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language all the rights afforded to students for short-term suspension hearings (see above) as well as the following additional rights: (a) in advance of the hearing, the opportunity to review the student's record and the documents upon which the Administrator may rely in making a determination to suspend the student or not; (b) the right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense; (c) the right to produce witnesses on the student's behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; (d) the right to cross-examine witnesses presented by the school; and (e) the right to request that the hearing be recorded by the Administrator and to receive a copy of the audio recording provided to the student or parent upon request.

If the student or parent requests an audio recording, the Administrator shall inform all participants before the hearing that an audio record will be made and a copy will be provided to the student and parent upon request

The purpose of the long-term suspension hearing is the same as the purpose of a short-term suspension hearing (see above). At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have additional long-term suspension hearing rights outlined in the notice (see above). The Administrator shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the Administrator should consider in determining consequences for the student.

Based on the evidence, the Administrator shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as set forth in 603 CMR 53.05, including ways to re-engage the student in learning, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. If the Administrator decides to suspend the student, the written determination shall: a) Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing; b) Set out the key facts and conclusions reached by the Administrator; c) Identify the length and effective date of the suspension, as well as a date of return to school; d) Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in 603 CMR 53.13(4)(a); e) Inform the student of the right to appeal the Administrator's decision to the superintendent or designee, but only if the Administrator has imposed a long-term suspension since short-term suspension decisions are final and not appealable.

The Administrator shall not suspend a student until alternative remedies have been employed and their use documented following and in response to the specific incident(s) in question unless specific reasons are documented as to why such alternative remedies are unsuitable or counter-productive and in cases where the student's continued presence in the school would pos a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in the school. In any event, the principal shall consider ways to reengage the student in learning

The notice of long-term suspension must include notice of the right of appeal a long-term suspension. This notice shall be in English and the primary language of the home if other than English, or other means of communication, where appropriate, and shall include the following stated in plain language: the process for appealing the decision, including that the student or parent must file a written notice of appeal with the Executive Director within five calendar days of the effective date of the long-term suspension; provided that within the five calendar days, the student or parent may request and receive from the Executive Director an extension of time for filing the written notice for up to seven additional calendar days; and that, the long-term suspension will remain in effect unless and until the Executive Director decides to reverse the Administrator's determination on appeal.

Rights to Appeal Long-Term Suspensions under MGL c. 71, § 37H ¾

The student may appeal a long-term suspension decision by filing a written notice of appeal with the Executive Director within five (5) calendar days of the effective date of the long-term suspension; provided that within the five (5) calendar days, the student or parent may request and receive from the Executive Director an extension of time for filing the appeal for up to seven (7) additional calendar days. The long-term suspension will remain in effect unless and until the Executive Director decides to reverse the Administrator's determination on appeal. If the appeal is not timely filed, the Executive Director may deny the appeal or may allow the appeal in the Executive Director's discretion, for good cause.

The Executive Director shall hold the appeal hearing within three (3) school days of the student's request, unless the student or parent requests an extension of up to seven additional calendar days, in which case the Executive Director shall grant the extension.

The Executive Director shall make a good faith effort to include the parent/guardian in the hearing. The Executive Director shall be presumed to have made a good faith effort if the Executive Director has made efforts to find a day and time for the hearing that would allow the parent/guardian and Executive Director to participate. The Executive Director shall send written notice to the parent of the date, time, and location of the hearing.

The Executive Director shall conduct a hearing to determine whether the student committed the disciplinary offense of which the student is accused, and if so, what the consequence shall be. The Executive Director shall arrange for an audio recording of the hearing, a copy of which shall be provided to the student or parent upon request. The Executive Director shall inform all participants before the hearing that an audio recording will be made of the hearing.

During the appeal hearing, the student shall have all the rights afforded the student at the Administrator's hearing for long-term suspension under 603 CMR 53.08(3)(b).

The Executive Director shall issue a written decision within five (5) calendar days of the hearing which meets the requirements of an Administrator's long-term suspension decision, pursuant to 603 CMR 53.08(3)(d)1. through 4. (see above). If the Executive Director determines that the student committed the disciplinary offense, the Executive Director may impose the same or a lesser consequence than the Administrator but shall not impose a suspension greater than that imposed by the Administrator's decision. The decision of the Executive Director shall be the final decision of FRCS.

