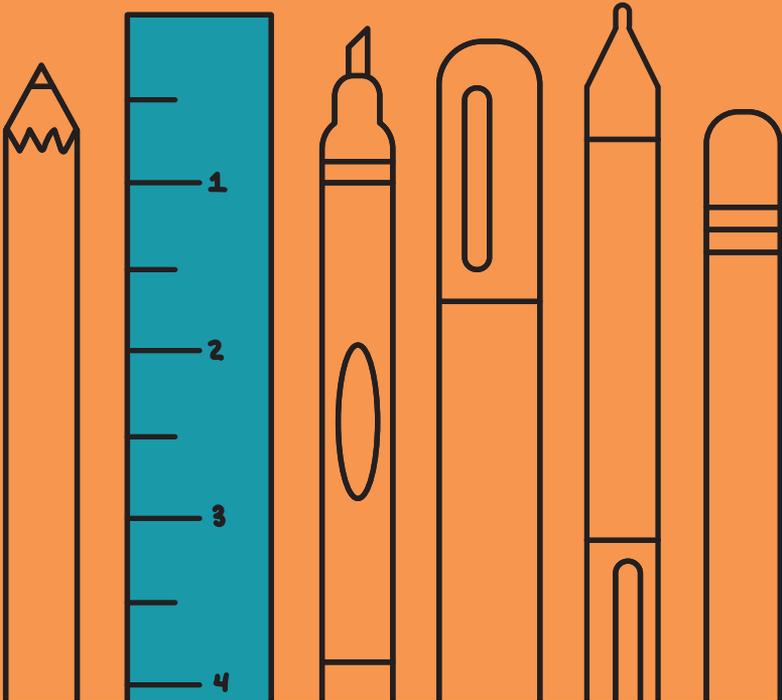


Measuring

up

How to make sure your school complies with Massachusetts' student discipline laws



LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND
ECONOMIC JUSTICE
Serving Greater Boston Since 1968



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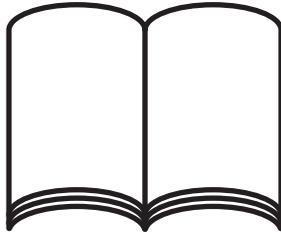
Acknowledgements

The Lawyers' Committee for Civil Rights and Economic Justice is a non-profit, non-partisan organization formed to marshal the resources of the legal community to address racial and national origin discrimination throughout Massachusetts. The Lawyers' Committee would like to thank the Chapter 222 Coalition—especially Jessica Rubin-Wills, Kim Janey, and Elizabeth McIntyre—for their thoughtful feedback; Charlotte Robinson; and the Hyams Foundation. www.lawyerscom.org

The Boston Student Advisory Council (BSAC) is a citywide body of elected student leaders representing most of Boston Public Schools' (BPS) high schools. BSAC organizers work to identify and address pertinent student issues, thereby putting students at the center of the decisions that affect them the most. BSAC acts as the student union of the district, leading organizing efforts, forging relationships with district and city leaders, impacting policy change, and transforming school culture across the board. BSAC is co-administered by BPS and Youth on Board (YOB). www.youthonboard.org/bsac

LaShanda Chirunga is a former Senior Trial Attorney with the U.S. Department of Justice Civil Rights Division. Mrs. Chirunga has served as a volunteer attorney with the Maryland Foreclosure Prevention Project and currently volunteers with the Lawyers' Committee. She co-authored this toolkit and has been instrumental throughout its development.

The Graphic Advocacy Project (GAP) designed and illustrated this toolkit. GAP is a non-profit organization that helps social justice advocates use visual communication tools. www.graphicadvocacy.org



How to use this booklet

All students and their families should know their rights, whether or not they seek to challenge a disciplinary decision. Well-informed students, families, educators and community stakeholders can use this information to advocate for fair disciplinary practices in their school and district.

