

Due Process for Suspensions

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 Head of School or 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.

The Head of School or Director of Teaching and Learning may not remove a student from school on an emergency basis until adequate provisions have been made for the student's safety and transportation.

During the emergency removal, the Director of Teaching and Learning or Designee 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 or Designee 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.

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.

GENERAL REQUIREMENTS PRIOR TO SUSPENSION UNDER M.G.L. CHAPTER 71, §37H

A student may not be suspended under M.G.L. Chapter 71, §37H, unless one or more of the following apply:

- A. Alternative remedies have been employed and their use and results documented, following and in direct response to a specific incident or incidents.
- B. There are documented specific reasons why alternative remedies are unsuitable or counterproductive.
- C. The situation is such that the student's continued presence in school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in school.

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 the 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 their 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 their determination to the Head of School 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 their behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so;
4. the right to cross-examine witnesses presented by 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:

1. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
2. Set out key facts and conclusions reached by the Director of Teaching and Learning;
3. Identify the length and effective date of the suspension, as well as a date of return to school;
4. 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;
5. Inform the student of the right to appeal the Director of Teaching and Learning's decision to the Head of School or their 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;
6. There will be a good faith effort to include the parent in the hearing and to send written notice to the parent of the date, time and location of the hearing;
7. If requested, arrange for an audio recording of the hearing, a copy of which shall be provided to the student and the parent, and the superintendent's responsibility to inform all parties before the hearing that an audio copy will be made of the hearing

The long-term suspension will remain in effect unless and until the Head of School 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 their determination to the Head of School 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 placed on a long-term suspension (more than 10 consecutive school days) has the right to

appeal the Director of Teaching and Learning's decision to the Head of School within five (5) calendar days of the suspension determination. A good faith effort shall be made to include the parent/guardian at the hearing. The hearing 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 Head of School shall grant.

The following procedure outlines the process for disciplinary hearings conducted by the Head of School (acting as Superintendent) in accordance with M.G.L. c. 71, § 37H3/4. The hearing process ensures due process and fairness when reviewing appeals of long-term suspensions or expulsions.

I. Hearing Notification and Scheduling

1. Right to Appeal
 - A parent/guardian may request an extension of up to seven (7) additional calendar days for filing the appeal.
2. Hearing Schedule
 - The hearing must be held within three (3) school days of receiving the appeal request, unless an extension of up to seven additional calendar days is granted.
3. Notification Requirements
 - The school will provide written notice of the hearing, which must include:
 - Date, time, and location of the hearing
 - The right of the student and parent/guardian to present evidence and witnesses
 - The right to be represented by counsel or an advocate at their own expense
 - The right to review the student's record and documents relied upon by the school before the hearing
 - The right to an interpreter, if necessary.

II. Conduct of the Hearing

1. Hearing Officer
 - The Head of School will act as the Hearing Officer and preside over the appeal.
2. Rights of the Student & Parent/Guardian
 - The student and parent/guardian shall have the same rights as they did in the initial hearing with the Director of Teaching and Learning, including:
 - The right to cross-examine witnesses presented by the school
 - The right to present witnesses and evidence on their behalf
 - The right to have the hearing recorded (audio recording available upon request).
3. Evidence and Deliberation
 - The Head of School will review the case based on the preponderance of evidence and may consider mitigating circumstances, alternative disciplinary measures, and the student's academic record and behavior.

III. Decision & Notification

1. Written Determination
 - Within five (5) calendar days of the hearing, the Head of School will issue a written decision, which must include:
 - The disciplinary offense and hearing details
 - A summary of key facts and findings
 - The length of the suspension and expected return date (if applicable)
 - Any alternative educational services available to the student during the suspension
 - A final determination of the consequences, which may uphold, reduce, or overturn the Director of Teaching and Learning's decision.
2. Finality of Decision
 - The decision of the Head of School is final and not subject to further appeal within the school.

IV. Special Considerations

1. Emergency Removals
 - In cases where a student is removed on an emergency basis, the Director of Teaching and Learning must conduct a formal hearing within two (2) school days unless an extension is agreed upon.
 - The Head of School may review emergency removals through this appeal process if a long-term suspension or expulsion follows.
2. Educational Services During Suspension
 - Students suspended for more than ten (10) days are entitled to access educational services as outlined in the school's Education Services Plan to continue making academic progress.
3. Students with Disabilities
 - Additional procedural protections apply to students with disabilities under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.
 - If a student has an IEP or a 504 Plan, the school must hold a Manifestation Determination Review (MDR) before implementing a suspension that exceeds ten (10) cumulative school days

If the Head of School determines the student committed the disciplinary offense, the Head of School may impose the same or a lesser consequence than that of the Director of Teaching and Learning. The Head of School's decision shall be final.

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 caregiver 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 caregiver to a meeting to discuss the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meetings 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 caregiver after making and documenting at least two (2) attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the caregiver of the in-school suspension.

The Director of Teaching and Learning shall send written notice to the student and caregiver about the in-school suspension, including the reason and the length of the in-school suspension, and inviting the caregiver 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 caregiver for school communications, or by other method of delivery agreed to by the Director of Teaching and Learning and the caregiver.

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 their 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 Head of School. The expelled student shall have ten (10) days from the date of the expulsion in which to notify the Head of School of their appeal. The student has the right to counsel at the hearing before the Head of School. 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 Head of School. 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 Head of School. At the hearing, the student shall have the right to present oral and written testimony, and the right to counsel. The Head of School has the authority to overturn or alter the decision of the Director of Teaching and Learning. The Head of School 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 Head of School, as well as the appeal process. The expulsion shall remain in effect prior to any appeal hearing conducted by the Head of School.

The student shall notify the Head of School in writing of their request for an appeal of the decision no later than five (5) calendar days following the date of the expulsion. The Head of School 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 Head of School has the authority to overturn or alter the decision of the Director of Teaching and Learning. The Head of School 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.