Drugs, Weapons and Assaults on School Staff (M.G.L. c. 71, § 37H)

Under M.G.L. c. 71, § 37H, students may be subject to suspension or expulsion for the following offenses:

- 1.) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in M.G.L. c. 94C, including, but not limited to, marijuana, cocaine, and heroin.
- 2.) Any student who assaults any educational staff on school premises or at school-sponsored or school-related events, including athletic games.

Any student who is charged with a violation of either paragraph 1.) or 2.) shall be notified in writing of an opportunity for a hearing before the principal prior to the imposition of any suspension or expulsion in order for the principal to determine if the student committed the offense charged and, if so, determine the appropriate disciplinary action. At the hearing, the student may have representation, along with the opportunity to present evidence and witnesses. The hearing notice must include these rights. After the hearing, the principal may, in the principal's discretion, decide to suspend rather than expel a student who has been determined by the Principal to have violated either paragraph 1.) or 2.). A decision to suspend or expel the student shall be provided to the student's parent in writing and, if the student is suspended or expelled, include

notice of the opportunity to access educational services during the period of suspension or expulsion, under section 21 of chapter 76. Students may appeal expulsion decisions, but suspension decisions are final and not appealable.

If the Principal determines the student who is charged with a violation of either paragraph 1.) or 2.) poses a continuing danger to persons or property or is an ongoing threat to disrupt the academic process prior to the hearing, the Principal may remove the student on an emergency basis pending the disciplinary hearing, if the notice of hearing (described above) includes the notice of removal on an emergency basis and notice of the opportunity for a hearing scheduled within ten (10) school days of the offense. The notice also must include notice of the right of the student to have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the removal on an emergency basis pending the hearing.

Right to Appeal Expulsion under M.G.L. c. 71 § 37H

Any student who has been expelled from the school pursuant to a violation of either paragraph 1.) or 2.) shall have the right to appeal to the Executive Director. The expelled student shall have ten days from the date of the expulsion in which to notify the Executive Director of the student's appeal. This notification should be in writing. A student who has elected to appeal an expulsion shall be entitled to a hearing before the Executive Director and has the right to counsel at the appeal hearing. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated paragraphs 1.) or 2.) The decision of the Executive Director shall be provided to the student's parent in writing and is the final decision of the FRCS.

Felony Offenses (M.G.L. c. 71 § 37H1/2)

Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the Principal of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said Principal if said Principal determines that the student's continued presence in the school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and the reasons for such potential suspension, as well as opportunity for a hearing with the Principal, prior to such suspension taking effect. After a hearing, a written decision shall be issued and, if suspended, the student also shall receive written notification of the student's right to appeal, the process for appealing such suspension, and the opportunity to access educational services during the period of suspension or expulsion under section 21 of chapter 76. The student may appeal the suspension by writing to the Executive Director requesting an appeal, with the appeal request being due no later than five calendar days of the effective date of the suspension. The suspension shall remain in effect prior to any appeal hearing conducted by the Executive Director.

Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the Principal of a school in which the student is enrolled may expel said student if such Principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and reasons for such potential expulsion as well as opportunity for a hearing with the Principal prior to such expulsion taking effect. After a hearing, if the Principal expels the student, the student shall receive written notification of the student's right to appeal and the process for appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to any appeal hearing conducted by the Executive Director. If the student is expelled, the notice also must include notice of the opportunity to access educational services despite expulsion consistent with section 21 of chapter 76.

If the Principal determines the student who is charged with a felony/felony delinquency, has been convicted of a felony/felony delinquency, or has been adjudicated or admitted in court of guilt with regard to a felony/felony delinquency poses a continuing danger to persons or property or is an ongoing threat to disrupt the academic process prior to the hearing, the Principal may remove the student on an emergency basis pending the disciplinary hearing, if the notice of hearing (described above, as applicable) includes the notice of removal on an emergency basis and notice of the opportunity for a hearing scheduled within ten (10) school days. The notice also must include notice of the right of the student to have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the removal on an emergency basis pending the hearing.

