



Boston Public Schools Code of Conduct

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to bring the Code into compliance with*

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

*Revised 1997, 1998, 1999, 2001, 2002, 2005, 2006, 2010, and
2013 to include revisions required by federal and state laws
and regulations, to align the Code with Boston Public Schools
organizational structure, and to include policy changes
approved by the School Committee of the City of Boston.*

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FOREWORD

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

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

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

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

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

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

PHILOSOPHY

Boston Public Schools mission statement

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

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

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

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

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

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

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

GUIDING PRINCIPLES

THE FOLLOWING GUIDING PRINCIPLES lay the foundation for creating safe, healthy, and supportive learning environments that include the adoption of preventive and positive approaches to discipline that support students in building social and behavioral skills, resolving conflicts in a non-violent manner, and creating

productive learning environments. These principles are essential beliefs that will guide Boston Public Schools staff, students and families in the shared work of ensuring positive school environments and improved student outcomes. These principles must be discussed, understood and embraced across the city to ensure maximized learning and growth opportunities for all children:

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

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

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

RATIONALE FOR THE CODE OF CONDUCT

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

The Code of Conduct is intended to be instructive, not punitive, and is based on the principle of preventive and

positive discipline (i.e. interventions, skill building and consequences) will be aimed at addressing the causes of misbehavior, resolving conflicts, meeting students' needs, and keeping students in school. In addition, the Code is intended to create clear expectations and graduated levels of support and intervention for all students with consequences for misbehavior that are individualized, consistent, reasonable, fair, age appropriate and that match the severity of the student's misbehavior. Minor infractions and first offenses shall be treated non-punitively whenever possible. Factors such as age and grade level of the student, the student's social, emotional and intellectual development, and overall student rights and responsibilities shall also be considered at all times.

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

RIGHTS AND RESPONSIBILITIES OF STUDENTS

A. RIGHTS OF STUDENTS

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

1. In accordance with the United States Constitution and applicable federal and state laws and regulations, no student shall be excluded from or discriminated against in admission to any Boston public school, or in obtaining the advantages, privileges and courses of study of such public school (including the right to participate fully in classroom instruction and extracurricular activities) on account of race, color, ethnicity, national origin, religion, sex, sexual orientation, gender identity, handicap, disability, age, active military status or genetics
2. Students have the right to an education of the highest standards.
3. Students have the right to a meaningful curriculum consistent with the Framework and the right to voice their opinions in the development of such a curriculum.
4. Students have the right to physical safety and protection of personal property.
5. Students have the right to safe and sanitary facilities.
6. Students have the right to consult with teachers, counselors, and administrators and anyone else connected with the school if they so desire at appropriate times.
7. Students have the right to free election by secret ballot of their peers in student government and the right to seek and hold office.
8. Students have the right to have their voices heard in matters affecting them.
9. Students have the right to participate in the development of rules and regulations to which they are subject and the right to be notified of such rules and regulations.
10. Parents/guardians and students (if either 14 years of age or in the 9th grade or above) have various rights under state and federal student records laws, including the right to see all the student's records, to control who outside the school may see them, and to appeal decisions concerning the records. Upon notice of transfer, the complete student record may be forwarded to the receiving district without the Parent, Guardian or Authorized Caregiver's permission. However, the Parent, Guardian or Authorized Caregiver must be

notified that the record has been sent. (A more detailed summary of these rights is distributed annually to all students and parents/guardians. Additional information and copies of the actual regulations are available at each school upon request and from the Massachusetts Department of Education).

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

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

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

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

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

B. RESPONSIBILITIES OF STUDENTS

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

Students have the responsibility to:

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

RESPONSIBILITIES OF ADMINISTRATION

Administrators have the responsibility to:

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

9. Collect the appropriate information on student discipline, provide the proper Information Management custodianship so the information can be made available to parents/guardians upon request or as otherwise required by law.
10. Provide qualified staff to meet the needs of students and to accomplish school goals and objectives.
11. Collaborate with community and government agencies on programs that promote safe, healthy and supportive learning environments.
12. Consistently maintain a fair, equitable and individualized approach with all students.
13. Incorporate the spirit of the Philosophy and Guiding Principles into decision making and lead by good example.

RESPONSIBILITIES OF TEACHERS

Teachers have the responsibility to:

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

RIGHTS AND RESPONSIBILITIES OF PARENTS AND GUARDIANS

A. RIGHTS OF PARENTS AND GUARDIANS

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

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

B. RESPONSIBILITIES OF PARENTS AND GUARDIANS

Parents and guardians have the responsibility to:

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

RESPONSIBILITIES OF THE COMMUNITY AND SCHOOL SUPPORT AGENCIES

The community has the responsibility to:

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

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

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

The Code of Conduct

Section 1 EQUAL EDUCATIONAL OPPORTUNITY

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

Section 2 LANGUAGE OF NOTICES, CONFERENCES, AND HEARINGS

- 2.1 All written and oral notices required by this Code shall be in English and in the primary language spoken in the home. All notices shall be made in simple and commonly understood words to the extent possible.
- 2.2 At all hearings and conferences, students and parents have a right to an interpreter of their primary language. All notices regarding hearings or conferences required by this Code shall inform students and parents of this right in the primary language spoken in the home.

Section 3 PROCEDURES FOR ESTABLISHING SCHOOL-BASED RULES ON DISCIPLINARY PROBLEMS

- 3.1 This Code establishes uniform rules and procedures to be followed throughout the system in disciplinary actions, including non-exclusionary, positive and preventative approaches to student discipline, set out in Sections 4 and 5, which are intended to replace school exclusion for most disciplinary matters. The Boston Public Schools also requires the establishment of school-based rules, which should be adopted by and implemented in each school in accordance with the provisions of this section.
- 3.1.1 The Building Administrator in each school shall convene each spring a subcommittee of the school-site council to review and, if necessary, to revise the school-based rules for that school. These school-based rules shall not diminish or conflict with any procedures or rights described by this Code, and no rules shall provide for any form of corporal punishment.
- School-based rules shall be written in a simple, clear, and precise style, and undefined terms and educational and legal jargon should be avoided. After review by the school-site council, school-based rules shall be translated into appropriate home languages for students in the school.
- 3.1.2 The school-based rules subcommittee shall consist of representatives from all constituencies in the school—administrators, teachers, parents/guardians, and others—and shall be reflective of the school population. In middle and high schools, the subcommittee shall also include students.
- 3.1.3 The Building Administrator of each school shall set up a mechanism to allow time for the representatives of parents/guardians, teachers, and students to involve their constituencies to the maximum in the development of the rules.
- 3.1.4 After the school-based rules have been developed pursuant to this Section, they shall be reviewed and adopted by the school-site council and approved by the Superintendent 's designee to ensure alignment with the Code.
- 3.1.5 After adoption, the school-based rules and any subsequent changes shall not go into effect until they have been distributed to students, parents/guardians, and faculty members. Thereafter, before

September 15th of each school year, the school-based rules shall be distributed to students, parents/guardians, and faculty members with the Boston Public Schools Policy Handbook for Parents & Students. The school-based rules shall be posted in conspicuous places within the school. The school-based rules shall also be presented to staff and students at an orientation/training session by the third Friday in September of each school year. The school-based rules shall be distributed and presented at an orientation/training session at least one additional time during the school year. School-based rules adopted in September shall remain in effect until new rules are adopted the following September. The BPS Code of Conduct applies to students throughout the year, including during the summer months for summer school programs and school orientations.

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

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

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

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

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

3.3.1 Searches of students and their property

3.3.2 Cheating

3.3.3 Eating of food in unauthorized areas of the building

3.3.4 Tardiness

3.3.5 Lost, vandalized, defaced and stolen textbooks and property

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

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

3.4.2 Loss of privileges

- 3.4.3 Lost, vandalized, defaced and stolen textbooks and property
- 3.4.4 Transportation, including the parent's responsibility when a student loses bus privileges (refer to Superintendent's Circular, TRN-2: Student Transportation Safety & Discipline)
- 3.4.5 Use of tobacco products on school property (refer to Superintendent's Circular, SHS-19: Smoking Policy)
- 3.4.6 School visits and presentations by parents and other third parties (refer to Superintendent's Circular, LGL-4: School Visitors Guidelines)
- 3.4.7 Detention
- 3.4.8 School uniform policy and/or dress code (refer to Superintendent's Circular SUP-18: School Uniform Policy)
- 3.5 The School-Based Rules Subcommittee shall consist of representatives from all constituencies in the school—administrators, teachers, parents, and others—and shall be reflective of the school population. In middle and high schools, the Subcommittee may also include students.
- 3.6 The Building Administrator of each school shall set up a mechanism to allow time for the representatives of parents, teachers, and students to involve their constituencies to the maximum in the development of the rules.
- 3.7 After the School-Based Rules have been developed pursuant to this Section, they shall be reviewed and adopted by the School-Site Council and approved by the Superintendent's designee.
- 3.8 After adoption, the School-Based Rules and any subsequent changes shall not go into effect until they have been distributed to students, parents, and faculty members. Thereafter, before September 15 of each school year, the School-Based Rules shall be distributed to students, parents, and faculty members with the Boston Public Schools Policy Handbook for Parents & Students. The School-Based Rules shall be posted in conspicuous places within the school. The School-Based Rules shall also be presented to staff and students at an orientation/training session by the third Friday in September of each school year.
- 3.9 Any person who believes this Code has not been followed in the establishment of School-Based Rules may file a complaint with the Boston Public Schools Office of Equity which shall investigate and make recommendations to the Superintendent.
- 3.10 The rules and solutions adopted pursuant to this Section shall be re-evaluated in the same manner each year prior to June 1.

Section 4 SAFE AND SUPPORTIVE WHOLE-SCHOOL ENVIRONMENTS

4.1 *Rationale and Framework*

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

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

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

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

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

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

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

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

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

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

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

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

4.2 *Approaches to Promote Safe and Supportive Schools*

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

4.2.1 Tiered Interventions Provided by BPS:

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

Professional Development: Anti-bullying training, cyber safety training

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

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

Promotions/Communications: Healthy Connections website, CRA fact sheet

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

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

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

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

Family Engagement: Bully hotline, parent intake meeting, family counseling

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

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

4.2.2 Restorative Justice (RJ)

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

For more information, see Appendix B or consult www.safersanerschools.org; www.restorativejustice.org; or www.iirp.org.

4.2.3 Massachusetts Tiered System of Support (MTSS)

The MTSS provides a system level change across the classroom, school, and district to meet the academic and non-academic needs of all students, including students with disabilities. Three flexible

tiers represent an increasing intensity of academic and non-academic support and interventions: 1) supportive school environments, 2) early interventions, and 3) intensive services.

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

For more information, see Appendix C.

Section 5 OTHER STUDENT-CENTERED INTERVENTIONS AND APPROACHES

5.1 *Student-Centered Conferences*

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

5.1.1 Referral by Nonacademic Employees

Nonacademic employees or people servicing our schools who are non-employees, upon witnessing the commission of an offense prohibited under this Code, are encouraged to refer the matter to an academic employee supervising the student or, if none is available or known, to the Building Administrator who may designate an appropriate academic employee to initiate the procedure described in Section 3.2.

5.1.2 Referral from Academic Employee Conference

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

5.1.3 Building Administrator Informal Conference

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

5.1.4 Elementary School Procedures

It is recognized that elementary schools do not have many of the organizational or programmatic structures which can provide preventive measures or alternative solutions at the secondary level. It is particularly important, therefore, that committees developing School-Based Rules at the elementary level

under Section 4 build in support mechanisms within the school and between school staff and parents. Elementary school Building Administrator or Designees should work together with staff and parents to develop such resources.

5.2 *Contracting*

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

5.3 *Detention*

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

5.4 *Loss of School Privileges: Field Trips, After-School Activities, etc.*

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

For schools which have adopted a mandatory uniform policy, students whose parents have requested a waiver of the policy will not be subject to loss of any school privileges for failure to wear a uniform. In cases where a waiver has not been requested, the child may be subject to loss of school privileges after notice has been given to the parent and a second offer made to the parent to request a waiver from the uniform policy.

