

# **DISCIPLINARY PROCEDURES, DUE PROCESS AND APPEAL RIGHTS**

## **STEPS OF THE PROGRESSIVE DISCIPLINE SYSTEM**

A progressive discipline system enables students to correct behavioral problems before they become severe. The process begins with the teacher identifying a problem and taking a number of steps with the student to correct the problem. These increasingly formal steps may include: verbal warning, student/teacher conference, parent contact, detention and office referral. If the problem persists, the Main Office becomes involved and additional progressive steps are taken. These steps include detention, in-school suspension, out-of-school suspension, and, when available, expulsion. Parent meetings, and counseling sessions may also be utilized during the progressive disciplinary process.

### **DETENTION**

Detention is an extension of the school day assigned to provide consequences and deter violations of school rules/policies of class rules. Detention is held Monday - Friday from 2:07 p.m. - 2:55 p.m., approximately 50 minutes. Transportation home is available to students by a late bus which leaves school at approximately 3:00 p.m. Teachers and administrators can assign detentions. Detentions can be changed only by a student's Assistant Principal or Dean of Students. Request from the student's parent may be required. A student's due process rights under M.G.L. c. 71, §§ 37H, 37H1/2, and 37H3/4 are not triggered by the imposition of detentions.

#### **Teacher Detention**

When a teacher assigns a detention for minor discipline problems and/or academic issues evolving from non-compliance (i.e. repeatedly not completing work), the student is expected to report to the teacher's classroom (unless asked to report to the designated detention area to serve the detention) by 2:07 p.m., and remain until detention ends at approximately 2:55 p.m. If a student does not attend the assigned detention(s), they will be referred for a detention cut and the discipline report will be forwarded to the students assigned Assistant Principal or Dean of Students for further disciplinary action. A teacher detention does not become part of a student's permanent disciplinary record.

#### **Office Detention**

The Main Office will assign a student one or more detentions for violation of school rules. A parent/guardian will be notified of the detention. Office detentions start promptly at 2:07 p.m. and end at 2:55 p.m. Students must be on time for detention, be prepared to work quietly, and remain for the allocated time. There is no talking, eating, drinking, sleeping or listening to or using any electronic device during detention. All school rules apply during detention. Students can be referred for a disciplinary infraction that occurs in the detention room to the Main Office. An accumulation of school detentions can lead to more serious levels of discipline, such as suspension, and may limit a student's opportunities to participate in school functions, such as athletics and cooperative work assignments (co-op). School detentions are part of a student's permanent disciplinary record.

#### **Three-Hour Detention**

For various conduct offenses, students may be requested to attend a three-hour detention after school where they will work with a Behavior Intervention Coordinator who will address

topics such as: decision-making, goal setting and Character Education. Students assigned to this 3-hour detention will have the opportunity to take the Sports Bus home eliminating any transportation concerns.

Examples of Specific Offenses that may result in detention and/or suspension:

- Tardy for class
- Not prepared for class, gym or shop
- Being in an unauthorized area
- In corridor without a pass
- Cafeteria, corridor, technical programs, classroom, or bus disturbance
- Not following safety regulations
- Offensive language
- Major class disruption
- Not reporting to teacher/school detention
- Skipping class
- Insolent and disrespectful behavior
- The administration reserves the right to rule on any incident that may arise as the year progresses.

## **SUSPENSION**

M.G.L. c. 71, §§ 37H, 37H $\frac{1}{2}$ , and 37H $\frac{3}{4}$  and 603 CMR 53 provide the legal framework for suspension of students in Massachusetts. It is the policy of Greater Lowell Technical High School to follow those laws and regulations. Below is an overview of those laws and how they will be implemented by Greater Lowell Technical High School. Where possible, safe, supportive and non-exclusionary remedies and processes should be attempted before students are removed from class at all. The principal or designee will consider ways to re-engage the student in the learning process and shall not suspend the student until alternative remedies have been employed and their use and results documented. Alternative remedies may include, but shall not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice; and (iv) collaborative problem solving. Principals or designees will document the use and results of alternative remedies. Principals or designees do not have to utilize alternative remedies in the following situations: 1) if the alternatives are unsuitable or counter-productive, and 2) in cases where 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.