Revised August 2022

Right to Appeal Suspension or Expulsion under M.G.L. c. 71 § 37H1/2:

The student who is charged with a felony and suspended under Section 37H1/2 as well as the student who is convicted of a felony or is adjudicated or admits in court of guilt regarding the felony charge and is expelled under Section 37H1/2 shall have the right to appeal the disciplinary decision to the Executive Director. The student shall notify the Executive Director, in writing, of the request for an appeal no later than five calendar days following the effective date of the discipline. The Executive Director shall hold a hearing with the student and the student's parent or guardian within three (3) calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on the student's behalf and shall have the right to counsel. The Executive Director shall have the authority to overturn or alter the decision of the principal. The Executive Director shall render a decision on the appeal within five (5) calendar days of the hearing. Such a decision shall be the final decision of the School with regard to discipline.

Educational Services During Disciplinary Removal

For all offenses (M.G.L. c. 71 §§ 37H, 37H1/2 and 37H3/4), any student who is serving an emergency removal, in-school suspension, short-term suspension, long-term suspension, or expulsion shall have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of removal from the classroom or school. The school administrator shall inform the student and parent of this opportunity in writing when such removal is imposed. Additionally, any student who is expelled or is suspended from school for more than ten consecutive days, whether in school or out of school, shall have an opportunity to receive education services and to make academic progress toward meeting state and local requirements, through the school-wide education service plan. The school must provide the student and the parent with a list of alternative educational services. Upon selection of an alternative educational service by the student and the parent, the school shall facilitate and verify enrollment in the service.

If the student moves to another school or school district during the period of suspension or expulsion, the new school district or school shall either admit the student to the school or provide educational services to the student in an education service plan, under section 21 of chapter 76.

Disciplining Students on IEPs

The Individuals with Disabilities Education Act (IDEA) and its implementing regulations provide students on Individualized Education Programs (IEPs) with certain procedural rights and protections in the context of student discipline which are summarized below. These rights are in addition to the due process rights applicable to all students which are set forth in 603 CMR 53.00.

Short term removals: Students on IEPs who violate school rules may be disciplined in the same way as Students without disabilities for up to 10 days in a school year.

Subsequent removals: When a Student on an IEP faces the possibility of being removed from school for **more than 10** days in the school year, extra protections take effect if the removal constitutes a "change in placement." **A "change in placement" occurs when:**

- The student is removed for **more than 10 consecutive days** in a school year: **or**
- The student is removed for a series of shorter removals that constitute a **pattern of behavior** and amount to **more than 10 cumulative days**.

When determining if there is a pattern of behavior, the school considers similarity of behavior, proximity to previous incidents, and length of removal.

If the school determines there is no "change in placement," then the student may be disciplined just as other Students may be for the violation of school rules. However, the school must provide services to the extent necessary for the student

to make progress in the general curriculum as well as progress towards the Student's IEP goals. Also, if appropriate, the school must conduct a Functional Behavioral Assessment (FBA) and develop a positive Behavior Intervention Plan (BIP).

If the school determines there is a "change in placement," then within 10 school days of the discipline decision which creates a change in placement, the IEP Team must conduct a "**manifestation determination** review (MDR) meeting."

Manifestation Determination Review Meeting

- The IEP Team, which includes the parents/guardians, must review all relevant information in the student's file, including the Student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine if the conduct that is subject to disciplinary action was a manifestation of the student's disability.
- The IEP Team must answer 2 questions to determine if the conduct that is subject to disciplinary action was a manifestation of the student's disability:
 - (1) Was the Student's conduct caused by, or did it have a direct and substantial relationship to, the student's disability?
 - (2) Was the Student's conduct a direct result of the school's failure to implement the Student's IEP?

If the answer to both questions is "no," then the conduct was **not a manifestation** of the student's disability and the student may be disciplined in the same way as Students without disabilities except that the IEP Team must ensure that BPS continues to provide an educational program that is appropriate to meet the student's needs, albeit in a different setting. The IEP Team must determine which educational services are necessary to enable the student to continue to participate in the general education curriculum (although in another setting) and to progress towards meeting the IEP goals as well as the interim alternative educational setting (IAES) where the Student will receive such services while disciplined.