5.5 *Long-term Adjustment of Class Schedule*

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

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

5.6 *Probation*

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

5.7 *Restitution*

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

5.8 *Denial of School-Provided Transportation*

- 5.8.1 School-provided transportation, including free MBTA bus passes, may be denied for severe or repeated offenses, as described in sections 7.2 through 7.10 and section 14.1, when these occur on school property or public transportation.
- 5.8.2 Transportation may be denied whenever a student's actions endanger or will continue to endanger him/herself or others.
- 5.8.3 Denial of transportation for specific periods of time shall be consistent with the principle of progressive discipline and with the nature of the violation.
- 5.8.4 Denial of transportation for fewer than four (4) days does not require a hearing. However, the student shall be given the reasons for denial of transportation and an opportunity to respond to the charges before the denial is imposed. Denial of transportation for four (4) consecutive days or more and/or for more than six (6) cumulative days in any marking period shall require a hearing in accordance with Section 9.5. In all cases, the parent must be notified before transportation services are denied. [See Exhibit 1: Suggested Timeline for Denial of Transportation Procedures]

EXHIBIT 1: Denial of Transportation Procedures

Reporting of Incidents

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

Roles and Responsibilities of School Administrator

For denial of transportation lasting less than four days:

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

For denial of transportation lasting four days or more:

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

Note: Students with disabilities cannot be denied transportation (see Attachment 7 and Section 15.4)

Roles and Responsibilities of Bus Driver and Bus Contractor

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

Note: Students with disabilities cannot be denied transportation (see Attachment 7 and Section 15.4)

5.9 *Student Planning Centers*

After positive and responsible approaches have been exhausted within the classroom, the disruptive student may be referred to a student planning center. The student remains in the planning center only long enough to be assisted in assessing present behavior and making a plan for more responsible behavior. The planning center provides the opportunity for the student to maintain classroom assignments, follow-up for the student's plan, and support for the staff. Removal to a student planning center shall not constitute a suspension or an in-school suspension.

5.10 *Behavior Management Systems*

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

5.11 *Additional Alternatives To Suspensions, Expulsions*

Conflict resolution process; Reminder and or re-direction; Re-teaching of expectations and skills; Student / teacher conference; Written Apology; Mini-course/training on topics such as conflict resolution; Anger management, social skills, or appropriate behavior; Reflective essay or other reflective activity; Parental outreach; Saturday School (SMART Program); Self Charting of Behaviors (FBA); Frequent reports on behavior; Community Service; Mentoring; Referral to community-based services

In certain circumstances, some behavior as outlined in Section 7 of the Code of Conduct warrant immediate suspension or expulsion.

Section 6 TEMPORARY REMOVAL FROM CLASS

6.1 The Building Administrator or Designee, upon the request of a teacher, may authorize the removal of a student from class to a supervised area within the school when the student's actions are causing and will continue to cause substantial disruption of classroom activity, as defined in Section 7.10. Removal from class shall last only as long as necessary to ensure that the conditions justifying the removal have ended, and in no case beyond the end of two (2) class periods or 90 minutes, whichever occurs first, except when a student has been sent to a student planning center. Where possible, safe, supportive and non-exclusionary remedies and processes described in Section 5 should be attempted prior to removal from class. When a student is removed from class beyond ninety minutes or two class periods, it will constitute a suspension and requires the notification of suspension procedures to be initiated.

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

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

Section 7 GROUNDS FOR SUSPENSION, LONG-TERM SUSPENSION, INDEFINITE SUSPENSION, DISCIPLINARY TRANSFER, ALTERNATIVE PROGRAM PLACEMENT OR EXPULSION

The modifications in this edition of the Code of Conduct have been made to bring the Code in compliance with mandates of St. 93, C. 71, also known as the Massachusetts Education Reform Act of 1993, as amended by St. 93, C. 380; P.L. 103-382, §14601 (Improving America's Schools Act of 1994); 8 USC, §921 et seq. (United States Code); the federal Individuals with Disabilities Education Act, Amendments of 2004 (IDEA-04); and Chapter 222 of the Acts of 2012.

Prior to taking disciplinary action for offenses described in section 7, please review Section 5 of the Code of Conduct and submit documentation of intervention and prevention strategies used with student.

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

7.1 *General Provisions for School Related Discipline*

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

- while the student is on school grounds;
- during a school-sponsored activity;
- while on school-provided transportation en route to or from a school or a school-sponsored activity; or
- while walking to or from school, waiting for school-provided transportation, while riding public transportation and on MBTA property, or waiting for or riding on public transportation to and from school.

7.1.2 A school-related disciplinary offense may also include circumstances in which evidence exists that serious misconduct *outside* the school—for example, a student’s being charged with or convicted of the commission of a felony—will have an adverse effect on the maintenance of discipline *in* the school.

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

7.1.3.1 Possession of a dangerous weapon, including, but not limited to, a gun or a knife.

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

7.1.3.3 Assault of educational staff.

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

The indefinite suspension of a student who has been charged with a felony is allowed if the Building Administrator determines that the student’s continued presence would have a substantial detrimental effect on the general welfare of the school.

7.1.4 To be effective, discipline should be administered as soon as possible after the violation of the Code has occurred or been documented.

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

7.1.6 With the exception of 7.1.3 offenses, no exclusion from school shall exceed 90 school days for an offense or offenses that occurred in the same school year.

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

A student will, as a last resort, be subject to suspension, indefinite suspension, disciplinary transfer/alternative program placement, or expulsion for the following offenses:

7.2 *Assault & Battery / Bodily Harm / Threats / Bullying / Cyberbullying*

The following offenses may result in suspension, disciplinary transfer/alternative program placement, or expulsion:

7.2.1 Assault and battery on school staff resulting in physical injury [see Section 21.4].

7.2.2 Sexual assault [see Section 21.42].

7.2.3 Assault and battery on any person.

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

7.2.5 Endangering the physical safety or mental health of another by the use of force or threats of force communicated by any means including written, spoken, or through the use of technology or any electronic means. This offense includes: threats of force (some overt act, expressed by any means, which reasonably places the victim in fear of imminent bodily injury), hazing [see Section 21.32, Hazing], graffiti, and other threats communicated by any means: written, spoken, or through the use of technology or any electronic means.

7.2.6 Bullying / Cyberbullying Definition and Prohibition:

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

- causes physical or emotional harm to the victim or damage to the victim's property;
- places the victim in reasonable fear of harm to himself or of damage to his property;
- creates a hostile environment at school for the victim;
- infringes on the rights of the victim at school; or
- materially and substantially disrupts the education process or the orderly operation of a school.

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

State law prohibits bullying:

- at school and at all school facilities:

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

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

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

The following offenses may result in suspension, disciplinary transfer/alternative program placement, or expulsion:

- 7.3.1 Possession of any firearm [see Section 21.27] will result in expulsion of not less than one calendar year, to be determined by the Building Administrator.
- 7.3.2 Possession of a dangerous weapon [see Section 21.14], or object of no reasonable use [see Section 21.38], which is used in a threatening manner in school and/or at a school-sponsored activity.
- 7.3.3 Possession of any knife or dangerous weapon prohibited by law, other than a firearm [see Section 21.27], or object of no reasonable use [see Section 21.38]. This offense may result in referral to the Counseling & Intervention Center. A second offense may result in referral to the Counseling & Intervention Center and expulsion.
- 7.3.4 Use of any object in a dangerous or threatening manner [see Section 21.13].
- 7.3.5 Endangering the safety of others by setting or attempting to set a fire on school property, at school-sponsored activities, or while on school-provided transportation.

7.4 *Felony or Felony Delinquency Charges or Convictions*

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

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

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

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

7.5 *Harassment and Violations of Civil Rights*

The following offenses may result in suspension, long-term suspension, disciplinary transfer/alternative program placement, or exclusion:

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

7.6 *Theft and Vandalism*

The following offenses may result in suspension, long-term suspension, disciplinary transfer/alternative program placement, or exclusion:

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

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

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

- 7.7.1 Use of the network for any illegal or commercial activity.
- 7.7.2 Sending information, or uses language, that others will find offensive.
- 7.7.3 Violation of copyright laws.
- 7.7.4 Revealing personal information about another individual, such as address, telephone number, credit card numbers, social security number, etc.
- 7.7.5 Tampering with the system.
- 7.7.6 Altering, deleting or destroying files or data belonging to another user.
- 7.7.7 "Sexting".
 - Sexting is the act of sharing or sending sexually explicit messages or photos electronically, usually via computers, cell phones, PDAs, or other electronic devices.
 - Sexting may be considered dissemination of child pornography in violation of M.G.L. Chapter 272, Section 28

NOTE: BPS will confiscate any and all materials or devices that contain evidence of sexting or unacceptable use of networks. Any evidence of sexting confiscated as part of an investigation under this Code will be turned over the Boston Police Department as evidence of potential criminal activity.

7.8 *Other Disruptions*

The following offenses may result in suspension:

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

The penalty of suspension for excessive cutting shall only be assessed after alternatives such as adjustment of class schedule, if appropriate, alternative programs, parental conferences, and detention have been attempted, and documentation maintained at the school. Excessive cutting may then result, at a maximum, in a three-day suspension, preferably in-school, regardless of the student's age.

7.9 *Substantial Disruptions*

Substantial disruption of school or classroom activity in a repeated, aggravated, or flagrant manner may result in suspension, long-term suspension, disciplinary transfer/alternative program placement, or expulsion. Substantial disruption of school or classroom activity is defined as one or more of the following acts:

- 7.9.1 Occupying any school building, school grounds, or part, depriving others of its use.
- 7.9.2 Blocking the entrance or exit of any school building, corridor, or room, depriving others of lawful access to or from, or use of, the building, corridor, or room.
- 7.9.3 Preventing or attempting to prevent by physical act the safe functioning of any part of any school.
- 7.9.4 Continuously and intentionally making noise or otherwise seriously disrupting and/or preventing the normal functioning of the school or the teaching of other students. This includes repeated, unauthorized use of cellular phones. Effective 7/1/05:
 - a. Students are permitted to use cell phones *only* during the following times:
 - Before school hours outside or inside the school building;
 - After school hours outside or inside the school building;
 - At after-school or sports activities, only with the permission of the coach, instructor or program director;
 - At evening or weekend activities inside the school building.
 - b. The use of cell phones for any purpose – including telephone calls, text messaging and other functions – is not permitted at any other time on school grounds.
 - c. Cell phones must not be visible during the school day.
 - d. Cell phones must be turned completely off (not simply on silent or vibrate mode) during the school

day.

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

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

7.9.5 Making a bomb threat.

7.9.6 Pulling/Reporting a false fire alarm.

7.10 *Repeated and Flagrant Violations*

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

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

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

7.11 *Referrals to the BPS Counseling & Intervention Center*

7.11.1 Students may be referred to the Counseling & Intervention Center for any expellable offense, as described in Section 7.

7.11.2 The following offenses may result in expulsion following a hearing conducted by the Building Administrator of the assigned school:

- a. Failure to attend, or to consistently attend, the Counseling & Intervention Center without reasonable extenuating circumstances.
- b. Violation of the Code of Conduct while attending the Counseling & Intervention Center.

Section 8 PROCEDURES FOR EMERGENCY SUSPENSION

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

8.1.1 The student has committed a suspendable offense by violating Section 7.2 through 7.10, *and*

8.1.2 The student's presence poses a continuing danger to persons or property or of material interference

with the instructional process; *and*

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

8.1.4 It is impossible because of the student's behavior to provide the student with notice and hearing prior to the emergency suspension. Although prior notice cannot be given, the school must record the exact reason for exclusion and the alternative measures taken to ensure correction of behavior prior to the suspension.

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

8.2 *Notice to the Parent.* The Building Administrator authorizing the emergency suspension shall as soon as possible make reasonable efforts to reach by telephone a parent of the student to inform the parent. A student subjected to emergency suspension shall not be put out of the school until adequate provisions have been made for transportation and safety.

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

8.3 *Hearing.* The student is entitled to a hearing under Section 9.5 as soon as possible (but no later than one school day after the emergency suspension began) and to an appeal under Section 9.8. If the hearing or the appeal demonstrates that the emergency suspension was unwarranted because any of the factors in Section 8.1 were not met, then all references to the emergency suspension shall be expunged from the student's records. If it is found that the emergency suspension was warranted, and the continued need for suspension exists, the suspension may be extended up to limits provided by this Code for the particular offense. Time spent out of school during the emergency suspension shall count toward any additional suspension imposed after this hearing.

Section 9 SUSPENSIONS: DEFINITION AND PROCEDURES

9.1 *Definition and Rationale*

9.1.1 Suspension means the short-term exclusion of a student from regular school activities. The term "suspension" shall include any "in-school" suspension [see Section 10 for definition of long-term suspension].

9.1.2 The Building Administrator or Designee may impose suspension if a student has committed a violation of Section 7 and non-exclusionary alternatives under Sections 4 and 5 have been tried and documented. Schools must provide evidence at suspension hearings that such non-exclusionary alternatives have been tried and documented. The term "suspension" shall include any "in-school" suspension.