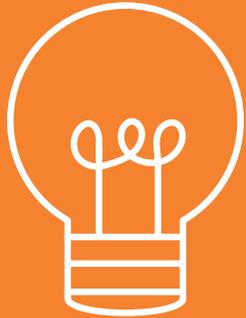
This booklet has a lot of internet links that you can and should use to get your school's disciplinary data, get connected to other families and organizations working on changing school discipline, and get more information about protecting your rights. If you have any trouble accessing these links, please contact the Lawyers' Committee for printed versions of each link.

Know that this booklet is based on Massachusetts state law. While your school's code of conduct can give you *more* rights than this, *it cannot give you fewer*. Be sure to review your local code, and contact the Lawyers' Committee if it does not comply with state law. And if you attend Boston Public Schools, use the Boston Student Advisory Council's app! www.bostonstudentrights.org

If you or your student is facing a suspension or expulsion, please turn to the Know Your Rights section on page 2 and the School Hearing Checklist on page 20.

Table of contents

1. School Discipline Facts	2. Know Your Rights
13. Get Involved	14. Get the Data
15. File a Complaint	16. Consider the Alternatives
18. Get Organized!	20. School Hearing Checklist



School Discipline Facts

In 2012, Massachusetts passed a new law—**Chapter 222**—to reduce reliance on out-of-school suspensions. The law went into effect in 2014.

Why suspend less?

- Suspension predicts dropout.
- Repeated suspensions don't change behavior.
- As a state, we over-rely on suspension to address minor offenses.
- We disproportionately use it against students of color, especially for minor offenses.
- There are better, proven ways to improve classroom management.

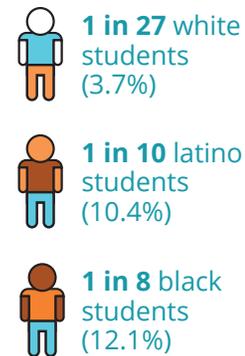


Before Chapter 222, nearly **two-thirds** of out-of-school suspensions were for non-violent, non-criminal, non-drug-related behavior.

Since the law changed:

- Suspension rates have dropped for *every* student group—by race, gender, disability, English learner status, and socioeconomic status.
- The discipline disparity between students of color and their white peers is shrinking.
- More schools are adopting alternatives to suspension.
- Fewer students are being suspended for minor offenses.

But...



Student discipline rates in 2012-2013

- Students of color and students with disabilities are still more likely to be suspended than their peers.
- Half of schools' "emergency removals" are for minor offenses.
- Some families report that schools are not formally suspending students, but are requiring them to be picked up and kept out. **This is against the law.**

We can all work to improve discipline for every student.



Know Your Rights



This toolkit focuses on rights established by Chapter 222 for school-based disciplinary offenses. If your student is being suspended or expelled related to a felony charge, see the notes in this section.

Under Chapter 222,

you have **more rights** when your student is being disciplined. This section reviews your rights for each type of disciplinary consequence. **The longer the suspension, the more rights you have.** And no matter what, your school must:



Contact you in your preferred language



Offer to meet with you

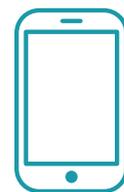


Use discretion in deciding a consequence



Allow your student to make up work if they are suspended

Going to a disciplinary hearing?



Call us:
617.
482.1145

Use this section to learn your rights and bring the Checklist in the back (pages 20-25) to make sure your school follows the law. If it doesn't, **call us.**

Is your student being disciplined in a way that's not mentioned in the following pages? **Call us.**

If your student has special needs, she has more rights than the ones we've listed. Learn about them here: <http://www.doe.mass.edu/sped/links/Advocacy.html>.

Check out other great resources for disciplinary hearings: http://www.massappleseed.org/projects/parent_guide.php.

KINDS OF DISCIPLINE

In-School Suspension

Removal from the classroom

No more than **10** school days each year



Notice. The school must notify you—in English and your preferred language—that it is suspending your student. It must offer to meet with you on the day of the in-school suspension, if you can.



