

**HILLTOWN COOPERATIVE CHARTER PUBLIC SCHOOL**

**DUE PROCESS FOR SUSPENSIONS**

**NOTICE OF PROPOSED SUSPENSION**

Except in the case of an emergency removal or disciplinary offense defined under M.G.L. c. 71, §§37H or 37H½ or an in-school suspension as defined by 603 CMR 53.02(6), HCCPS shall provide the student and parent/guardian with written and oral notice of the proposed out-of-school suspension, an opportunity to be heard at hearing, and the opportunity to participate at the hearing. 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;
- d) the opportunity for the student to have a hearing with the Director of Teaching and Learning 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/guardian to attend the hearing;
- e) the date, time, and location of the hearing;
- f) the right of the student and student's parent/guardian to interpreter services at the hearing if needed to participate;

The Director of Teaching and Learning shall make reasonable efforts to notify the parent/guardian orally of the opportunity to attend the hearing. In order to conduct a hearing without the parent/guardian present, the Director of Teaching and Learning must be able to document reasonable efforts to include the parent/guardian. Reasonable effort is presumed if the Director of Teaching and Learning sent written notice and documented at least two attempts to contact the parent/guardian in the manner specified by the parent/guardian for emergency situations.

All written communications regarding notice of proposed suspension shall be either by hand delivery or delivered by first-class mail, certified mail, or email to address provided by the parent/guardian for school communications (or other method agreed to by the Director of Teaching and Learning and parent/guardian) in English, and in the primary language in the home if other than English, or other means of communication where appropriate.

## **SHORT-TERM SUSPENSIONS: HEARING AND DIRECTOR OF TEACHING AND LEARNING DETERMINATION**

A short-term suspension is the removal of the student from HCCPS premises and regular classroom activities for ten (10) consecutive days or less. Out-of-school short-term suspensions which do not cumulatively over the course of HCCPS year exceed ten (10) days of suspension shall be conducted in accordance with this section.

Director of Teaching and Learning Hearing. The purpose of the hearing with the Director of Teaching and Learning 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 has committed the disciplinary offense, the basis for the charge, and any other pertinent information. The student shall have an opportunity to present information, including mitigating facts. A parent/guardian present at the hearing shall have the opportunity to discuss the student's conduct and offer information, including mitigating circumstances.

Based on the available information, including mitigating circumstances, the Director of Teaching and Learning will make a determination whether the student committed the disciplinary offense, and if so, the consequence. The Director of Teaching and Learning will provide notification in writing of his/her determination in the form of an update to the student and parent/guardian, and provide reasons for the determination. If the student is suspended, the Director of Teaching and Learning shall inform the parent/guardian of the type and duration of the suspension, and shall provide an opportunity for the student to make up assignments and other school work as needed to make academic progress during the period of removal.

If the student is in grades pre-k through 3, the Director of Teaching and Learning shall send his/her determination to the Director of Administration and explain the reasons prior to imposing an out-of-school suspension, before the short-term suspension takes effect.

All written communications regarding the hearing and Director of Teaching and Learning determination shall be either hand delivery or delivered by first-class mail, certified mail, or email to the address provided by the parent/guardian for school communications (or other method agreed to by the Director of Teaching and Learning and parent/guardian) in English, and in the primary language in the home if other than English, or other means of communication where appropriate.

## **LONG-TERM SUSPENSIONS: HEARING AND DIRECTOR OF TEACHING AND LEARNING DETERMINATION**

A long-term suspension is the removal of a student from HCCPS premises and regular classroom activities for more than ten (10) consecutive school days, or for more than ten (10) school days cumulatively for multiple disciplinary offenses in any school year. The purpose of the hearing with the Director of Teaching and Learning 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 has committed the disciplinary offense, the basis for the charge, and any other pertinent information. The student shall have an opportunity to present information, including mitigating facts, that the Director of Teaching and Learning will consider in determining whether alternatives to suspension such as loss of privileges, detention, an apology, a student contract, restitution, and/or probation are appropriate.