Any suspensions will be imposed at the discretion of the Assistant Superintendent/Principal or their designee.

### **IN-SCHOOL SUSPENSION - UNDER CHAPTER 71, SECTION 37H3/4**

An "in-school suspension" is defined as removal of a student from regular classroom activities, but not from the school premises, for no more than ten (10) consecutive school days, or no more than ten (10) school days cumulatively for multiple infractions during the school year. In-school suspension for ten (10) school days or less, consecutively or cumulatively during a school year, shall not be considered a short-term suspension under 603 CMR 53.02. If a student is placed in in-school suspension for more than ten (10) school days, consecutively or cumulatively during a school year, such suspension shall be deemed a long-term suspension for due process, appeal, and reporting purposes.

A student who receives an in-school suspension ten (10) school days or fewer, consecutively or cumulatively during a school year for a disciplinary offense is entitled to the following due process procedures:

1. The Assistant Superintendent/Principal or their designee shall inform the student of the disciplinary offense charged and the basis for the charge.
2. The student shall be permitted a fair and reasonable opportunity to dispute the charge(s) and to explain the circumstances surrounding the alleged incident.
3. If the Assistant Superintendent/Principal or their designee determines that the infractions occurred, the Assistant Superintendent/Principal or designee shall inform the student of the length of the in-school suspension (not to exceed 10 school days).
4. On the same day as the in-school suspension decision, the Assistant Superintendent/Principal or designee shall make two attempts to notify the parent/guardian orally of the offense, the reasons for their conclusion, and the length of the in-school suspension.
5. The Assistant Superintendent/Principal or their designee shall also invite the parent/guardian to a meeting on the day of the suspension, if possible, or as soon as possible thereafter to discuss the incident, the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior.
6. The Assistant Superintendent/Principal or their designee shall send written notice of the in-school suspension, including the reason and length of the suspension, and inviting the parent/guardian to a meeting with the Assistant Superintendent/Principal (described above), if such meeting did not already occur.

Students must follow the procedures below when placed into in-house suspension:

1. Reports to homeroom for attendance then proceeds to the in-school suspension room for the entire school day.
2. Maintains silence at all times.
3. Completes his or her daily class assignments, and assessments including some work provided by the in-house coordinator.
4. Eats lunch in the in-house suspension room.
5. Attends the regular afternoon session of detention.
6. Students will be required to leave all electronic devices in the Main Office. They will be allowed to retrieve their electronic device(s) after they complete detention as detention always follows an In-School Suspension assignment. This process is done to prevent issues while students are placed into In-House Suspension. Failure to comply with this protocol may lead to further consequences including removal from school.

## **OUT-OF-SCHOOL SUSPENSION - UNDER CHAPTER 71, SECTION 37H3/4**

“Suspension” for the purpose of this section means short-term suspension and long-term suspension. It should be noted that a re-entry meeting with a parent is required for all out-of-school suspensions.

### **Short-Term Suspension**

A short-term suspension is defined as the removal of a student from the school premises and regular classroom activities for ten (10) consecutive days or less.

The student does not attend school for the duration of the suspension and is not allowed on the school property.

A student must be picked-up by a parent/guardian or designee listed in the computer once a short-term suspension is imposed. Any exception to this policy will be determined by the Assistant Superintendent/Principal or their designee. A parent conference is required before a student can return to school from a short-term suspension unless the student or parent provides a good faith basis why such a conference is not possible and the Assistant Superintendent/Principal or their designee agrees to waive the conference.