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

the reason for an out of school suspension.

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

9.2 *Due Process*

9.2.1 No suspension, except emergency suspension, shall be imposed until the parent has been notified and a hearing pursuant to Section 9.5 has been held at the school, unless the parent has waived the right to a hearing in writing [see Section 9.4.6 and Attachment 3.2].

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

9.3 *Frequency and Duration of Suspensions*

9.3.1 Suspensions may not exceed three (3) school days for a student fifteen years of age or younger or five (5) school days for a student sixteen years of age or older.

9.3.2 A student shall not be suspended twice for the same incident.

9.3.3 In accordance with Massachusetts General Law, Chapter 71, Section 37H ½, and in consultation with the appropriate Operational Leader, a Building Administrator or Designee determines the length of the suspension for students suspended under Section 7.5.1: charged with a felony or felony delinquency.

9.3.4 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.

9.3.5 In the event that a student not identified as having disabilities is suspended more than five (5) days in any quarter (45 days) or excluded from school, the Building Administrator or Designee or designee must determine within five (5) days of this occurrence whether or not it is appropriate to refer the student to the Student Support Team or for a special education evaluation and inform the parent in writing: 1.) if a referral is being made, and 2.) of the parent's right to make a referral.

9.4 *Procedures Preceding the Suspension Hearing*

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

9.4.2 Correspondence regarding the recommendation for suspension must inform the student and parent of the charges and the reason for possible suspension, the right to a hearing to discuss the charges prior to the exclusion taking effect, and their right to appeal any decision. It must also refer students and parents to Superintendent's Circular LGL-07: Student Record Procedures. [see Attachments 3.6, 3.7]. Copies of any relevant documents or evidence collected by that time should be included with the

hearing notice.

- 9.4.3 All correspondence with the student and parent concerning the suspension must be in English and the primary language spoken in the home, if different.
- 9.4.4 If the parent expresses intent to participate in the hearing, or if the parent cannot be contacted, the hearing may be delayed up to 48 hours to permit the parent to attend. If a hearing for suspension is delayed at the request of the parent, a student may be held out of a particular class or activity if the Building Administrator or Designee has a substantial reason, based on discussions with the student and/or the teacher, for believing that the student's presence in the class or activity will lead to disruption.
- 9.4.5 In scheduling a hearing for Limited English Proficiency students, the administrator must refer to Section 2.2 concerning students' and parents' rights to have an interpreter present at hearings and conferences.
- 9.4.6 A parent may waive the right to a hearing. Such waiver must be written, and copies forwarded to the Operational Leader [see Attachment 3.2].

9.5 *Procedures for Conducting the Suspension Hearing*

See Exhibit 2, Suggested Script...to conduct a Suspension Hearing, pages 32-33.

- 9.5.1 *Hearing Officer.* The hearing for suspension will be conducted by the Building Administrator or Designee. Whenever there is clear conflict of interest—for example, if the Building Administrator or Designee is the alleged victim in an incident—the Building Administrator or Designee must remove himself or herself from the case. In such instances, the Building Administrator or Designee may refer the case to the Assistant Building Administrator or Designee or, if there is none, to the Superintendent's Hearing Officer to schedule a hearing.
- 9.5.2 *Attendance.* In attendance at the hearing for suspension will be the student, the parent (if the parent chooses to attend), and other persons determined by the Building Administrator or Designee. The Hearing may take place without the Parent/Guardian/Authorized Caregiver only after documented reasonable efforts are made to include the Parent, Guardian or Authorized Caregiver by the Building Administrator or Designee.
- 9.5.3 *Charges.* The Building Administrator or Designee will state the charges and determine that the student understands them.
- 9.5.4 *Witnesses.* If the student disputes the charges, persons with direct knowledge of the alleged incidents shall be summoned. All witnesses presenting testimony for or against the student shall appear in person at the hearing (except in the case of expert testimony such as ballistics evidence or drug analysis), and no statements for or against the student shall be presented unless the persons making the statements are so present.

There are three exceptions to this provision:

- (a) Student witnesses / victims do not have to be summoned if the Building Administrator or Designee specifically rules, orally or in writing, at the hearing that identification of the student witness, or the presence of a known witness / victim at the hearing, would endanger his or her physical safety or cause intimidation. In these cases, the student witness may submit written or recorded testimony.

with signature, to a school official.

- (b) If a criminal case is pending, the District Attorney's office may request that the victim not testify.
- (c) In cases where a witness cannot attend the hearing (e.g. is not able to be released from work or is out of the Boston area), the witness may submit written or recorded testimony, with signature, to a school official.

9.5.5 *Records.* A tape recording will be made by the Building Administrator or Designee in all hearings which are expected to result in a change of educational placement (e.g. expulsion, disciplinary transfer at the elementary level, or alternative program placement at the secondary level). Upon written request, in a case where a tape is made, a copy of the tape must be made available to the student or parent within five school days of the request for purposes of review.

9.5.6 *Decision.* The Building Administrator or Designee shall determine if the student committed a suspendable offense as charged. This decision shall be reached impartially and shall be based exclusively on the evidence.

9.6 *Consequences*

9.6.1 If it is determined that the student has committed a suspendable offense, and after non-exclusionary alternatives under Sections 4 and 5 have been tried and documented, the student may be suspended or given a disciplinary transfer, in accordance with the limitations described in Sections 9.3, 10 and 11.

9.6.2 If suspension is imposed, the Building Administrator or Designee shall orally notify the student, and within 24 hours after the hearing shall give written notice to the student and to the parent of the specific acts for which the student is being suspended, the length of the suspension, the date on which the student may return to school, and the right to appeal pursuant to Section 9.8.

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

9.7 *Attendance Procedure during Suspension*

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

9.8 *Appeal to Suspension*

Within ten (10) school days of the imposition of a suspension, a student or parent may lodge a request for an appeal with the Superintendent's Hearing Officer [see Exhibit 3, The Appeal Process, Step by Step, page 34]. Parent may request one extension of the filing deadline of up to seven (7) calendar days. The procedure used in

the appeal shall comply with the following requirements:

9.8.1 *Time-Frame*

The Hearing Officer will schedule the appeal hearing to take place within three (3) days of receipt of the request. Parent may request one extension of the appeal hearing of up to seven (7) calendar days.

9.8.2 *Review of Evidence*

The Building Administrator or Designee shall first address the Hearing Officer and may summarize any evidence presented at the hearing for suspension. The student, parent, and/or representative (including an attorney) may then ask questions of the Building Administrator or Designee and may address the Hearing Officer on the evidence and the appropriateness of the penalty. The student shall have the right to present oral and written testimony not previously introduced and cross-examine witnesses who did not testify at the Hearing. Any witness or evidence may be introduced at the discretion of the Hearing Officer. Students also have the right to counsel. The Hearing Officer will use the evidence presented at the hearing and the appeal to render a decision.

All witnesses presenting testimony for or against the student shall appear in person at the hearing (except in the case of expert testimony such as ballistics evidence or drug analysis), and no statements for or against the student shall be presented unless the persons making the statements are so present.

There are three exceptions to this provision:

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

9.8.3 *Decision*

The Hearing Officer shall record findings. Copies of the decision, as well as copies of any relevant documents presented during the hearing, shall be included in the student's records and mailed to the student, the student's parent, and the Building Administrator or Designee for their records. This decision will be communicated to the Parent/Guardian/Authorized Caregiver, student, and Building Administrator within five (5) calendar days of the hearing. If the Hearing Officer determines that no violation of the Code has occurred, that non-exclusionary alternatives were either not tried and documented, or that the student and/or parent were not notified in accordance with the Code *and* that this resulted in a violation of the student's right to due process, then no records and documentation regarding the suspension shall be placed in the student's records or communicated to any person except those entitled to receive a copy under this Section. If the suspension has not already been fully served, the Hearing Officer may determine that the student be readmitted immediately.

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

[Tape recording NOT required.]

Building Administrator or Designee:

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

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

[For all offenses not falling under Section 7.1.3, include the following:]

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

Building Administrator or Designee to parent/representative:

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

Building Administrator or Designee to parent/representative:

Do you need interpreting services? [parent replies.]

Building Administrator or Designee to all present:

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

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

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

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

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

Building Administrator or Designee to parent/representative:

Do you have any questions of the witness?

Building Administrator or Designee, when witness has concluded:

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

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

Do you have any witnesses to present?

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

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

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

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

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

FOR A STUDENT WITH DISABILITIES:

Building Administrator or Designee to ETF:

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

ETF identifies self and replies:

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

Building Administrator or Designee at conclusion of hearing:

IF EVIDENCE SUPPORTS SUSPENSION/LONG-TERM SUSPENSION:

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

You have the right to appeal this suspension within ten (10) school days provided that you have the right to request and be granted an extension of up to seven (7) calendar days. The appeal must be in writing and must be sent to the Superintendent's Hearing Officer, 26 Court St., Boston 02108, or faxed to 617-635-7959.

You also have the right to make academic progress during the period of suspension, to make up assignments and earn credits missed, including but not limited to homework, quizzes, exams, papers and projects missed.

Are there any questions? If there are no further questions, I will conclude this hearing.

EXHIBIT 3: The Appeal Process, Step by Step:**Suspension, Long-Term Suspension, Indefinite Suspension, and Disciplinary Transfer/Alternative Program Placement**

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

- STEP 1** Building Administrator or Designee schedules disciplinary hearing and sends or gives parent the Notification of Disciplinary Hearing letter (Attachment 3.1 or 3.4) and Parent Waiver of Disciplinary Hearing (Attachment 3.2)
- STEP 2** Disciplinary hearing takes place (unless parent waives right to hearing).
- STEP 3** Building Administrator or Designee informs parent of decision and of parent's right to appeal the decision (Attachment 3.6, 3.7, 3.8, 3.9, 3.10 or 3.11). At the hearing, and/or by letter if parent did not attend the hearing, parent is advised that if s/he wishes to appeal the disciplinary action, s/he must do so within ten (10) school days provided that s/he may request an extension up to seven (7) calendar days. This appeal must be in writing and must be sent or faxed to:
- Superintendent's Hearing Officer
Boston Public Schools
26 Court Street
Boston, MA 02108
FAX 617-635-7959
- STEP 4** Within two days of all disciplinary hearings EXCEPT suspension (short-term), Building Administrator or Designee submits to the Operational Leader the Request for Review (Attachment 4.1 or 4.2) and all relevant materials. Before a student in kindergarten through grade 3 may be suspended, the Building Administrator will notify the Superintendent in writing of the alleged misconduct and the reason for an out-of-school suspension.
- STEP 5** If parent submits a written appeal of the disciplinary action, Hearing Officer notifies Building Administrator and Operational Leader of the request.
- STEP 6** Building Administrator or Designee sends all documentation of the original suspension hearing to Hearing Officer. School should retain a file copy of all documentation and correspondence.
- STEP 7** Hearing Officer reviews documentation and schedules the appeal hearing (within three (3) calendar days unless the Parent/Guardian/Authorized Caregiver or student requests an extension of up to seven (7) additional calendar days) and notifies participants. Parent may be accompanied by an advocate or attorney. Building Administrator or program director must attend.
- STEP 8** Hearing Officer hears the case, makes a decision and notifies (in writing) all participants of the finding in writing. Decision will be reached within 5 calendar days of the appeal hearing.

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

10.1 *Definition and Rationale*

- 10.1.1 **Long-term suspension** means the exclusion of a student from regular school activities for a longer period of time than a regular (short-term) suspension. Long-term suspension shall include any “in-school” suspension. [See Section 9 for definition and procedures for suspension].
- 10.1.2 The Building Administrator may impose long-term suspension when the student has repeatedly violated Section 7 of this Code, despite having been subject to action under Sections 4 and 5. A long-term suspension may also be imposed if, in the judgment of the Building Administrator, a single suspendable offense is of such severity that it would constitute an ongoing threat to the physical safety of others.
- 10.1.3 **Indefinite suspension** means the exclusion of a student from regular school activities for an indefinite period of time when the student has been charged with a felony and, in the judgment of the Building Administrator, the student’s presence is having, and will continue to have, a substantial detrimental effect on the school’s general welfare. The suspension will continue until the adjudication of the case. [See Section 7.5]

10.2 *Due Process*

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

10.3 *Frequency and Duration of Long-Term Suspension*

- 10.3.1 For a student who is fifteen years of age or younger, long-term suspension may be for a period greater than three (3) days, but not to exceed six (6) days. For a student sixteen years of age or older, long-term suspension may be for a period greater than five (5) days, but not to exceed ten (10) days. Long-term suspension shall include any “in-school” suspension.
- 10.3.2 The Building Administrator shall include any time the student has been suspended and out of school as part of the overall long-term suspension penalty.
- 10.3.3 A student shall not be suspended twice for the same incident.
- 10.3.4 In accordance with Massachusetts General Law, Chapter 71, Section 37H ½, and in consultation with the appropriate Operational Leader, a Building Administrator determines the length of the suspension for students suspended under Section 7.5.1: charged with a felony or felony delinquency.
- 10.3.5 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.