Additionally, the student shall have the following additional rights:

1. In advance of the hearing, the opportunity to review the student's record and the documents upon which the Director of Teaching and Learning may rely in making a determination to suspend the student or not;
2. the right to be represented by counsel or a lay person of the student's choice, at the student's and or parent's/guardian's expense;
3. the right to produce witnesses on his or her behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; and
4. the right to cross-examine witnesses presented by HCCPS district;

5. the right to request that the hearing be recorded by the Director of Teaching and Learning. All participants shall be informed that the hearing is being recorded by audio. A copy of the audio recording will be provided to the student or parent/guardian upon request.

Based on the evidence submitted at the hearing the Director of Teaching and Learning shall make a determination as to whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension (the use of evidence-based strategies and programs, such as mediation, conflict resolution, restorative justice, and positive interventions and supports) what remedy or consequence will be imposed. If the Director of Teaching and Learning decides to impose a long-term suspension, the written determination shall:

- i. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
- ii. Set out key facts and conclusions reached by the Director of Teaching and Learning;
- iii. Identify the length and effective date of the suspension, as well as a date of return to school;
- iv. Include notice of the student's opportunity to receive a specific list of education services to make academic progress during removal, and the contact information of a school member who can provide more detailed information.
- v. Inform the student of the right to appeal the Director of Teaching and Learning's decision to the Director of Administration or his/her designee (only if a long-term suspension has been imposed) within five (5) calendar days, which may be extended by parent/guardian request in writing an additional seven (7) calendar days.

The long-term suspension will remain in effect unless and until the Director of Administration decides to reverse the Director of Teaching and Learning's determination on appeal.

If the student is in grades pre-k through grade 3, the Director of Teaching and Learning shall send his/her determination to the Director of Administration and explain the reasons prior to imposing an out-of-school suspension, whether short-term or long-term, before the suspension takes effect.

All written communications regarding the hearing and Director of Teaching and Learning determination shall be either hand delivery or delivered by first-class mail, certified mail, or email to the provided by the parent/guardian for school communications (or other method agreed to by the Director of Teaching and Learning and parent/guardian) in English, and in the primary language in the home if other than English, or by other means of communication where appropriate.

### **APPEAL OF LONG-TERM SUSPENSION**

A student who is placed on a long-term suspension shall have the right to appeal the Director of Teaching and Learning's decision to the Director of Administration if properly and timely filed. A good faith effort shall be made to include the parent/guardian at the hearing. The appeal shall be held within three (3) school days of the appeal, unless the student or parent/guardian requests an extension of up to seven (7) additional calendar days, which the Director of Administration shall grant.

The student and parent/guardian shall have the same rights afforded at the long-term suspension Director of Teaching and Learning hearing. Within five (5) calendar days of the hearing the Director of Administration shall issue his/her written decision which meets the criteria required of the Director of Teaching and Learning's determination. If the Director of Administration determines the student committed the disciplinary offense, the Director of Administration may impose the same or a lesser consequence than that of the Director of Teaching and Learning. The Director of Administration's decision shall be final.

### **EMERGENCY REMOVAL**

A student may be temporarily removed prior to notice and hearing when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of HCCPS and, in the Director of Teaching and Learning's judgment, there is no alternative available to alleviate the danger or disruption. The temporary removal shall not exceed two (2) school days, following the day of the emergency removal.

During the emergency, removal the Director of Teaching and Learning shall make immediate and reasonable efforts to orally notify the student and student's parent/guardian of the emergency removal

and the reason for the emergency removal. The Director of Teaching and Learning shall also provide the due process requirements of written notice for suspensions and provide for a hearing which meets the due process requirements of a long-term suspension or short-term suspension, as applicable, within the two (2) school day time period, unless an extension of time for the hearing is otherwise agreed to by the Director of Teaching and Learning, student, and parent/guardian.

A decision shall be rendered orally on the same day as the hearing, and in writing no later than the following school day. The decision shall meet all of the due process requirements of a Director of Teaching and Learning's determination in a long-term suspension or short-term suspension, as applicable.

### **IN-SCHOOL SUSPENSION UNDER 603 CMR 53:02(6) & 603 CMR 53.10**

In-school suspension is defined as the removal of a student from regular classroom activities, but not HCCPS premises, for not more than ten (10) consecutive school days, or no more than ten (10) school days cumulatively for multiple infractions over the course of HCCPS year.