A student who receives a short-term suspension for a disciplinary offense is entitled to the following due process procedures:

1. The Assistant Superintendent/Principal or their designee shall provide oral and written notice to the parent/guardian, offering an opportunity to meet and to discuss the violation as charged, prior to the suspension taking place. The notice shall set forth in plain language in English and the home language (if different than English) the disciplinary offense: the basis for the charge; the potential consequences (including the potential length of the suspension); the opportunity for the student to have a hearing with the Assistant Superintendent/Principal (including the opportunity to dispute the charges and present the student’s explanation of the alleged incident and the opportunity for the parent to attend); the date, time, and location of the hearing; and the right to interpreter services for the student or parent, if necessary. Written notice to the parent/ guardian may be made by hand delivery, first class mail, email or by any other method of delivery agreed to by the Assistant Superintendent/Principal or their designee and the parent.
2. The student shall meet with the Assistant Superintendent/Principal or designee regarding the alleged offense. The Assistant Superintendent/ Principal or designee shall make a reasonable effort orally and in writing to include the student’s parent/guardian in this meeting. At the meeting, the student shall be told the basis for the nature of the disciplinary offense, and any other pertinent information. The student, and their parent if present, shall have the opportunity to dispute the charges, present additional information and to offer mitigating facts. 603 CMR 53 does not confer the right to counsel or cross-examine witnesses. The Assistant Superintendent/ Principal or their designee, in their sole discretion, may permit the student to question their accuser or present their own witnesses.
3. The Assistant Superintendent/Principal or designee will issue a written determination of the suspension to both the student and the parent/guardian, including the key facts and conclusions reached, the reasons for the determination, and length and effective

date of the suspension, a date of return to school, and the opportunity to make-up assignments and other needed school work. In normal circumstances, when students return from a short-term suspension they have one day to make-up work for each day of the suspension.

## **Long-Term Suspension**

A long-term suspension is defined as the removal of a student from the school 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 student does not attend school for the duration of the suspension and is not allowed on the school property. A parent conference is required before a student can return to school from a long-term suspension unless the student or parent provides a good faith basis why such a conference is not possible and the Assistant Superintendent/Principal or their designee agrees to waive the conference.

Except for students who are charged with offenses under M.G.L., Chapter 71, 37H or 37H1/2 (e.g., with possession of drugs or weapons on school grounds, assault on a staff member, or are charged with or convicted of a felony or felony delinquency), no student may be placed on long-term suspension for one or more disciplinary offenses for more than ninety (90) school days in a school year beginning with the first day the student is removed from school. Nor may long-term suspensions under M.G.L. Chapter 71 § 37H3/4 extend beyond the school year in which the suspension is imposed.

A student who receives a long-term suspension for a disciplinary offense is entitled to the following due process procedures in addition to those described for short-term suspensions:

1. The right to review the student's own record and any documents on which the Assistant Superintendent/Principal may rely, in making their decision regarding suspension;
2. The right to be represented by counsel (at the student's expense);
3. The right to present the student's own explanation of the alleged incident (but the student may not be compelled to do so);
4. The right to produce witnesses on their own behalf; and cross-examine witnesses presented by the school or district; and
5. The right to request the meeting be recorded and the student to receive a copy of the recording.
6. The Assistant Superintendent/Principal shall also provide the parent (if present) an opportunity to discuss the parent's conduct and offer information, including mitigating circumstances.
7. In addition, for long-term suspensions, the Assistant Superintendent/Principal's written notice of suspension shall contain all of the information listed in 603

CMR 53.08(3) (d), found at [www.doe.mass.edu/lawsregs/603CMR53](http://www.doe.mass.edu/lawsregs/603CMR53). As part of that information it shall include:

- notice of the student's opportunities to receive educational services to make academic progress during the removal period
- notice of the right to appeal the Assistant Superintendent/Principal's decision of long-term suspension with the Superintendent.

- notice of right to make academic progress during suspension and notice of school-wide education service plan.