10.4 In the event that a student not identified as having disabilities is suspended more than five (5) days during any quarter (45 days) or excluded from school, the Building Administrator or designee must determine within five (5) days of this occurrence whether or not it is appropriate to refer the student to the Student Support Team or for a special education evaluation and inform the parent in writing: 1.) if a referral is being made, and 2.) of the parent's right to make a referral.

10.5 *Procedures*

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

See Exhibit 2, Suggested Script for Conducting a Suspension Hearing, pages 32-33.

10.6 *Request for Review*

- 10.6.1 No later than two (2) school days after the long-term suspension hearing, the Building Administrator must submit to the Operational Leader the form, Request for Review [Attachment 4.1 or 4.2], with all relevant materials attached. Those materials include copies of the Notification of Disciplinary Hearing Letter, Long-Term Suspension Notification Letter, a recommendation for the length of the long-term suspension, student records (address, report cards, transcript), and an audio tape of the hearing if one was required under Section 9.5.5, as well as any additional materials related to the incident. The Request for Review must be complete and signed by the Building Administrator.
- 10.6.2 The Operational Leader will review the case and all materials for procedural and evidentiary compliance with the Code of Conduct. No later than three (3) school days after receiving the Request for Review and all materials, the Operational Leader must decide to either let stand the Building Administrator's decision or to overturn it.
- 10.6.3 If the Operational Leader supports the long-term suspension, he or she notifies the Building Administrator. The Building Administrator must immediately notify the parent in writing in the primary language spoken in the home.
- 10.6.4 The Operational Leader may overturn the Building Administrator's decision if procedural guidelines, particularly as they apply to due process—e.g., notification and evidentiary requirements—have not been followed.

10.7 *Appeal to Long-Term Suspension*

Follow the procedures set forth in Section 9.8, *Appeal to Suspension*. See Exhibit 3, page 34.

Section 11 **DISCIPLINARY TRANSFER/ALTERNATIVE PROGRAM PLACEMENT: DEFINITION AND PROCEDURES**

11.1 *Definition and Rationale*

The Building Administrator, at the conclusion of a **disciplinary** hearing, may recommend to the Superintendent (or designee) a disciplinary transfer for a student when the student has repeatedly violated Section 7 of this Code

despite having been subject to action under Sections 4 and 5, which prescribe progressive disciplinary action procedures.

The recommendation for a disciplinary transfer shall include statement of the facts in the case and of the reasons for disciplinary transfer, rather than a suspension or expulsion, as required by Section 11.1.3. A disciplinary transfer may also be recommended if, in the judgment of the Building Administrator, at the conclusion of a suspension hearing, a single suspendable offense is of such severity that it would constitute an ongoing threat to the physical safety of others.

- 11.1.1 A student at the **elementary level** may be transferred, on disciplinary grounds, to another Boston public school offering an equivalent academic program. The transfer shall not be ordered when as a direct or indirect result it would cause the student to suffer an academic penalty.
- 11.1.2 A student at the **secondary level** may be assigned, on disciplinary grounds, only to an alternative program for disruptive students.
- 11.1.3 A disciplinary transfer can create a significant disruption to the student's education. As such, it will not be authorized unless the Building Administrator has stated in writing:
 - (1) the serious nature of the offense
 - (2) all previous efforts to address the student's inappropriate behavior
 - (3) the reasons for recommending a disciplinary transfer rather than some other form of discipline
 - (4) confirmation that the parent has been notified, prior to the suspension hearing
 - (5) a recommended appropriate placement for the student, as determined by prior consultation with the Operational Leader and Enrollment Planning and Support office

11.2 *Frequency and Duration of Disciplinary Transfer*

- 11.2.1 Disciplinary transfers, other than those to special education alternative programs, shall be limited to one per year per student.
- 11.2.2 The initial assignment of a disruptive student to an alternative program shall be for the balance of the academic year for offenses listed in 7.1.3, but not to exceed 90 school days for all other offenses. At the end of the academic year, the assignment shall be reviewed by the Building Administrator of the sending school, the parent, and the Program Director of the alternative program to determine a future assignment for the student that best meets the needs of the student. The options for the future assignment are: 1) return to the sending school; 2) transfer to another school; 3) continuation in the alternative education program. Upon expiration of the disciplinary transfer period, a student attending an alternative program will be assigned to a school based on a reentry plan developed by the Counseling and Intervention Center and Educational Options. The recommendation of the Building Administrator will be considered in determining the best placement for the student.

EXHIBIT 4: Suggested Script for Building Administrators as Hearing Officers to Conduct a Disciplinary Hearing Recommending Change of Placement: Disciplinary Transfer (K-Grade 5); Alternative Program Placement (Grades 6-12); Indefinite Suspension; or Expulsion

[Turn on tape recorder.]

Building Administrator:

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

The purpose of this hearing is to consider the possible (a) disciplinary transfer (elementary level) / (b) transfer to an alternative program (secondary level) (c) indefinite suspension (d) expulsion of _____ (student) for alleged violation(s) of the Code of Conduct Section(s) _____, namely _____ (describe the alleged offense).

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

Building Administrator:

Will those present please identify themselves for the record?

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

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

Building Administrator to parent/representative:

Did you receive notification of this hearing to consider [name of penalty, e.g. disciplinary transfer]?
Did you receive notification of your right to representation?

After the parent/representative replies, add:

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

Building Administrator to parent/representative:

Is there a need for you to have interpreting services?

After the parent/representative replies, add:

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

Building Administrator to all present

Before we begin, it is important to go over the ground rules of the hearing. I am the Hearing Officer and as such will be in charge of the conduct of the hearing. The school will state its case first. I will call witnesses into the hearing room one at a time. **[Student witnesses / victims need not be summoned if the administrator has ruled, orally or in writing, that the identification and / or presence of the witnesses / victims would endanger their physical safety; see Section 9.8.2.1.]** The witness will give his or her version of the events. There

may be some questions I will have. When I have concluded my questioning, you as parent/representative will have the opportunity to ask questions of the witness. When that witness is finished, he or she will be dismissed, and the next witness will present testimony. We shall continue in this fashion until all witnesses have testified.

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

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

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

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

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

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

Building Administrator to parent/representative:

Do you have any questions of the witness?

Building Administrator, when witness has concluded:

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

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

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

Do you have any witnesses to present?

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

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

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

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

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

FOR A STUDENT WITH DISABILITIES:

Building Administrator to ETF:

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

ETF identifies self for tape and replies:

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

Building Administrator at conclusion of hearing:

1. IF EVIDENCE SUPPORTS DISCIPLINARY TRANSFER/ALTERNATIVE PROGRAM PLACEMENT:

After listening to the testimony of all the witnesses, I find sufficient evidence that _____ (name of student) did commit a violation against the Code of Conduct, Section(s) _____. I am, therefore, recommending that (student) be transferred to [K-Grade 5] another elementary school / [Grade 6-12] an appropriate alternative education program. This decision will be reviewed within five days by the Operational Leader. I will notify you in writing of the outcome of the review.

2. IF EVIDENCE SUPPORTS INDEFINITE SUSPENSION: After listening to the testimony of all the witnesses, I find sufficient evidence that _____ (student) did commit a violation against the Code of Conduct, Section(s) _____. Furthermore, _____ (student) has been charged with a felony complaint/felony delinquency. Therefore, I am recommending an indefinite suspension until the charge is adjudicated. This decision will be reviewed within five days by the Operational Leader. I will notify you in writing of the outcome of the review.

3. IF EVIDENCE SUPPORTS EXPULSION: After listening to the testimony of all the witnesses, I find sufficient evidence that _____ (student) did commit an expellable violation against the Code of Conduct, Section(s) _____. The tape and all reports concerning this case will be reviewed within five days by the Operational Leader. While we await the decision of the Operational Leader, _____ (student) will return to the Counseling and Intervention Center.

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

Building Administrator to all present:

You have a right to appeal this disciplinary action within ten school days. The appeal must be in writing and must be sent to the Superintendent's Hearing Officer, 26 Court St., Boston 02108, or faxed to 617-635-7959.

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

The time is _____ A.M./P.M.

[Turn off tape recorder]

11.3 *Procedure for Recommending a Disciplinary Transfer*

If the Building Administrator wishes to recommend a disciplinary transfer, that recommendation must be made at the student's disciplinary hearing, pursuant to Section 9 (suspension) or Section 10 (long-term suspension). There is no separate hearing to recommend disciplinary transfer. The recommendation for a disciplinary transfer shall include statement of the facts in the case and of the reasons for disciplinary transfer, rather than a suspension or exclusion, as required by Section 11.1.3.

Hearings to recommend a disciplinary transfer/alternative program placement must be recorded. See Exhibit 4, Suggested Script...for Disciplinary Hearing Recommending a Change of Placement, pages 38-40.

All documentation to support the recommendation must be forwarded to the Superintendent's office not more than 24 hours after the suspension hearing, so the Superintendent (or designee) may review it and make a decision in a timely manner.

11.4 *Notice to the Parent*

The Building Administrator shall follow the provisions of Section 9.4 with regard to notifying the parent of the intent to recommend a disciplinary transfer. The Building Administrator may not recommend a disciplinary transfer unless the parent has been notified of that intent prior to the hearing [see Attachment 3.1].

11.5 *Request for Review*

Follow the procedures set forth in Section 10.6, *Request for Review*.

11.6 *Appeal of a Disciplinary Transfer*

Follow the procedures set forth in Section 9.8, *Appeal to Suspension*. See Exhibit 3, page 34.

11.7 *Standard of Review: Disciplinary Transfer*

The Hearing Officer shall specifically determine whether there was sufficient evidence to find that the violation occurred and that the disciplinary transfer is appropriate.

Section 12 CUMULATIVE SUSPENSIONS

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

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

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

- 12.2.1 adjustment of class schedule;
 - 12.2.2 professional or peer counseling;
 - 12.2.3 referral to a social service agency;
 - 12.2.4 consideration of referral to the evaluation team for possible classification as a student with special needs;
 - 12.2.5 tutoring and other forms of academic assistance.
- 12.3 No actions shall be taken as a result of this meeting except with the consent of the student and parent. Within 48 hours after the meeting, the Building Administrator shall mail letters to the student and the parent describing solutions, if any, agreed to at the meeting and any actions that the student, parent **or school** should take to follow through on those solutions.
- 12.4 In the case of any student for whom suspension beyond five (5) school days in a marking period, disciplinary transfer, or expulsion is recommended, the Building Administrator shall determine whether the student should be referred to the Student Support Team as part of the pre-referral process.
- 12.5 With respect to students with disabilities, cumulative suspensions cannot exceed ten (10) school days in any school year without following the procedures set forth in Section 15.

Section 13 EXPULSION: DEFINITION AND PROCEDURES

13.1 *Definition of Expulsion*

Expulsion means an exclusion from school attendance and school privileges for more than ten (10) consecutive school days and up to one calendar year. However, in the case of students with disabilities, such action may be taken only after a Team determination that the conduct in question was not a manifestation of the student's disability. Moreover, during any period of expulsion, the student must receive a free appropriate public education [see Section 15—Students with Disabilities].