If the answer to either question is "yes," then the conduct **was a manifestation** of the student's disability, and the student must return to the pre-discipline placement, **except if** the conduct in question was one of three "**special circumstances**." The "special circumstances" are if the student, while at school, on school premises, or at a school function (1) possesses a weapon (if a knife, blade must be at least 2 ½ inches long to meet definition), (2) possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury on another person. If any of these "special circumstances" apply, regardless of the Team's determination about manifestation, school personnel may remove a Student to an IAES for not more than 45 school days. The IEP Team is responsible for determining which educational services are necessary to enable the Student to continue to participate in the general education curriculum (although in another setting) and to progress towards meeting the IEP goals as well as the interim alternative educational setting (IAES) where the Student will receive such services while disciplined. **If the Team determines that the conduct was a manifestation of the Student's disability, the IEP Team must propose conducting a Functional Behavioral Assessment (FBA) and implement a positive Behavior Intervention Plan (BIP) or, if a BIP already exists, then the IEP Team reviews and modifies the BIP, as necessary, to address the conduct that was in question.**

If parents do not agree with the manifestation determination or the alternative placement, they can file for an expedited hearing at the BSEA. The student's placement while the BSEA hearing is pending is the student's alternate placement as determined by the IEP Team.

Protections for Students Not Yet Eligible for An IEP

The IDEA protections summarized above also apply to a child who has not yet been found eligible for an IEP if the school district is "deemed to have knowledge" that the child was eligible for such services **before the misconduct in question occurred**. A school district is "deemed to have knowledge" if: (1) the child's parent had expressed concern in writing to school district administrative personnel/child's teacher that the child needs special education and related services, (2) the

child's parent had requested an evaluation of the child to determine eligibility for special education services, or (3) the child's teacher or other school district personnel had expressed specific concerns about a pattern of behavior of the child to the director of special education or supervisory personnel. A school district is not "deemed to have knowledge" if the parent refused to consent to an evaluation by the school district or refused special education services or if the child had been evaluated and determined to be ineligible for an IEP.

Request for Evaluation While Student Subject to Discipline

If there is a request for an evaluation while the student is subject to discipline, then the school must expedite the evaluation and the student remains in the placement determined by school officials during the evaluation.

Manifestation Determination Review: Contacts for students facing disciplinary action.

Pamela Casna, Director of Student Services

Nicole Ouimet, Elementary School Principal

Alisa Diakite, Middle School Principal

Michael Cournoyer, High School Principal

Disciplining Students on Section 504 Plans

Section 504 also provides individuals with disabilities who are on Section 504 Plans with certain procedural rights and protections in the context of student discipline. These rights are in addition to the due process rights applicable to all students which are set forth in 603 CMR 53.00. Prior to imposing a "significant change in placement" for disciplinary reasons, the school must determine whether the conduct is a manifestation of the student's disability. A significant change of placement results not only from an exclusion for more than 10 consecutive school days, but also from a pattern of shorter suspensions accumulating to 10 school days during a school year. Whether a pattern exists must be decided on a case-by-case basis, considering such factors as the length of each suspension, the nature of the alleged conduct, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school.

Prior to any significant change in placement for disciplinary reasons, a group of individuals knowledgeable about the student, the evaluation data, and the school program must determine whether the conduct at issue is related to the student's disability. If the conduct is directly related to the disability, the school will not impose the discipline and will consider the need for any additional assessments such as a Functional Behavioral Assessment as well as a positive Behavior Intervention Plan (BIP) (or, if a BIP already exists, then will review and revise as may be appropriate). If the conduct is not directly related to the student's disability, the school may discipline the student as it does Students without disabilities.

Only for students on Section 504 Plans, if the student: 1) currently is engaging in the illegal use of alcohol or drugs (including marijuana), and 2) is subject to disciplinary action for use or possession of alcohol or drug offense(s); then, the student is not entitled to any special Section 504 protections for the use or possession of alcohol or drug offenses and the school is not required to conduct a manifestation determination prior to imposing long-term disciplinary action against the student for the use or possession of alcohol and drug offenses. The school may impose disciplinary removal action against that student to the same extent as the school would for students without disabilities under the circumstances, consistent with district policies and procedures applicable to all students. If the student is long-term suspended or expelled for the alcohol or illegal drug use or possession offenses, the 504 Team is still required to determine what, if any, reasonable accommodations, the student requires due to their qualifying disability to have an equal opportunity to access and participate in the district's general educational service plan options during the long-term disciplinary removal.