### **Appeal of Long-Term Suspension**

A student placed on long-term suspension following an Assistant Superintendent/ Principal's hearing has the right to appeal the suspension to the superintendent. The long-term suspension will remain in effect unless and until the superintendent reverses the Assistant Superintendent/Principal's decision on appeal.

The appeal of long-term suspension must be in writing, within five calendar days of the effective date of the long-term suspension. If the student's or parent's notice of appeal is not timely the superintendent may deny the appeal, or allow the appeal at their discretion. The student or parent/guardian may request an extension of up to seven (7) calendar days to submit this request for an appeal.

The superintendent or their designee shall hold an appeal hearing within three (3) school days of receiving the student's request for an appeal. The student or parent/guardian may request an extension of up to seven (7) calendar days for this appeal hearing to be held. The superintendent or their designee must include the parent/guardian in this appeal hearing, or else must show a good faith effort to include him/her. At the hearing, the student has the same rights afforded him/her at the Assistant Superintendent/Principal's meeting prior to issuing the long-term suspension. The Superintendent-Director's meeting will be audio recorded and the student/parent may request a copy of the recording.

The superintendent will issue a written decision within five (5) calendar days of the hearing, either upholding or lessening the suspension. This will be the school district's final decision on the matter.

### **School Offenses Which May Result in Suspension**

The following offenses may result in a school suspension of one or more days. The length of the suspension, which can be either an in-school suspension or an out-of-school suspension, will be determined by the Assistant Superintendent/Principal, Senior Assistant Principal, Assistant Principal or Dean of Students. In some instances, if the offenses listed below are of an extreme and very serious nature, the student may be expelled pursuant to M.G.L. c. 71, §§ 37H and 37H1/2:

1. Any act which endangers the health and the safety of the student and/or other members of the school community, whether within the school building itself, on school grounds or on school buses or school sponsored events.
2. Willful destruction of school property, including school buses. Restitution must be made.
3. Insubordination towards school employees.
4. Disorderly, vicious, illegal or immoral conduct in the building, on school grounds, on school buses, or school sponsored events.
5. Pulling false alarms.
6. Leaving school grounds without permission.
7. Profanity directed toward any school employee.
8. Fighting on school property, including school buses.
9. Assaulting another person on school property, including school buses.
10. Not reporting to the Main Office when instructed to do so.

11. Possession, use or sale of alcohol or a controlled substance in the school building, on school grounds, on school buses, or school sponsored events.
12. Weapons carried or used in the school building, on school grounds, or on school buses.
13. Calling in a bomb threat.
14. The intentional spreading of rumors which disrupts the overall safety of the students and staff at Greater Lowell Technical High School.
15. Sexual harassment or any teen dating violence complaints which include a pattern of harassment, stalking, physical or emotional intimidation and fear for safety on the part of the reporting student.
16. Harassment/Bullying.
17. Improper use of the school's computer system.
18. Forgery of school documents and excused absence notes.
19. Cheating, including plagiarism.
20. Stealing.
21. Smoking (see Smoking Policy for possession of tobacco related paraphernalia.)
22. Repeated minor infractions that may not have been resolved through other means.
23. Derogatory comments regarding staff and/or students posted for public display such as Facebook or other media devices.
24. Unauthorized photos or videos of staff or students.
25. Audio recording a staff or student without their knowledge is strictly prohibited and is a criminal offense as well as an infraction that will result in suspension.
26. Any other offenses deemed appropriate to impose a suspension by the Assistant Superintendent/Principal or designee.

### **In-House Suspension, Short-Term and Long-Term Suspension/Extracurricular Activities and Athletics**

A student who receives an in-house suspension, or a short or long-term suspension or expulsion will not be allowed to participate in any and all extra-curricular activities and social activities. If a student is an athlete, they will not be able to participate in any scheduled practices or games during the time of the suspension. This includes the last day of suspension when the school day has ended. If a student is suspended at the end of a school week (i.e., Thursday or Friday), and the length of the suspension carries over the next school week, the student cannot participate in any extra-curricular activities or, if the student is an athlete, any practices or games over the weekend.