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

EXHIBIT 5: Suggested Timeline for Expulsion Procedures

| TIMELINE | ACTION | CODE OF CONDUCT | ATTACHMENT |
|-----------------|---|-----------------|------------|
| Day of Incident | <ul style="list-style-type: none"> • Emergency suspension (optional) • Notification of Disciplinary Hearing letter to parent 3.1 or 3.4 • Parent Waiver or Right to Disciplinary Hearing letter to parent 3.2 | | |
| School Day #1 | <ul style="list-style-type: none"> • Suspension hearing takes place (unless parent waives right to hearing) • Letter sent to parent: Notification of Suspension.....3.6 or 3.7 • Suspension • Schedule Counseling & Intervention Center (CIC) • If applicable, notify Operational Leader and Safety re. Assay/ballistic test | | |
| School Day #2 | <ul style="list-style-type: none"> • Suspension • If long-term or indefinite suspension or disciplinary transfer/alt. Program placement: send packet to Operational Leader for review.....5.1 or 5.2 | | |
| School Day #3 | <ul style="list-style-type: none"> • Suspension (last day for under age 16) • Notification of Expulsion Hearing letter to parent (under age 16)..... 3.3 | | |
| School Day #4 | <ul style="list-style-type: none"> • CIC assignment begins (under age 16) • If no CIC referral: return to school (under age 16) • Suspension continues (age 16 and over) | | |
| School Day #5 | <ul style="list-style-type: none"> • Suspension: last day (age 16 and over) • Notification of Expulsion Hearing letter to parent (age 16 and over)..... 3.3 • Expulsion hearing (under age 16); send packet and Request for Review to Operational Leader..... 4.1 or 4.2 | | |
| School Day #6 | <ul style="list-style-type: none"> • CIC assignment begins (age 16 and over) • If no CIC assignment: return to school (age 16 and over) • Maximum CIC assignment ends (under age 16) • Review of expulsion (under age 16) by Operational Leader | | |
| School Day #7 | <ul style="list-style-type: none"> • CIC (age 16 and over) • Notification of Expulsion letter to parent (under age 16)..... 3.12 • If denied: Notification of Expulsion Denial letter..... 3.13 • If no expulsion: return to school (under age 16) | | |

School Day #8 • CIC (age 16 and over)

School Day #9 • CIC (age 16 and over)

School Day #10 • CIC (age 16 and over)
 • Expulsion hearing (age 16 and over); send packet and Request for Review to Operational Leader.....4.1 or 4.2

School Day #11 • CIC (age 16 and over)

School Day #12 • CIC (age 16 and over)
 • Review of expulsion (age 16 and over) by Operational Leader

School Day #13 • CIC (age 16 and over)
 • Notification of Expulsion letter to parent (age 16 and over) 3.12
 • If denied: Notification of Expulsion Denial letter..... 3.13

School Day #14 • CIC (age 16 and over)

School Day #15 • CIC (age 16 and over): last day

School Day #16 • If no expulsion: return to school (age 16 and over)

13.2 *Due Process*

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

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

Except for specific infractions that warrant expulsion (See Section 7.1.3), no student shall be expelled unless all disciplinary measures short of expulsion have been tried (see Section 5) and have not corrected the student's behavior. To recommend expulsion, the Building Administrator must find, and the Operational Leader must

there are sufficient grounds for expulsion under the Code and that the due process rights of the student were respected.

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

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

13.3 *The Education Reform Act*

The Education Reform Act of 1993, as amended, identifies four particular instances in which a Building Administrator, rather than the Superintendent, may expel a student:

- 13.3.1 possession of dangerous weapons (including but not limited to a gun or a knife);
- 13.3.2 possession of controlled substances on school premises or at school-related events;
- 13.3.3 assault of educational staff on school premises or at school-sponsored events;
- 13.3.4 felony conviction, if the Building Administrator determines the student's continued presence would have a substantial detrimental effect on the general welfare of the school (Massachusetts General Law, Chapter 71, Section 37H ½).

The Education Reform Act, as amended, also allows for the *indefinite suspension* of a student who has been charged with a felony, if the Building Administrator determines that the student's continued presence would have a substantial detrimental effect on the general welfare of the school.

13.4 *Procedures Preceding the Expulsion Hearing*

- 13.4.1 When a student commits an expellable offense that does not fall within the parameters of the emergency suspension provisions (see Section 8), the Building Administrator must hold a suspension hearing, may suspend the student for up to five (5) school days (three days if he or she is 15 years old or younger), and may refer the student to the Counseling & Intervention Center for ten (10) school days, to start at the end of the suspension. This sequence may take up to fifteen (15) school days [see Exhibit 5, pages 43-44]. During the period of suspension, school and law enforcement authorities gather evidence, carry out lab and ballistics tests, and prepare the case for the expulsion hearing.

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

- 13.4.2 During the period of suspension, and if his or her findings warrant it, the Building Administrator must

initiate procedures to conduct a formal expulsion hearing. Especially in cases which involve a firearm or controlled substances, the Building Administrator should also seek assistance at the time of the incident from the Department of Safety Services to expedite ballistics tests and drug analyses.

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

13.5 *The Expulsion Hearing: Notification*

- 13.5.1 The expulsion hearing must be held no later than five (5) days before the completion of the student's assignment at the Counseling & Intervention Center. With this timeline, the Building Administrator can ensure that both the formal expulsion hearing and the procedural review by the Operational Leader take place before the student completes his or her assignment to the Counseling & Intervention Center and thus help ensure due process.

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

- 13.5.2 By the end of the suspension, any student charged with an expellable offense, and his/her parent, must be notified in writing of an opportunity for a formal hearing before the Building Administrator, including date, time, and place of the hearing.
- 13.5.3 The Notification of Expulsion Hearing must be in English and in the primary language spoken in the home, if different [see Attachment 3.3]. It must also include the following specific information:
- (a) a statement that expulsion has been recommended to the Building Administrator
 - (b) a complete description of the alleged offense requiring expulsion, including a reference to the appropriate section of this Code
 - (c) documentation of any methods of progressive discipline, as described in Sections 4 and 5
 - (d) a statement of the facts and evidence as presented to the Building Administrator, including copies of any relevant documents or evidence collected by that time
 - (e) specific notice of all procedural rights, including the student's right to have a private hearing, to have his or her parent present at the hearing, to have an attorney or other representative of his or her choice at the hearing, to present witnesses, to cross-examine witnesses against the student, and to have a tape recording of the hearing made by the Boston Public Schools, and upon written request, to have a tape of the same made available, at no cost, to the student or parent within five (5) school days for the purpose of appeal.

- (f) notice that, when the Building Administrator reaches a decision, the student and parents will be provided the detailed reasons for the decision.
- (g) a list of Legal Services offices and other advocacy groups [Attachment 5]
- (h) specific reference to the rights of the student and/or parent to have access to the student's school records as required by law [see *Guide to the Boston Public Schools for Families and Students* and *Superintendent's Circular LGL-07: Student Record Procedures*]
- (i) specific reference to the right of the parent to obtain a referral for special education evaluation, if the parent feels the student may need special education services [see *Guide to the Boston Public Schools for Families and Students* and Attachment 3.14].

13.5.4 If the parent is present in the school, the parent shall be given two copies of the Expulsion Hearing Letter, one for their own use and one to sign and return to the Building Administrator. In addition, if the student is in the school, the student shall also be given the letter. If neither is in the school, two copies of the Notification of Expulsion Hearing letter should be sent to the student's home. Whenever possible, it shall be delivered by School Safety staff. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school. Copies of all correspondence must be kept on file and forwarded to the Operational Leader.

Building Administrators are encouraged to make every effort to reach the student and parent, calling the parent at work, for instance, to make arrangements to deliver the letter. In the event School Safety staff is unable to deliver the Notification of Expulsion Hearing letter, the Building Administrator must send the letter by certified mail to the home address and retain the receipt as proof of notification.

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

13.6 *The Expulsion Hearing: Procedures*

See Exhibit 4, Suggested Script...for Disciplinary Hearing Recommending a Change of Placement, pages 38-40.

A formal hearing to consider expulsion shall be conducted in accordance with the following rules:

- 13.6.1 The expulsion hearing must be conducted by the Building Administrator who serves as Hearing Officer, unless the Building Administrator is a witness or victim and/or is not available to conduct the hearing in accordance with prescribed timelines. In this role, the Building Administrator is obligated to develop and maintain a working knowledge of the Code of Conduct and all pertinent laws and regulations. He/she must follow all procedures outlined in the Code of Conduct without exception; including the taping of the hearing, the inadmissibility of hearsay evidence, and the "preponderance of the evidence" standard for finding the student guilty as charged [see Section 13.2].
- 13.6.2 The hearing shall be private unless the Building Administrator (or other Hearing Officer) agrees with a student's or parent's request that it be public.

- 13.6.3 All witnesses presenting testimony for or against the student shall appear in person at the hearing (except in the case of expert testimony such as ballistics evidence or drug analysis), and no statement for or against the student shall be admitted unless the person making the statements is present.

There are three exceptions to this provision:

- (a) Student witnesses / victims do not have to be summoned if the Building Administrator specifically rules, orally or in writing, at the hearing that identification of the student witness **or the presence of a known witness / victim at the hearing would endanger his or her physical safety or cause intimidation**. In these cases, the student witness may submit written or recorded testimony, with signature, to a school official.
- (b) If a criminal case is pending, the District Attorney's office may request that the victim not testify.
- (c) In cases where a witness cannot attend the hearing (e.g. is not able to be released from work or is out of the Boston area), the witness may submit written or recorded testimony, with signature, to a school official.
- 13.6.4 The student shall have the right to be present during the presentation of evidence. The student, parent, or the student's representative shall be allowed to question witnesses testifying against the student. After the case against the student has been presented, the student shall be allowed to submit evidence in his or her own defense, including the presentation of witnesses, and to testify in his or her own behalf, but shall not be compelled to do so. The Building Administrator (or other Hearing Officer) should advise the student that any testimony given by the student may be used against him or her in another proceeding [see Section 13.6.8].
- 13.6.5 The student, the parent, or their representative may object to the admission of any testimony or evidence. If the Building Administrator (or other Hearing Officer) determines that evidence has been improperly obtained, is inappropriate, or is undocumented, such evidence shall be inadmissible if in the professional judgment of the Building Administrator (or other Hearing Officer) such a ruling is warranted in light of the totality of the circumstances. An example of inadmissible evidence is any substance that is alleged to be a drug but which has not been confirmed by an official drug analysis. The scope of the hearings shall be confined to the charges contained in the notice.
- 13.6.6 The student is entitled to a presumption of innocence, and the burden of proof rests upon the person(s) presenting the case against the student.
- 13.6.7 An audio tape recording shall be made by the Building Administrator (or other Hearing Officer) and, upon written request, made available at no cost to the student or parent within five (5) school days of the hearing for purposes of appeal. The tape, transcript, evidence, and records of the expulsion hearing shall be held confidential in the offices of the Building Administrator and Operational Leader. The student and parent should be advised, however, that the tape, transcript, records, and evidence may be subject to subpoena and are admissible in court and may be used as evidence against them in a court proceeding.
- 13.6.8 A suggested script for use by the Building Administrator (or other Hearing Officer) in conducting a formal hearing is outlined in Exhibit 4, pages 38-40.

Following the formal hearing, the Building Administrator has several options: to expel a student, not to expel a student, or to recommend a disciplinary transfer. In making his or her decision, the Building Administrator may take into consideration the full record of the student.

- 13.7.1 If the evidence concerning the incident supports expulsion but the past record of the student does not, the Building Administrator should inform the Operational Leader in the Request for Review [Section 13.8 and Attachment 4.1 or 4.2] that the decision reached at the hearing was not to expel, but rather (1) to allow the student to continue at the school; (2) to recommend a disciplinary transfer/alternative program placement (see Section 11); or (3) to extend the suspension for five more days before the student returns to the school. In addition, the letter should note that, “in the opinion of the Building Administrator, the continued presence of this student will not pose a threat to the safety, security and welfare of the other students and staff in the school.”
- 13.7.2 If the evidence of the incident supports expulsion, the Building Administrator should inform the Operational Leader in the Request for Review [Attachment 4.1 or 4.2] that a decision to expel the student has been made and should be reviewed. Copies of all required documentation must be attached to this memorandum as noted below in Section 13.8.

13.8 *Request for Review*

- 13.8.1 No later than two (2) school days after the formal expulsion hearing, the Building Administrator must submit to the Operational Leader the Request for Review form [Attachment 4.1 or 4.2], with all relevant materials attached. Those materials include copies of the Notification of Expulsion Hearing, Notification of Expulsion, a recommendation for the length of the expulsion, student records (address, report cards, transcript), and an audio tape of the hearing, as well as any additional materials related to the incident: firearm or drug analysis, records from the Counseling & Intervention Center, and other materials. For students with disabilities, additional documentation is required [see Section 15]. The Request for Review must be completed and signed by the Building Administrator.
- 13.8.2 The Operational Leader will review the case and all materials for procedural and evidentiary compliance with the Code of Conduct. No later than three (3) school days after receiving the Request for Review and all materials, the Operational Leader must decide to either let stand the Building Administrator’s decision or to overturn it.
- 13.8.3 If the Operational Leader supports the expulsion, he or she notifies the Building Administrator. The Building Administrator must notify the parent in writing, in the primary language spoken in the home.
- 13.8.4 The Operational Leader may overturn the Building Administrator’s decision if procedural guidelines, particularly as they apply to due process—e.g., notification and evidentiary requirements—have not been followed.
- 13.8.5 Expelling a student who is identified as a student with disabilities requires a rigorous review according to both federal and state special education laws. Disciplinary procedures already in place for students with disabilities must be followed. These procedures are based on federal and state laws and regulations and are set forth in Section 15.