Hearing. *Before* suspending, the school must tell your student the reason it thinks she broke the rules. Your student has the right to tell her side of the story. If the school decides your student broke the rules and suspends her, it must offer to meet with you to discuss your student's academics, behavior, and the best ways to engage her.



Appeal. There is no right to appeal.



Education. Your student must be allowed to make progress, earn credits, and take any quizzes/tests missed during suspension.



If your student was suspended once or several times over a school year for **more than 10 total days**, it counts as a **long-term suspension**, and you have more rights. (See pages 6-7.)

Short-Term Suspension

Removal from the school

No more than **10** school days each year



Notice. *Before* it can suspend your student, the school must notify you—in English and your preferred language—and invite you to the hearing. It must tell you why it plans to suspend your student and for how long. The school will propose a hearing date, but everyone can agree to another.



Hearing. The school will tell you why it thinks your student broke the rules. You have the right to tell your student's side of the story, and to use an interpreter. If the school decides your student broke the rules, you can suggest consequences other than suspension that better address your student and the situation.



Appeal. There is no right to appeal.

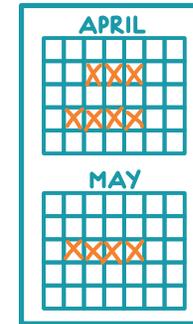


Education. Your student must be allowed to make progress, earn credits, and take any quizzes/tests missed during suspension.

Long-Term Suspension

In-school or out-of-school suspension

More than **10** total school days per year, consecutive or cumulative



If your student was suspended—in school or out of school—once or several times over a school year for **more than 10 total days**, it counts as a **long-term suspension**, and you have more rights.



Notice. Before it can suspend your student, the school must notify you—in English and your preferred language—and invite you to the hearing. The school must tell you why it plans to suspend your student and how long the suspension will be. The school will propose a hearing date, but everyone can agree to another.



Hearing. You have all the rights of a short-term suspension hearing (page 5) *plus*: Before the hearing, you can review the information the school is using to suspend your student. You have the right to bring an attorney or advocate. You have the right to present your own evidence, bring your own witnesses, and question the school's witnesses. You can request a recording of the hearing.



If your school decides your student broke the rules, **the school must show that it tried an alternative to suspension before it can suspend.** (See pages 15-17, 22.)



Appeal. If you disagree with the school's decision, you can appeal it. The school must write a letter that explains the reasons it suspended your student and tell you how to appeal. You have 5 days to appeal unless the school agrees to more time. You have all the same rights on appeal that you did in the hearing.



Education. Your student has the right to make academic progress, earn credits and make up any tests/quizzes missed during the suspension. If your student is being suspended for more than 10 days *in a row*, the school must let you choose from options in an Education Service Plan so your student can keep learning.

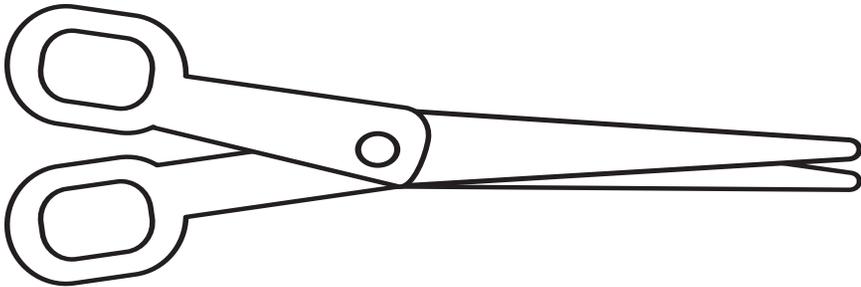


Students charged with a felony may be suspended if the student would have a “substantial detrimental effect on the general welfare of the school.” You have 5 days to appeal.