### **EXPULSION**

Expulsion is defined as the removal of a student from the school premises, regular classroom activities and school activities for more than ninety (90) school days, indefinitely, or permanently as permitted under M.G.L., Chapter 71, 37H or 37H1/2 for:

- a) possession of a dangerous weapon;
- b) possession of a controlled substance;
- c) assault on a member of the educational staff; or
- d) a felony charge or felony delinquency complaint or conviction or adjudication or admission of guilt with respect to such felony, if the Assistant Superintendent/Principal determined that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L., Chapter 71, 37H or 37H1/2. A student may be expelled only pursuant to M.G.L. c. 71, §§ 37H and 37H1/2.

Offenses under M.G.L., Chapter 71, Sections 37H or 37H1/2 are not subject to 37H3/4 as to the duration of a child's removal from school, and may result in an expulsion for longer than 90 days or that extends beyond the school year.

## **MASSACHUSETTS GENERAL LAWS, CHAPTER 71, SECTION 37H**

Massachusetts General Laws, Chapter 71, Section 37H, provides as follows:

- (a) 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 chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the Assistant Superintendent/Principal.
- (b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the Assistant Superintendent/Principal.
- (c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the Assistant Superintendent/Principal.

After said hearing, an Assistant Superintendent/Principal may, in their discretion, decide to suspend rather than expel a student who has been determined by the Assistant Superintendent/Principal to have violated either paragraph (a) or (b).

- (d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.
- (e) Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student in an education service plan, under section 21 of chapter 76.
- (f) Districts shall report to the department of elementary and secondary education the specific reasons for all suspensions and expulsions, regardless of duration or type, in a manner and form established by the commissioner. The department of elementary and secondary education shall use its existing data collection tools to obtain this information from districts and shall modify those tools, as necessary, to obtain the information. On an annual basis, the department of elementary and secondary education shall make district level de-identified data and analysis, including the total number of days each student is excluded during the school year,



available to the public online in a machine readable format. This report shall include district level data disaggregated by student status and categories established by the commissioner.

- (g) Under the regulations promulgated by the department, for each school that suspends or expels a significant number of students for more than 10 cumulative days in a school year, the commissioner shall investigate and, as appropriate, shall recommend models that incorporate intermediary steps prior to the use of suspension or expulsion. The results of the analysis shall be publicly reported at the school district level.

## **MASSACHUSETTS GENERAL LAWS, CHAPTER 71, SECTION 37H1/2**

Massachusetts General Laws, Chapter 71, Section 37H1/2, provides as follows:

- (1) 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 or headmaster of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said principal or headmaster if said principal or headmaster 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 the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension; provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the suspension to the superintendent. The student shall notify the superintendent in writing of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent shall hold a hearing with the student and the student's parent or guardian within three 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 his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension.

- (2) 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 or headmaster of a school in which the student is enrolled may expel said student if such principal or headmaster 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 expulsion prior to such expulsion taking effect. The student shall also receive written notification of his 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 superintendent.

The student shall have the right to appeal the expulsion to the superintendent. The student shall notify the superintendent, in writing, of his request for an appeal no later than five calendar days following the effective date of the expulsion. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the expulsion.

Any school district that suspends or expels a student under this section shall continue to provide educational services to the student during the period of suspension or expulsion, under section 21 of chapter 76. If the student moves to another district during the period of suspension or expulsion, the new district of residence shall either admit the student to its schools or provide educational services to the student under an education service plan, under section 21 of chapter 76.