13.9 *Issuance of Findings and Notification of Student and Parent*

After this review by the Operational Leader, the student and parent shall be notified by the Building Administrator of the decision to expel the student or not to expel the student.

- 13.9.1 In the event a decision has been made to expel the student and that decision has been supported by the Operational Leader, the Building Administrator must inform the student and parent in writing, in English and the primary language spoken in the home, if different [see Notification of Expulsion, Attachment 3.12]. That letter must explain the right of the student and parent to appeal the expulsion to the Superintendent within ten (10) days of receiving the letter, provided that, if requested, an extension of seven (7) additional days shall be granted. Two copies of the Notification of Expulsion letter should be delivered by School Safety staff to the student's home. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school by the staff person. Copies of all correspondence shall be kept on file by the school and the Operational Leader.
- 13.9.2 In the event a decision has been made not to expel the student (or that a preponderance of evidence to support an expulsion ruling has not been presented) and that decision has been supported by the Operational Leader; the Building Administrator must inform the student and parent in writing [see Attachment 3.13]. Two copies of the letter should be delivered by School Safety staff to the student's home. One copy is for the student and parent; the second copy is to be signed by the parent (or student if he or she is 18 years old or older) and returned to the school by the staff person. Copies of all correspondence should be kept on file by the school and the Operational Leader. The Hearing Officer will schedule the appeal hearing within three (3) days of receipt of the request. Parent may request one extension of the appeal hearing of up to seven (7) calendar days

13.10 *Appeal to Expulsion*

See Exhibit 6, The Appeal Process Step by Step: Expulsion, page 52.

The expelled student and parent shall have ten (10) school days in which to request in writing a private appeal and hearing before the Superintendent (or designee). The Hearing Officer will schedule the appeal hearing to take place within three (3) days of the receipt of request. Parent may request one extension of the appeal hearing of up to seven (7) calendar days. At that hearing, the student and parent shall have the right to present oral and written testimony not previously introduced and cross-examine witnesses who did not testify at the Hearing. They shall also have the right to counsel. Any witness or evidence may be introduced at the discretion of the Hearing Officer.

All witnesses presenting testimony for or against the student shall appear in person at the appeal hearing (except in the case of expert testimony such as ballistics evidence or drug analysis), and no statements for or against the student shall be presented unless the persons making the statements are so present.

There are three exceptions to this provision:

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

(c) In cases where a witness cannot attend the hearing (e.g. is not able to be released from work or is out of the Boston area), the witness may submit written or recorded testimony, with signature, to the Hearing Officer.

13.10.1 The Superintendent's Hearing Officer shall specifically determine if there was sufficient evidence to find that the violation occurred and that expulsion is appropriate. The Hearing Officer will use the evidence presented at the hearing and the appeal to render a decision. The Superintendent's Hearing Officer shall render a decision within five (5) calendar days of the hearing.

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

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

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

13.11 *Alternative Education during the Expulsion Period*

13.11.1 Following an expulsion decision, the District shall continue to provide educational services. The Executive Director of Educational Options or his/her designee shall meet with the student and the parent to explore a range of available alternatives that would allow the student to continue his or her education during the expulsion period, including, but not limited to: home study, adult education programs (day, evening, and modified combination), and alternative work-study programs.

EXHIBIT 6: The Appeal Process, Step by Step:**Expulsion**

See Section 13 of the Code of Conduct for complete procedures.

- STEP 1** Building Administrator schedules expulsion hearing and notifies parent in writing (Attachment 3.3 or 3.5).
- STEP 2** Expulsion hearing held at school. If parent does not attend, and does not request that the hearing be rescheduled, Building Administrator reschedules it within 48 hours. The rescheduled hearing takes place whether or not the parent attends.
- STEP 3** Building Administrator advises parent that if s/he wishes to appeal the expulsion, s/he must do so within ten (10) school days. This appeal must be in writing and must be sent or faxed to:
- Superintendent's Hearing Officer
Boston Public Schools
26 Court Street
Boston, MA 02108
FAX: 617-635-7959
- STEP 4** Within two days of hearing, Building Administrator sends to the Operational Leader the Request for Review (Attachment 4.1 or 4.2) and all relevant materials.
- STEP 5** If parent appeals the expulsion, Hearing Officer notifies the school and Operational Leader of the request.
- STEP 6** Building Administrator sends all documentation, including tapes of the original expulsion hearing, to the Hearing Officer. The school should retain a file copy of all documentation and correspondence.
- STEP 7** Hearing Officer reviews documentation and schedules a time and place for the appeals hearing and notifies participants. The student and parent may be represented by an advocate or attorney. New witnesses and new testimony may be introduced **[Student witnesses / victims need not be summoned if the administrator has ruled, orally or in writing, that the identification and / or presence of the witnesses / victims would endanger their physical safety; see Section 13.10]**. Additional participants may include BPS Legal Services staff.
- STEP 8** Hearing Officer hears the case, makes a decision and notifies (in writing) all participants, including Operational Leader and Director of Student Assignment, of the finding.

Section 14 SUBSTANCE ABUSE

- 14.1 In accordance with Massachusetts General Law, Chapter 94C, Sections 32L and 32M, the following offenses may result in expulsion, with the length of the expulsion not to exceed one calendar year, to be recommended by the school leader and determined by the Counseling and intervention Center (CIC) in collaboration with the Operational Leader.
- 14.1.1 Sale, distribution, or possession with intent to sell or distribute of any prescribed or non-prescribed controlled substances in school, on school grounds, or while under school jurisdiction.
- 14.1.2 Alcohol/drug usage or possession or use of any non-prescribed controlled substance, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind in school.
- 14.2 In cases involving any of the 14.1.2 substances trained school staff (in the absence of this call School Police at 635-8000) must determine "Reasonable Suspicion" of drug or alcohol use/activity by the student, resulting in the violation of district policy. To determine "Reasonable Suspicion," the following factors are possible but not exclusive indicators or elements to consider in conjunction with other relevant information, including the student's explanation:
- 14.2.1 The physical symptoms or manifestations of drugs or alcohol use such as altered or slurred speech or repeated incoherent statements; dilated or constricted pupils, flushed skin, excessive sweating; excessive drowsiness or loss of consciousness, excessive scratching, picking of scabs, red or yellow eyes, shakes, grinding teeth without reasonable explanation.
- 14.2.2 Unexplained, abrupt or radical changes in behavior such as violent outbursts, hyperactivity, paranoia, delusions, frequent and/or extreme fluctuations of mood swings without reasonable explanation.
- 14.2.3 Inability to walk steadily or in a straight line, or perform normal manual functions essential the schoolwork without reasonable explanation.
- 14.2.4 Unexplained sensory or motor skill malfunctions.
- 14.2.5 Smell of alcoholic beverage on the student.
- 14.2.6 The direct observation of drugs or alcohol use while at school.
- 14.2.7 A report of reasonable suspicion by a reliable and credible source.
- 14.3 In cases involving alcohol/drug usage or possession in school, a Wellness Conference will be immediately initiated with the student and his/her caretaker to plan for assessment and intervention at the Counseling and Intervention Center. Following the Wellness Conference, appropriate interventions will be determined. The length of time at the Center and the treatment or counseling combined with short or long term placement shall be determined by the CIC in collaboration with the Operational Leader. As a condition of reentry into the school or program, the student shall have a reentry plan with recommendations.
- 14.4 The procedures for referral under 14.1.2 (Alcohol/drug usage or possession or use of any non-prescribed

controlled substance, narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind in school) shall be as follows:

- 14.4.1 *Day 1.* There will be an evaluation by a nurse or school police at the school to determine use/possession. Care taker will be notified of a Wellness Conference. An intake appointment will be set up for the CIC.
- 14.4.2 *Day 2.* The student and parent will report to the CIC for an intake meeting with the CIC Addiction Specialist. CIC staff will review the record in collaboration with the Operational Leader and make a recommendation for the length of the stay. The minimum stay will be 5 days, while the stay at CIC may be 10 days or more if further treatment is required.
- 14.4.3 *Days 3-4.* Evaluation and assessment will continue.
- 14.4.4 *Day 5.* A recommendation will be made to the school and family for continued follow-up treatment and the length of stay at the CIC.

Section 15 STUDENTS WITH DISABILITIES

- 15.1 Students with disabilities and/or students on Section 504 plans, as defined by federal law and regulations, shall be subject to the provisions of this Code, except as otherwise provided by this Section (*Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities*) and by the Student's IEP and/or 504 Plan.
- 15.2 Special education staff, including the Special Education Coordinator/Program Director or designee, shall be involved in all administrative decisions under this Code involving students with disabilities.
 - 15.2.1 Prior to an administrative decision under this Code, the Building Administrator shall verify:
 - (a) whether or not the student has been designated a student with disabilities or has been referred for a special education evaluation but not yet determined to have disabilities; and
 - (b) that the Individualized Education Program (IEP) of every student with disabilities will indicate why the student is or is not expected to meet the Code of Conduct, and, if not, what modification of the Code is required. If modifications to the Code are required, such modifications shall be described in the IEP.
 - 15.2.2 If the decision will not impact the student's placement and/or not result in a cumulative suspension of more than ten (10) days during a school year, a meeting **of relevant Team members** is not required.
 - 15.2.3 If the decision will impact the student's placement and/or result in a cumulative suspension of more than ten (10) days during a school year, a meeting **of relevant Team members** is required.
- 15.3 *Students Not Yet Eligible for Special Education*

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

- 15.3.1 The school department is deemed to have knowledge the student is a student with a disability if prior to the incident:
- (a) The parent of the student has expressed concern **in writing** to school department staff that the student is in need of special education services; (*Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities*).
 - (b) The parent has requested an evaluation of the student; or
 - (c) The teacher of the child or other school personnel has expressed specific concerns about the pattern of behavior of the child to the Director of Special Education or other special education personnel.

15.3.2 If there is no prior knowledge of disability, the student may be subject to the same disciplinary measures as those applied to students without disabilities with the following limitations:

- (a) If a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation should be conducted in an expedited manner; and
- (b) Until the evaluation is completed, the student remains in the educational placement determined by school authorities.

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

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

- 15.4.1 In accordance with federal laws and regulations, the Building Administrator or Designees of the Boston Public Schools:
- (a) will notify the Assistant Superintendent for Special Education and Student Services, or designee, of the misconduct for which suspension of a student with disabilities for more than ten (10) cumulative school days is proposed so that the procedures required by federal and state laws and regulations can be implemented consistently;
 - (b) will record and maintain the number and duration of suspensions of students with disabilities;
 - (c) will ensure that no student with disabilities is suspended for more than ten (10) cumulative school days in the school year except as provided by federal laws and regulations.

15.4.2 Manifestation Determination

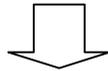
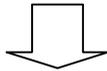
When it is known that the suspension(s) of a student with disabilities will accumulate to more than ten (10) cumulative school days in a school year, due to involvement in a behavioral incident, a review of the IEP must be conducted by relevant members of the student's Special Education Team prior to the exclusion taking place. Parent must be invited in writing to this Team meeting.

student's disability. This must take place within ten (10) school days of the occurrence of the behavioral incident. Depending on the result of that determination, the proposed suspension hearing may or may not be held. (*Refer to Superintendent's Circular, SPE-15: Discipline of Students with Disabilities; Attachment C*).

- (b) At the same time, the Team, if it has not already done so, must also conduct a Functional Behavioral Assessment (FBA) of the student's behavior, and develop a Behavior Intervention Plan (BIP) to address the targeted behavior as soon as possible.
- (c) If the student has a Behavior Intervention Plan, the Team must review and modify it as necessary to address the targeted behavior.

**EXHIBIT 7: Procedure When Offense Occurs at School
That May Result in Expulsion of a Student with Disabilities**

- STEP 1** Building Administrator contacts the school-based Special Education Coordinator immediately after offense occurs.
- STEP 2** Coordinator notifies Special Education Supervisor of a potential expulsion of a student with disabilities and seeks technical assistance.
- STEP 3** Within 10 **school** days of the occurrence of the behavioral incident, the ETF holds a Team meeting to review the IEP, conducts a Manifestation Determination and Functional Behavioral Assessment, and develops a Behavioral Intervention Plan.