Expulsion

Removal from the classroom and school

More than **90** school days per year



A student may be expelled only for these **offenses**:

-  Possession of a dangerous weapon
-  Possession of a controlled substance
-  Assault on a school staff member



Notice. *Before* expelling your student, the school must notify you in writing and invite you to the hearing. The school must tell you why it plans to expel your student and how long the expulsion will be.



Hearing. The school will tell you why it thinks your student broke the rules. You have the right to tell your student's side of the story. You have the right to bring an attorney or advocate. You have the right to present your own evidence, bring your own witnesses, and question the school's witnesses.



Appeal. If you disagree with the school's decision, you can appeal it. The school must write a letter that explains the reasons it expelled your student and tell you how to appeal. You have 10 days to appeal. The Superintendent can allow the expulsion, stop it, or change the punishment.



Education. Your student has the right to keep learning. The school must let you choose from options in an Education Service Plan so your student can make academic progress during the expulsion.



Students who are convicted—or admit to being guilty—of a felony may be expelled if the student would have a "substantial detrimental effect on the general welfare of the school." You have 5 days to appeal.

Emergency Removal

Removal ahead of a suspension hearing

No more than **2** days in a row



The school may not remove a student unless it has ensured the student's **safety and transportation**.

The principal must believe:

1. That the student poses a danger to school safety or “materially and substantially” disrupts school order, **and**
2. That there is no way to keep your student in school and stop the danger or disruption.



Notice. The school must notify you—in English and your preferred language—of the removal and the reasons for it.



Hearing. You have the same hearing rights as a short-term suspension. But, if the removal means your student has missed more than 10 days due to discipline, you have the same hearing rights as a long-term suspension. The school must hold the hearing during the removal unless you say otherwise.



Appeal. You may appeal if the removal means your student has missed more than 10 days due to discipline (the same rights as a long-term suspension.)



Education. Your student has the right to make academic progress, earn credits and make up any tests/quizzes missed during the removal.



Call us:
617.
482.1145

Was your student disciplined in some way that is not on this list? Did the school call you to pick up your student because of his/her behavior? Call us. Under state law, schools are not allowed to send students home for misconduct—even for a few hours—without giving you the rights described in this section.

Boston Public Schools

Do you or your student attend a Boston Public School (BPS)? You have **more school discipline rights** than those listed previously. For example:

- Before issuing *any* out-of-school suspension, the school must show it tried alternatives to suspension. (See pages 15-17, 22.)
- Students who face an in-school suspension have the same expanded hearing rights as they would for an out-of-school suspension.
- You can appeal any out-of-school suspension—whether it's short-term or long-term.

In Boston Public Schools, you have additional rights beyond discipline for topics such as:

Dress code 	Cell phones 	Punctuality 
LGBTQ anti-discrimination 	Student government 	Metal detectors 



Want to learn more?

If you want to learn more, or if you want to report an incident of harassment or a violation of the BPS discipline code, check out the Boston Student Rights smartphone application from the Boston Student Advisory Council (BSAC): www.bostonstudentrights.org.

Your school

and district must ensure their codes of conduct are in line with Chapter 222. And, each year, all Massachusetts high schools have to update their codes and involve school councils in the process.

Want to make sure your code of conduct measures up to the new state law? Compare it with the **Checklist** in the back (page 20).

Want to make sure your principal, superintendent, and school committee know what they need to do to keep their code in line with the law? Use the **School Discipline Facts** (page 1) and your **data** (page 14) to:

Hold a family forum about discipline. 	Arrange a teacher working group on discipline. 
Call for a meeting with your school and district leaders. 	Write an op-ed in your local paper. 
Testify at a school committee meeting. 	

Want to make sure other families and students know their rights? Call the Lawyers' Committee to arrange a free **Know-Your-Rights session**.



Call us:
617.
482.1145

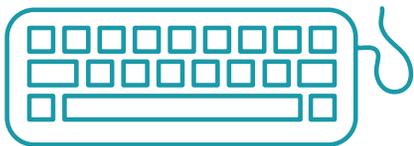
Get Involved

Get the Data

Want to know about...