### **EMERGENCY REMOVAL – M.G.L. c. 71, § 37H3/4**

A temporary emergency removal of a student is within the Assistant Superintendent/Principal's or designee's authority when a student is charged with a disciplinary offense and, in the Assistant Superintendent/Principal's or designee's judgment, the student's continued presence poses a danger to persons or property, or materially and substantially disrupts the order of the school, and there is no adequate alternative to alleviate that danger. The emergency removal shall not exceed two (2) school days following the day of the emergency. During this time the Assistant Superintendent/Principal or designee shall do the following:

- Make adequate provisions for the student's safety and transportation before removing him/her from school on an emergency basis.
- Make immediate reasonable efforts to orally notify the student and parent/guardian of the emergency removal and the reason for it.
- Provide written notice to the student and parent/guardian as provided in 603 CMR 63.06(2).
- Provide an opportunity for a hearing before the Assistant Superintendent/Principal (with the process due for a short- or long-term suspension, based on the expected duration of the suspension), with the parent/guardian in attendance, within two school days of the emergency removal (unless the parties agree to an extension of time).
- Render a decision orally on the same day as the hearing, and a written notice of the hearing no later than the following school day.

### **ACADEMIC PROGRESS**

Any student who is serving an in-school suspension, short-term suspension, long-term suspension or expulsion under M.G.L. c. 71, §§ 37H, 37H1/2, and 37H3/4 shall have the opportunity to earn credits, as applicable, make up tests, assignments, papers, and other school work as needed to make academic progress during the period of their removal.

Students who are expelled or suspended for more than 10 consecutive days will have an opportunity to continue to receive education service during their removal from school pursuant to the school-wide education service plan. The plan is available in the Assistant Superintendent/Principal's Office.

### **Procedural Requirements Applied to Students with disabilities and Students Not Yet Determined to Be Eligible for Special Education**

1. If, prior to a disciplinary action the GLTHS District has knowledge that the student involved, may be a student with a disability, then all procedural protections available to a student with a disability will be available to this student until and unless the student is subsequently determined not to be eligible. The GLTHS district may be considered to have prior knowledge if:
  - a. The parent had expressed concern in writing; or
  - b. The parent had requested an evaluation; or
  - c. GLTHS District staff had expressed directly to the special education director or other supervisory personnel specific concerns about a pattern of behavior demonstrated by the student.

The GLTHS District may not be considered to have had prior knowledge if the parent has not consented to evaluation of the student or has refused special education services, or if an evaluation of the student has resulted in a determination of ineligibility.

2. If the GLTHS District had no reason to consider the student disabled, and the parent requests an evaluation subsequent to the disciplinary action, the district will conduct an evaluation in an expedited manner to determine eligibility. During that interim period, the student will receive all the protections available to that student until and unless the student is subsequently found to be not eligible for special education.
3. If the student is found eligible as a result of the evaluation, they will receive all procedural protections subsequent to the finding of eligibility and the GLTHS District will provide services to allow the student to continue to participate in the general education curriculum and to progress toward IEP goals and as appropriate will conduct a functional behavioral assessment and behavioral intervention services and modifications to address the behavior so that it does not recur.
  - When a suspension constitutes a change in placement of a student with disabilities, district personnel, the parent, and other relevant members of the Team, as determined by the parent and the district, convene within 10 days of the decision to suspend to review all relevant information in the student's file.
  - If district personnel, the parent, and other relevant members of the Team determine that the behavior is NOT a manifestation of the disability, then the suspension or expulsion may go forward consistent with policies applied to any student without disabilities, except that the district must still offer:
    - services to enable the student, although in another setting, to continue to participate in the general education curriculum and to progress toward IEP goals; and
    - as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, to address the behavior so that it does not recur.
    - Interim alternative educational setting. Regardless of the manifestation determination, the district may place the student in an interim alternative educational setting (as determined by the Team) for up to 45 school days.