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

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

- If **NO** to Manifestation, process continues:
- STEP 4** Building Administrator holds expulsion hearing. The ETF and/or liaison must attend.
 - STEP 5** If the Hearing Officer recommends an expulsion, school-based Team develops an alternative IEP **amendment** identifying (1) services necessary to enable progress in the general curriculum and IEP goals, and (2) site of services.
 - STEP 6** Supervisor reviews alternative IEP **amendment** and authorizes Coordinator to obtain parent signatures.
 - STEP 7** Copy of expulsion packet forwarded to appropriate Operational Leader. [See Attachment 4.2.] Packet to include:
 - Manifestation form
 - Functional Behavior Assessment
 - Alternative IEP **amendment** with parent signature.
 - STEP 8** Operational Leader reviews for due process and obtains parent signature on expulsion notice via School Police.
 - STEP 9** Once parent signature is obtained on expulsion notice, the 625A is completed and forwarded by the Operational Leader to the Chief of Staff for processing.
 - STEP 10** Director of Alternative Education, in consultation with Director of Special Education's designee, arranges intake process.

- 15.4.3 Circumstances under which the student may not be excluded for more than ten (10) cumulative school days:
- (a) If relevant members of the Team conclude that the student's misconduct is a manifestation of the student's disability, the student shall not be excluded. In making the determination, the Team must decide the following:
 - (i) First consider, in terms of the behavior subject to disciplinary action, all relevant information, including:
 1. Evaluation and diagnostic results, including the results of other relevant information supplied by the parents of the student;
 2. Observations of the student; and
 3. The student's IEP and placement.
 - (ii) Then determine:
 1. Was the misbehavior caused by, or directly and substantially related to, the student's disability;
 2. If the school failed to implement the student's IEP, was the misbehavior the direct result of the school's failure to do so.
 - (b) If relevant members of the Team and other qualified personnel determine that any of the standards in 15.4.3(a) (ii) were not met, the behavior must be considered a manifestation of the student's disability.
 - (c) The review described in 15.4.3 (a, b) may be conducted at the same Team meeting that is convened under 15.4.2.
 - (d) If a new program or placement is designed for the student as a result of the review, the new program or placement shall be implemented immediately following parental approval of the IEP. If the parent rejects the IEP, the school or parent may request either mediation or a hearing before the Bureau of Special Education Appeals (BSEA) of the Massachusetts Division of Administrative Law Appeals to determine the appropriateness of the program. Pending mediation or a hearing, the student shall remain in the placement in effect when the dispute arose, unless another placement is agreed to by the school and the student's parent, or a court order, or a BSEA Hearing Officer permits the school to change the student's placement based on a showing that the student's continued presence in school presents a substantial likelihood of injury to the student or to others. If a court order is sought, the provisions of Section 15.4.7 shall apply.
- 15.4.4 Circumstances under which the exclusion may be imposed for more than ten (10) cumulative school days:
- (a) If the school proposes to impose an exclusion which will result in more than ten (10) cumulative school days of exclusion in the school year, and the Team concludes that the student's misconduct is not a manifestation of the student's disability, the school shall:
 - (i) Ensure that the Team members develop an alternative plan that provides a free appropriate

public education to the student during the period of exclusion, which shall be referred to as “the alternative plan”;

- (ii) Present the interim alternative plan to the student’s parent along with the written notice required by federal and state laws and regulations [*Parent’s Notice of Procedural Safeguards*]. The failure or refusal of the parent to consent to the provision of services under the alternative plan shall not prevent implementation of the exclusion. Nevertheless, if the parent requests a hearing to contest the manifestation determination, the provisions of Section 15.4.4 (b) shall apply.

- (b) If the parent requests a hearing, the student shall continue in the last agreed upon educational placement (the placement in effect when the dispute arose) pending the hearing unless another placement is agreed to by the parties, or a court order, or a BSEA Hearing Officer permits the school to change the student’s placement based on a showing that the student’s continued presence in school presents a substantial likelihood of injury to the student or to others. If a court order is sought, the provisions of Section 15.4.7 shall apply.

15.4.5 Circumstances under which suspension may be imposed for up to forty-five (45) calendar days without permission of the parent:

A change in placement, determined by the Team, may be made with or without the parent’s permission to an interim alternative education setting for a period of up to but not exceeding forty-five (45) calendar days regardless of whether the behavior is a manifestation of the student’s disability, as long as a free appropriate public education (FAPE) is provided, if one or more of the following apply:

- (a) A student carries or possesses a weapon at school or to a school function;
- (b) A student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function.
- (c) A student has inflicted serious bodily injury upon another person while at school or at a school function. “Serious bodily injury” is defined as that involving a substantial risk of death or extreme physical pain.
- (d) The system has demonstrated at an administrative hearing at the BSEA by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others. In this case, the change of placement may be ordered by a BSEA hearing officer.

15.4.6 Notice to and Review by the Assistant Superintendent for Special Education and Student Services or Designee

- (a) Whenever a proposed suspension or expulsion will result in exclusion of a student with disabilities from school for more than ten (10) cumulative school days in the school year, the school shall immediately send written notice of the proposed suspension or expulsion to the Assistant Superintendent for Special Education and Student Services (or designee) for review and comment.
- (b) Such written notice shall demonstrate that:
 - The school has provided due process as required by *Goss v. Lopez* and by the Code of Conduct;

- The Team has determined that the behavior resulting in the violation of the Code was not a manifestation of the student's disability;
 - A functional behavior assessment or review of an existing behavior plan has been completed;
 - The disciplinary action is for a stated and limited number of days;
 - The action is necessary in light of the needs of the student and other students in the school;
 - The administrators have conferred with appropriate special education staff as to the disciplinary action and have followed all the procedures outlined in this paragraph, including notice to the Parent, Guardian or Authorized Caregiver of the right of appeal.
- (c) The Assistant Superintendent for Special Education and Student Services (or designee) will review all the information presented by the school officials and, within an appropriate period of time after receipt, inform the school and Operational Leader or designee that the plan and process comply with state and federal laws and regulations.

15.4.7 Court Order Necessary to Authorize Exclusion

A school shall not exclude a student for more than ten (10) cumulative school days during the pendency of a Bureau of Special Education Appeals hearing or judicial proceeding brought to challenge a suspension, proposed suspension, or any determination under this paragraph unless the school obtains a court order, or order of a BSEA Hearing Officer, authorizing a temporary change of the student's educational placement based on a showing that the student's continued presence in school presents a substantial likelihood of injury to the student or to others.

Section 16 DISCIPLINE AND SCHOOLWORK

- 16.1 A student who misses any class because of disciplinary exclusion totaling 10 days or less shall be given the opportunity to continue making academic progress during the exclusion, and have a reasonable opportunity to make up all assignments, tests, homework, quizzes, papers, and projects and shall receive academic credit for such work completed. (See Section 13.11 for procedures regarding education of expelled students.)
- 16.2 Principals shall develop a school-wide education service plan for students who miss any class because of disciplinary exclusion totaling more than 10 consecutive days. The school shall provide to the student and the Parent/Guardian/Authorized Caregiver of the student with a list of alternative educational services. The services shall provide the opportunity to continue making academic progress during the exclusion, and a reasonable opportunity to make up all assignments and tests and shall receive academic credit for such work completed.
- 16.3 In no case shall punishment for violation of this Code or for violation of school rules established pursuant to Section 3 of this Code include any mandated reduction of grades.

Section 17 EXPUNGING RECORDS

Whenever it is determined by a hearing, appeal, or informal administrative decision that a student did not commit a violation with which he or she has been charged, all references to the incident and the disciplinary proceedings shall be expunged immediately from the student's record. The hearing officer shall inform parents and students in writing that records will be expunged.

Section 18 TEACHER AND ADMINISTRATOR APPEAL

Any teacher or administrator who is involved in a disciplinary action and who is not satisfied with the action taken by the Building Administrator in a disciplinary case may appeal the decision in writing within five (5) school days of the decision to the Building Administrator and the Superintendent (or designee) in the proper order. If the Building Administrator or Superintendent's designee decides on appeal that an improper decision was made, the person hearing the appeal shall send a letter so stating to the teacher or administrator within two (2) school days with copies to the student and the parent.

Section 19 PHYSICAL FORCE

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

Section 20 PROMULGATION AND DISTRIBUTION

20.1 *Uniformity*

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

20.2 *Effective Date*

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

20.3 *Notice and Distribution*

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

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

This Code and a statement highlighting the major provisions, which shall be prepared prior to the effective date of the Code, shall also be permanently posted in conspicuous places in each Boston Public School; shall be orally presented to students attending each school within one month of its effective date and, thereafter, within two weeks of the first day of school each school year. Such oral presentation may be made at an assembly conducted for that purpose, by homeroom teachers, administrators, the student government, or in any other manner calculated to provide effective oral notice to all students.

Section 21 DEFINITIONS

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

- 21.1 **ACADEMIC SCHOOL EMPLOYEE:** includes only building administrators, assistant building administrators, directors, assistant directors, supervisors, teachers, substitute teachers, librarians, guidance counselors, guidance advisors and community field coordinators, and such other persons as may be actively engaged in the teaching process.
- 21.2 **ACCEPTABLE USE POLICY FOR NETWORKS, INCLUDING THE INTERNET:** a BPS policy to assure that BPS students and staff use school-owned technology to access the network in a responsible, legal and ethical manner.
- 21.3 **ALTERNATIVE PROGRAM PLACEMENT:** When a student at the secondary level has repeatedly violated Section 7 of the Code and the Building Administrator decides the student's presence is a threat to the safety of others in the school, the Building Administrator may recommend placing the student in one of the BPS's alternative education programs for the balance of the school year [see Section 11.1]. Students in grades 6-12 may not be given a disciplinary transfer to another regular school. NOTE: Students may be assigned to alternative education programs for reasons other than disciplinary action.
- 21.4 **ASSAULT AND BATTERY:** "Assault" is an attempt or threat to physically harm another person with the apparent present ability to do so and the victim has reasonable fear or apprehension of immediate bodily harm. Assault is committed without physical contact.
- "Battery" is any unlawful touching of or use of force against another person. Battery includes such offenses as causing bodily injury to another person and offensive touching.
- 21.5 **BEHAVIORAL INTERVENTION PLAN (BIP):** a plan developed by a special education Team based on information obtained from the Functional Behavioral Assessment to address the student's behavior.
- 21.6 **BOSTON PUBLIC SCHOOLS COUNSELING & INTERVENTION CENTER** (previously named the Barron Assessment & Counseling Center): a program that provides counseling services to students who have committed expellable offenses.
- 21.7 **BUILDING ADMINISTRATOR:** the person primarily responsible for carrying out the administration of school policy in the school building: the principal, headmaster, or program director.
- 21.8 **BULLYING:** the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.
- 21.9 **CAREGIVER:** individual currently providing for the student who has completed the notarized "Caregiver Authorization Affidavit" granting education decision making rights.
- 21.10 **CIVIL RIGHTS VIOLATION:** any action taken or derisive statement made regarding a person's race, color, national origin, ethnicity, religion, sex, sexual orientation, gender identity, disability, age, genetics, or active

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

- 21.11 **CONTROLLED SUBSTANCE:** any drug or substance listed in Massachusetts General Laws Chapter 94C.
- 21.12 **CYBER-BULLYING:** bullying through the use of technology or any electronic communication, which shall *include*, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.
- 21.13 **DANGEROUS OBJECT:** any item, object or device used in a dangerous or threatening manner, such as pencils, rulers, hair picks, etc.
- 21.14 **DANGEROUS WEAPON:** Any item, object or device that, because of its nature and/or the way it is used, is capable or reasonably perceived as being capable of causing serious injury.

As defined in 18 USC, Section 930, a "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade less than 2 ½ inches.