The Director of Teaching and Learning may impose an in-school suspension as defined above according to the following procedures:

The Director of Teaching and Learning shall inform the student of the disciplinary offense charged and the basis for the charge, and provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident. If the Director of Teaching and Learning determines that the student committed the disciplinary offense, the Director of Teaching and Learning shall inform the student of the length of the student's in-school suspension, which shall not exceed ten (10) days, cumulatively or consecutively, in a school year.

On the same day as the in-school suspension decision, the Director of Teaching and Learning shall make reasonable efforts to notify the parent orally of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The Director of Teaching and Learning 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 Director of Teaching and Learning is unable to reach the parent after making and documenting at least two (2) attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.

The Director of Teaching and Learning 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 Director of Teaching and Learning for the purpose set forth above, if such meeting has not already occurred. The Director of Teaching and Learning 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 by other method of delivery agreed to by the Director of Teaching and Learning and the parent.

### **SUSPENSION OR EXPULSION FOR DISCIPLINARY OFFENSES UNDER M.G.L. 71 §§37H and 37H½**

The due process notification and hearing requirements in the preceding sections do not apply to the following disciplinary offenses:

#### **Possession of a dangerous weapon, possession of a controlled substance, or assault of staff**

A student may be subject to expulsion if found in possession of a dangerous weapon, possession of a controlled substance, or the student assaults a member of educational staff, and the Director of Teaching and Learning determines the student's continued presence in school would have a substantial detrimental effect on the general welfare of HCCPS.

The Director of Teaching and Learning shall notify the student and parent(s)/guardian(s) in writing of the opportunity for a hearing, and the right to have representation at the hearing, along with the opportunity to present evidence and witnesses. After said hearing, a Director of Teaching and Learning may, in his/her discretion, decide to levy a suspension rather than expulsion. A student expelled for such an infraction shall have the right to appeal the decision to the Director of Administration. The expelled student shall have ten (10) days from the date of the expulsion in which to notify the Director of Administration of his/her appeal. The student has the right to counsel at the hearing before the Director of Administration. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student was guilty of the alleged offense.

#### **Felony complaint or issuance of felony delinquency complaint**

Upon the issuance of a criminal complaint charging a student with a felony, or the issuance of a felony delinquency complaint against a student, the Director of Teaching and Learning may suspend a student for a period of time determined appropriate by the Director of Teaching and Learning if the Director of Teaching and Learning determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of HCCPS.

The Director of Teaching and Learning shall notify the student in writing of the charges, the reasons for the suspension (prior to such suspension taking effect), and the right to appeal. The Director of Teaching and Learning will also provide the student and parent(s)/guardian(s) the process for appealing the suspension to the Director of Administration. The request for appeal must be made in writing within five (5) calendar days. The hearing shall be held within three (3) days of the request. The suspension shall remain in effect prior to any appeal hearing before the Director of Administration. At the hearing, the student shall have the right to present oral and written testimony, and the right to counsel. The Director of Administration has the authority to overturn or alter the decision of the Director of Teaching and

Learning. The Director of Administration shall render a decision on the appeal within five (5) calendar days of the hearing.

**Felony conviction or adjudication/admission in court of guilt for a felony or felony delinquency**

The Director of Teaching and Learning may expel a student convicted of a felony, or has an adjudication or admission of guilt regarding a felony, if the Director of Teaching and Learning determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of HCCPS.

The student shall receive written notification of the charges and reasons for the proposed expulsion. The student shall also receive written notification of his right to appeal the decision to the Director of Administration, as well as the appeal process. The expulsion shall remain in effect prior to any appeal hearing conducted by the Director of Administration.

The student shall notify the Director of Administration in writing of his/her request for an appeal the decision no later than five (5) calendar days following the date of the expulsion. The Director of Administration hearing shall be held with the student and parent(s)/guardian(s) within three (3) calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony, and shall have the right to counsel. The Director of Administration has the authority to overturn or alter the decision of the Director of Teaching and Learning. The Director of Administration shall render a decision on the appeal within five (5) calendar days of the hearing.

Any student expelled from school for such an offense shall be afforded an opportunity to receive educational services and make academic progress.

Revised 4.27.17