- the interim alternative education setting enables the student to continue in the general curriculum and to continue receiving services identified on the IEP, and provides services to address the problem behavior.
- Except when they have been placed in an interim alternative educational setting, the student returns to the original placement if it is a manifestation of the disability unless the parents and district agree otherwise or the hearing officer orders a new placement.
- Not later than the date of the decision to take disciplinary action, the school district notifies the parents of that decision and provides them with the written notice of procedural safeguards. If the parent chooses to appeal or the school district requests a hearing because it believes that maintaining the student's current placement is substantially likely to result in injury to the student or others, the student remains in the disciplinary placement, if any, until the decision of the hearing officer or the end of the time period for the disciplinary action, whichever comes first, unless the parent and the school district agree otherwise.

In the case of a student with a disability (IEP or 504), a suspension of more than 10 days (or a suspension that would, with previous suspensions that year, total more than ten days) or expulsion (which is viewed as a change of placement) requires an emergency Team meeting to convene within 10 days of the decision to suspend. The purpose of this Team meeting is to make a manifestation determination. The members of the Team shall review all relevant information in the student's file. This information may include the IEP, teacher observations, and any information provided by the parents that may assist in determining if the conduct in question is caused by or had a direct and substantial relationship to the child's disability or if it was the direct result of the LEA's failure to implement the IEP. If any of those circumstances are found, long-term suspension or expulsion may not be imposed.

If the behavior in question is not a manifestation of the student's disability, the student may be disciplined under the general conduct code of the school. The IEP Team considers all relevant information, including evaluation/diagnostic results, observations of the student, and the student's IEP and placement.

No later than the date of the decision to take disciplinary action, the school district notifies the student and parents of that decision and provides them with written notice of procedural safeguards. Students and parents are also notified of their right to request an appeal to the Superintendent, once it has been decided that the student will have a long term suspension. Whenever possible, alternatives to suspension may be considered. In some cases, in lieu of and/or in addition to suspension, students may be required to participate in an anger management class or substance abuse class provided by the district. If it is decided that the student will have a long term suspension, a copy of the School Wide Service Plan is provided to the parent and student. Follow up occurs to identify the option chosen and to confirm that the student is receiving the service.

### **Student Violates School Discipline Code 45 School Day Rules**

School personnel may remove a student to an appropriate interim alternative educational setting for not more than 45 school days if the student:

- carries a weapon;
- possesses or sells illegal drug(s) or controlled substance(s);
- causes serious bodily injury upon another person at school, on school premises, or at a school function.

The Team must conduct a Functional Behavioral Assessment and manifestation determination. The hearing officer can extend the 45-day period.

The hearing officer may order a 45 school day placement in an interim alternative educational placement if the district proves that the presence of the student poses a danger. Danger is considered as:

- Likelihood to result in injury to the student or others
- Appropriateness of the student's current placement
- Reasonable efforts made to minimize risk of harm
- The interim alternative education placement meets requirements – access to curriculum and program designed to address behavior

The Team must conduct a Functional Behavioral Assessment (FBA) and manifestation determination. The hearing officer can extend the 45-day period.

The district uses interim alternative educational settings when students are removed from their current placement. The district has used collaborative programs and approved private schools, but may use other placements.

When a student with a disability is reported to the police for an alleged crime, special education and disciplinary records must be furnished to the police.

### **Functional Behavioral Assessment (FBA)**

Functional Behavioral Assessment (FBA) is a process for addressing student problem behaviors, the settings under which the problem behaviors may or may not be observed, and the function (the why) of the problem behaviors. This information is obtained by collecting data from direct observation and is used to develop an effective plan to reduce the frequency or severity of the problem behavior. A Behavior Intervention Plan (**BIP**) is developed and implemented, if appropriate. Functional behavioral assessment should be integrated, as appropriate, throughout the process of developing, reviewing, and, if necessary, revising a student's IEP.

The **Individuals with Disabilities Education Act Regulations** at 34 CFR § 300.529 state the following:

Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. (Authority: 20 U.S.C. 1415(k)(9))