- School discipline rates (for in-school and out-of-school suspension, etc.)?
- Disciplined students' race, gender, disability status, socioeconomic status, and English learner status?
- The types of incidents resulting in discipline?
- The length of suspensions?

Use the Massachusetts Department of Elementary and Secondary Education's website: http://profiles.doe.mass.edu/state_report/ssdr.aspx



Families know what they've seen and heard from their students, other families, and teachers. You can learn more about discipline at your school by looking at its data.

Want to know more about...

- Suspensions?
- School-based arrests?
- Restraint and seclusion?

Use the U.S. Department of Education's website for additional data: <http://ocrdata.ed.gov/>



Want more information?

Make an **Open Records Act request** of your school district. Visit our website for tips and a sample request: www.lawyerscom.org.

File a Complaint

Students, families, educators, & community members:

Is your school or district not following Chapter 222?

Contact the Massachusetts Department of Elementary and Secondary Education through its Program Quality Assurance Services (PQA) by phone (1.800.439.2370) or online at <http://www.doe.mass.edu/pqa/prs/>.

Chapter 222 requires the state to work with the highest suspending districts and the districts with the greatest racial disparities in discipline. Letting the state know where you see a problem helps solve it for others.



Call us.

Are students' civil rights being violated by your school's discipline practices?

Contact the U.S. Department of Education Office for Civil Rights (OCR) if students are being disciplined differently based on race, ethnicity, national origin, gender identity, or disability in schools: http://www2.ed.gov/about/offices/list/ocr/complaint_process.html and <http://ed.gov/school-discipline>.



Consider the Alternatives

Chapter 222 requires schools to **use alternatives** to suspension before using long-term suspensions. Here are two that the new law suggests as examples. Read about more on page 22.

Restorative Justice (RJ)



RJ engages all members of a school community affected by a conflict to help resolve it.



Students work together to identify the harms caused.



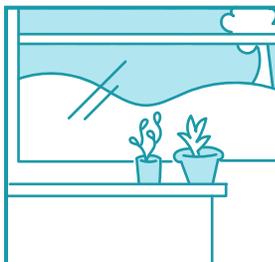
Students identify harms to individuals and the community.



Students develop and implement solutions.



RJ repairs problems and relationships better than suspensions.

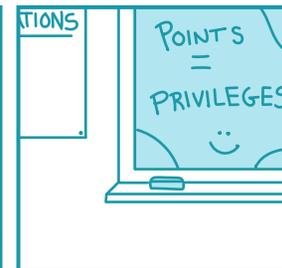


RJ has decreased suspensions and reduced racial discipline disparities!

Positive Behavior Interventions & Supports (PBIS)



PBIS is a framework for a healthy learning environment.



Schools teach clear expectations for behavior and encourage it with positive feedback.



Members of the school community monitor discipline trends to develop interventions.



Example: if a lot of referrals come from hallway incidents, a school can place more adults there and clarify hallway expectations.



A better climate allows schools to prioritize support for those who need it most.



PBIS reduces suspension and supports gains in achievement, attendance, and safety!

Get Organized

Here are three ways students and parents are changing school discipline. Want more? www.dignityinschools.org

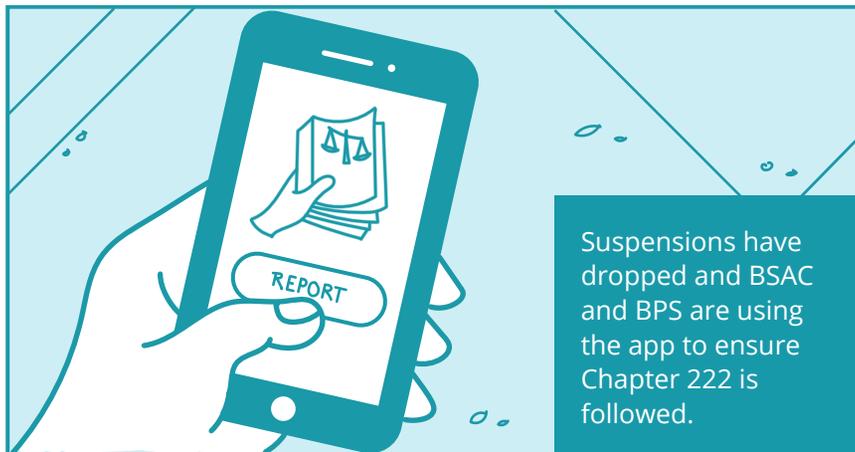
In Boston...