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

- firearm, loaded or unloaded
- BB gun or air rifle
- stiletto, dagger, or a device or case which enables a knife with a locking blade to be drawn at a locked position
- ballistic knife or any knife with a detachable blade capable of being propelled by any mechanism
- dirk knife, any knife having a double-edged blade, or a switch knife
- knife having an automatic spring release device by which the blade is released from the handle, having a blade of over 1 ½ inches
- sling shot, blowgun, blackjack, metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles,
- nunchaku, zoobow, also known as klackers or kung fu sticks, or any similar weapon consisting of two sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather
- shuriken or any similar pointed starlike object intended to injure a person when thrown
- any armband, made with leather which has metallic spikes, points, or studs, or any similar device made from any other substance or a cestus or similar material weighted with metal or other substance and worn on the hand

- a manrikigusari or similar length of chain having weighted ends.
- 21.15 **DAY, BUSINESS:** any day when Boston School Dept. administrative offices are open, i.e. Monday through Friday, excluding federal, state and county holidays.
- 21.16 **DAY, CALENDAR:** any day.
- 21.17 **DAY, SCHOOL:** any day on which school is in session and students are required to be present. Unless otherwise specified, references to “day” or “days” in this Code shall mean “school day” or “school days.”
- 21.18 **DESIGNEE:** a person specifically assigned by the Building Administrator or Superintendent to act in his or her place (Assistant Principal, Dean of Students, Community Field Coordinator, School Climate Coordinator, Student Support Team staff, Special Education and Student Services Coordinator, etc.) in fulfilling the requirements of this Code.
- 21.19 **DISABILITY, STUDENT WITH A:** a student who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services, including a school age child who requires only a related service or related services if said service or services are required to ensure access of the child with a disability to the general education curriculum.
- 21.20 **DISCIPLINARY TRANSFER:** The transfer of a student to another school or program when, following a hearing, the Building Administrator decides the student's presence is a threat to the safety of others in the school. Students at the *elementary* level may receive disciplinary transfers to other schools, but shall not be assigned to alternative program placement. Students at the *secondary* level may receive disciplinary transfers *only* to alternative programs for disruptive students.
- 21.21 **DUE PROCESS:** the provision of proper notice to all parties of the charges, the opportunity to present evidence and, in the case of expulsions, the right to representation and to the cross-examination of witnesses **notwithstanding those exceptions articulated in sections 9.5.4 and 13.6.3,** and the obligation to inform the accused of the right to appeal.
- 21.22 **EMANCIPATED MINOR:** a minor who is self-supporting and independent of parental control, usually as a result of a court order terminating rights and duties of the parent(s).
- 21.23 **EVIDENCE, PREPONDERANCE OF THE:** evidence of greater weight or more convincing than the evidence which is offered in opposition to it. Such evidence shall be clear and unambiguous.
- 21.24 **EVIDENCE, SUBSTANTIAL:** beyond a preponderance of the evidence; evidence that a reasonable mind might accept as adequate to support a conclusion.
- 21.25 **EXPULSION:** an exclusion from school attendance and school privileges for more than ten consecutive school days and up to one calendar year. [See Section 13 of the Code for further explanation and required procedures; and Section 15 for details and procedures for students with disabilities.]
- 21.26 **FELONY:** any crime punishable by death or imprisonment in the state prison. All other crimes are misdemeanors [M.G.L. Chapter 274, Section 1]. Examples of felonies include:
- unnatural and lascivious acts with children under 16
 - breaking and entering and stealing property

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

* *These crimes may be considered misdemeanors.*

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

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

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

21.29 **FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA):** an assessment of behavior conducted by members of a special education Team which assists them in developing appropriate behavioral strategies to address the

- 21.30 **GENDER IDENTITY:** a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose. [M.G.L. Chapter 4, Section 7]
- 21.31 **GOSS V. LOPEZ:** a United States Supreme Court case which recognizes that students are due some form of process in the suspension/expulsion context.
- 21.32 **HAZING:** any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person [M.G.L. Chapter 269, Section 17-19, and 603 C.M.R. 33.03].
- 21.33 **HEARSAY:** An oral or written statement made by a person not testifying at a hearing/trial, which is offered at the hearing/trial to prove the truth of the matter(s) asserted in the statement.
- 21.34 **MANIFESTATION DETERMINATION (MD):** a meeting of the school district, parent, and relevant members of a student's IEP Team conducted within ten (10) **school** days to determine if the misconduct which occurred was caused by, or had a direct and substantial relationship to the student's disability or if the conduct in question was the direct result of a failure to implement the student's IEP.
- 21.35 **MISDEMEANOR:** a crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement in a place other than state prison.
- 21.36 **MOCK GUN:** any device which looks reasonably like a firearm and is intended to put the victim in fear.
- 21.37 **NONACADEMIC SCHOOL EMPLOYEES:** school secretaries, custodians, cafeteria workers, lunchroom monitors, transitional aides, bus monitors, instructional aides, security aides, student teachers or interns, and such other school employees as are not actively engaged in the teaching process.
- 21.38 **OBJECT OF NO REASONABLE USE:** Any object that is of no reasonable use to a student in school, including but not limited to: any knife not defined as a dangerous weapon, a rock, brick, mock gun, fireworks, or laser pointer. Note that under a City Ordinance, laser pointers are not permitted in school buildings.
- 21.39 **PARENT:** a student's mother or father or both or guardian, or a person or agency legally authorized by court order to act on behalf of the child in place of or in conjunction with the mother, father, or guardian.
- 21.40 **SECTION 504:** refers to Section 504 of the Rehabilitation Act of 1973. Its purpose is to ensure that no individual is excluded from participation in, or denied the benefits of, or denied access to, any program or activity based solely on their disability. Certain students who may not be eligible for services under Chapter 766 may still be determined to have a disability within the definition of Section 504. A group of persons knowledgeable about a student in this category must develop an Accommodation Plan for the student which the school must implement.
- 21.41 **SEXTING:** the act of sharing or sending sexually explicit messages or photos electronically, usually via computers, cell phones, PDAs, or other electronic devices.

21.42 **SEXUAL ASSAULT:** any sexual act against another person either by force, against their will, or by threat of bodily injury. It also includes any sexual act against another person who is incapable of giving consent either because of her/his temporary or permanent mental or physical incapacity or because s/he is a minor. Such crimes as indecent assault and battery, rape, rape with force, rape and abuse, assault with intent to rape and unnatural and lascivious acts constitute a sexual assault.

Indecent assault and battery includes, but is not limited to, inappropriate and unwanted touching of private parts of the body. A person under the age of 14 is legally unable to consent to this type of sexual activity.

Sexual assault can occur adult to adult, adult to student, student to adult, male to female, female to male, female to female and male to male.

21.43 **SEXUAL HARASSMENT:** unwelcome conduct of a sexual nature which includes unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:-- (i) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (ii) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's education by creating an intimidating, hostile, humiliating or sexually offensive educational environment. [M.G.L. Chapter 151C, Section 1]. Under Title IX, sexual harassment is conduct based on sex that is so severe, pervasive or persistent that it creates a hostile environment by denying or limiting a student's ability to participate in, or receive the benefits, services or opportunities of, the school's services, programs, and activities. Sexual Violence is a form of sexual harassment.

21.44 **STUDENT RECORDS:** all information concerning a student maintained in any form by the Boston Public Schools that is organized on the basis of the student's name or in a way that the student can be individually identified. Refer to Superintendent's Circular, LGL-7: Student Record Procedures.

21.45 **SUSPENSION:** an exclusion from school activities and school privileges for a limited period of time. Suspension shall include exclusion from the school building as well as any "in-school" suspension.

A regular or short-term suspension may not exceed three (3) school days for a student age 15 or younger or five (5) school days for a student age 16 or older. A long-term suspension may not exceed six (6) school days for a student age 15 or younger or ten (10) school days for a student age 16 or older. Refer to Section 10.6.1.

21.46 **SUSPENSION, EMERGENCY:** a temporary suspension imposed for not longer than the end of the school day. It may be imposed when the student has allegedly committed a suspendable offense, *and* his/her presence poses a continuing danger to persons or property or of interference with the instructional process, *and* there is no alternative available to alleviate the danger or interference, *and* it is impossible because of the student's behavior to provide the student with notice and hearing prior to the emergency suspension.

21.47 **SUSPENSION, INDEFINITE:** a suspension that may be imposed when a student has been charged with a felony (age 17 or older), or felony delinquency (under age 17), if the principal or headmaster of the school in which the student is enrolled determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school

Prior to such suspension taking effect, the student shall receive written notification of the charges and the reasons for such suspension. In addition, the student shall also receive written notification of his right to appeal and the process for appealing such suspension. Any such suspension shall remain in effect prior to any appeal hearing.

- 21.48 **SUSPENSION OF A STUDENT WITH DISABILITIES:** any action which results in the removal of a student from the program prescribed in his or her IEP. The term includes in school suspension as well as any exclusion from transportation services which prohibits the student's participation in his or her prescribed program.
- 21.49 **TEAM:** in reference to special education, the group of individuals responsible for creating and implementing a student's Individualized Education Plan (IEP). Team membership can and should vary depending upon the educational needs of individual students. Participants usually include:
- the classroom teacher(s)
 - the school administrator or designee (Evaluation Team Facilitator/ETF)
 - parents or legal guardians and, if appropriate, the student
 - other school-based and district support staff if they have been involved in assessing the student's strengths and needs, or are going to be involved in the delivery of the IEP.
- 21.50 **WEAPON:** see 21.14, Dangerous Weapon; and 21.27, Firearm.

Appendix A: Comprehensive Student Support Services

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

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

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

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

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

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

| TIER I: PREVENTION SERVICES | TIER 2: INTERVENTION SERVICES | TIER 3: INTENSE INTERVENTION SERVICES |
|--|--|--|
| <ul style="list-style-type: none"> ❖ Family Consultation ❖ Bully Hotline <p>Educational Options:</p> <ul style="list-style-type: none"> ❖ Work with Community Field Coordinators <p>Health and Wellness Dept.:</p> <ul style="list-style-type: none"> ❖ FITNESSGRAM – Individual Student Reports ❖ Parent University | | <ul style="list-style-type: none"> • Follow-Up Meetings • In home FAST team referrals • Family Counseling and Intervention |
| Extended Learning Time | | |
| <p>Health and Wellness:</p> <ul style="list-style-type: none"> ❖ Brokering Partnerships ❖ Cyber mentors | <p>Counseling & Intervention Ctr:</p> <ul style="list-style-type: none"> • SMART Boston | <p>Counseling & Intervention Ctr:</p> <ul style="list-style-type: none"> • Afterschool drop in program • Saturdays for Success |
| Student Engagement | | |
| <p>Counseling & Intervention Ctr:</p> <ul style="list-style-type: none"> • AED Training • Bullying Prevention Mentors • Workforce Development <p>Educational Options:</p> <ul style="list-style-type: none"> • Meet with Parent and School of High Risk <p>Health and Wellness Dept.:</p> <ul style="list-style-type: none"> • Students Taking Charge • The 84 Chapters <p>OIIT:</p> <ul style="list-style-type: none"> • Cyber Mentors lead trainers/presenters • Students create all BPS materials | <p>Counseling & Intervention Ctr:</p> <ul style="list-style-type: none"> • School Dept. • Boston Police Dept. | <p>Counseling & Intervention Ctr:</p> <ul style="list-style-type: none"> • Summer Programs/Camps • Tutoring Program • Employment • Therapeutic Mentors • Suffolk County District Attorney • ABCD • Organizations: Streetworkers, Dorchester Court Probation, Youth Polics, Juvenile Justice System, DCF, BEST Team, YPVC, BPRI, Boston Med. Center, Children’s Hospital Boston |

Appendix B: Restorative Justice

Restorative Practices and Restorative Justice

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

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

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

Restorative Justice asks three questions:

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

Goals and Process of Restorative Justice

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

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

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

As part of a safe and supportive whole school behavioral health strategy, Restorative practices should be used regularly in the classroom in order to develop school community and climate, build relationships between students, and address disruptive behavior before it escalates. Teachers, administrators, counselors, support staff and students themselves shall use restorative problem solving techniques that increase communication and provoke student reflection on how their actions impact others

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

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

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

Restorative Leadership Teams

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

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

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

Professional Development Training

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

Examples of Restorative Practices

a. Circles

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

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

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

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

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

b. Restorative Group Conferencing

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

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

c. Restorative Dialogues

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

d. School-Wide Forums

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

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

Appendix C: Massachusetts Tiered System of Support (MTSS)

Overview of the MTSS

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

The core components of the MTSS are:

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

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

Process

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

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

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

Leadership Teams

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

- a. School administrators shall use a democratic approach to solicit stakeholder involvement in the leadership team, which shall include representatives of all stakeholder groups, including an administrator, a general education and a special education teacher, support staff, students, parents or guardians and other relevant community members.
- b. The leadership team shall have regular meetings, a clear purpose, efficient internal processes and build caring relationships.

resources for fulfilling its responsibilities, implementation materials and ongoing trainings. The Leadership Team shall undergo a training of at least two to three days provided by skilled trainers on MTSS.

d. The Leadership Team is responsible for securing school-wide agreements and support from the entire school community for the implementation of MTSS on the:

- i. Nature and priority of staff development efforts and needs;
- ii. Long term (3-4 year) commitment and investment in the effort; and
- iii. Importance of taking a preventative and instructional approach to behavior management and school-wide discipline.

Professional Development Training

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