The Boston Student Advisory Council (BSAC) is a group of high school student leaders in Boston Public Schools (BPS).



Each year, BSAC conducts a Listening Project across the city.

Guided by what they heard, BSAC designed an app for their peers to know their discipline rights.



<http://www.youthonboard.org/bsac>

Meanwhile, in Chicago...

POWER-PAC parent leaders created and run Parent Peace Centers at several Chicago Public Schools. They won funding for them too!



POWER-PAC has also won the removal of "zero-tolerance" from the district's code of conduct. Together, these efforts have reduced both violence and suspension. <http://www.cofionline.org/>

And out in LA...

CADRE, a parent organizing group, and its allies won big changes to discipline in LA: a dignity framework and PBIS in every school.



CADRE's documentation and advocacy helped win bigger changes, ending suspensions for minor offenses in LA. <http://cadre-la.org/>



School Hearing Checklist

The next few pages include tips, important information, and a list of questions you should ask if your student is disciplined for a school-based offense. You can tear these pages out and bring them with you to a school hearing!

Are you going to a suspension hearing?

1. Find out why. Before the hearing, your school must tell you why—and for how long—it plans to discipline your student. Families—find out from your student what happened. Take notes before and during the hearing.

2. Consider alternatives. Before it can suspend, your school must use discretion and consider ways to re-engage your student in learning. You know your student. Would any of the **alternative disciplinary responses** on page 22 be a better solution than suspension? Help your school understand why.

3. Know your rights. Review this booklet, and read your local code of conduct—it can give you more rights than our state law,

but it cannot give you fewer. **Bring these next pages with you to make sure your rights are followed.** If not, you can file a complaint with the MA Department of Elementary and Secondary Education. (See page 18.)

4. Don't stop learning. Students have the right to make academic progress during discipline. The longer the consequence, the stronger this right. If your student is suspended, do not leave the hearing without a plan for them to continue their work. (See pages 2-12.)

5. Disagree? Appeal. If you disagree with the outcome, you can appeal longer suspensions and expulsions. (See pages 2-12.)



If you think your student is eligible for special educational services, they have additional disciplinary rights. Learn more: <http://www.doe.mass.edu/sped/links/Advocacy.html>.

Want more tips? Read *When My Child Is Disciplined at School* by Massachusetts Appleseed: http://www.massappleseed.org/projects/parent_guide.php.

Alternative Disciplinary Responses

As the old saying goes, “the punishment must fit the crime.” The more a consequence addresses the actual harm or behavior, the better it works. Here are some examples of alternative disciplinary responses that you can ask your school to consider:

Restorative justice: Support the student and those harmed by her actions in identifying solutions together (See page 15)		Written reflection and apology
Loss of a privilege at school and/or home	Caregiver and student/ teacher conference	Community service
Schedule adjustment	Referral to community-based organizations for additional support	
Meeting with school counselor/ psychologist	Written warning	Mentoring program inside or outside of school
Daily/weekly check-ins between student and an adult mentor at school	Behavioral contract/plan between student and teacher	

Type of Consequence	Questions to Ask
<p>In-school suspension:</p> <p>A student is removed from her regular classroom, but not from school, for more than half the school day.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Did the school tell your student the reason it thought she broke the rules? Did she get to tell her side of the story? <input type="checkbox"/> Did the school notify you—orally and in writing—of your student’s in-school suspension on the day your student broke the rules? In your preferred language? <input type="checkbox"/> Did the principal invite you to discuss the incident and the best ways to engage your student? On the same day as the in-school suspension? <input type="checkbox"/> Was your student allowed to make up work, quizzes or tests that they missed during suspension? <input type="radio"/> Has your student received more than 10 days of in-school suspension this school year? If yes, it should be treated as a long-term suspension (next page).
<p>Short-term suspension:</p> <p>A student is removed from school for 10 days or fewer.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Did the school tell you—orally and in writing—why it planned to suspend your student? Did it tell you when it would hold a hearing? In your preferred language? <input type="checkbox"/> <i>Before</i> the suspension, did the school hold a hearing? Did it tell you why it thought your student broke the rules? Were you allowed to tell your student’s side of the story? Did it provide an interpreter for you? <input type="checkbox"/> If the school decided your student broke the rules, were you allowed to tell the school more about your student and suggest other ways to discipline her besides suspension? Did the school consider other ways to re-engage your student in learning? <input type="checkbox"/> If suspended, was your student allowed to make up work and take quizzes/tests that they missed during the suspension? <input type="checkbox"/> Did the school send you a letter with how long the suspension lasts and the day it starts? <input type="radio"/> Has your student received more than 10 days of out-of-school suspension this school year? If yes, it is a long-term suspension (next page).

Long-term suspension.

An in-school or out-of-school suspension for more than 10 total days in any school year.

- Did the school tell you—orally and in writing—why it planned to suspend your student? In your preferred language?
- Were you invited to a hearing to discuss the incident before your student was suspended?
- Before the hearing, were you allowed to review your school's evidence for why it thought your student broke the rules?
- At the hearing, were you allowed to bring an attorney or advocate? Were you allowed to present your own evidence, bring your own witnesses, and question the school's witnesses? Did the school provide an interpreter?
- Did the school try other alternatives, like mediation or conflict resolution, before suspending? By law, **the school must show that it tried alternatives** before issuing a long-term suspension.
- If your student was suspended, did the school give you a letter that says how long the suspension lasts, the day it starts, and information on how to appeal it if you disagree?
- Did the school let you pick an option from its Education Service Plan to ensure your student makes academic progress during the suspension?

Emergency removal:

A student is removed from school before a hearing for no more than 2 consecutive days because:

- 1) the student poses a danger to school safety or materially and substantially disrupts school, **and**
- 2) there is no way to stop the danger or disruption in school.

- Did your student pose a danger or substantial disruption to the school? Did the school consider other options before sending your student home?
- Did the school make sure there was a safe way for your student to get home?
- Did the school immediately try to notify you of the removal and the reasons for it?
- Did the school schedule a suspension hearing during the removal? If your student was suspended for *10 days or fewer* during the year, did you receive your **short-term suspension** rights (page 23)? If your student was suspended for *more than 10 days* during the year, did you receive your **long-term suspension** rights (above)?
- On the same day as your hearing, did the school decide if your student broke the rules? Did they tell you why in writing?

Expulsion:

A student is removed from school for more than 90 days, only for possession of a dangerous weapon, possession of a controlled substance, or assault on another student or school staff.

- Did the school tell you why it planned to expel your student? In writing?
- Were you invited to a hearing to discuss the incident *before* your student was expelled?
- At the hearing, were you allowed to bring an attorney or advocate? Were you allowed to present your own evidence, bring your own witnesses, and question the school's witnesses?
- If your student was expelled, did the school give you a letter that says how long the expulsion lasts, the day it starts, and information on how to appeal it if you disagree?
- Did the school let you pick an option from its Education Service Plan to ensure your student makes academic progress during the expulsion?

Is your student being disciplined in a way that's not on this list? Is your school violating your student's due process rights? **Call the Lawyers' Committee:**

617. 482.1145





LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND
ECONOMIC JUSTICE
Serving Greater Boston Since 1968