



Disability Law Center's Self-Advocacy Materials

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Education

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

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<http://www.dlc-ma.org/about/funding/>

School Discipline Laws in Massachusetts

You Will Learn About:

- Rights for All Students
- Additional Rights for Students with Disabilities
- Other Resources

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Federal law and Massachusetts regulate how and when schools can discipline elementary and secondary students (grades K–12). Students with disabilities have additional protections. Part I reviews the state and federal protections that all students (including students with disabilities) receive. Part II reviews the additional rights for students with disabilities.

Rights for All Students

Student rights in school discipline are different depending on what the student is accused of doing. There are two main categories:

- Serious Offenses
- Non-Serious Offenses.

If the student's conduct does not fall into one of the Serious Offenses categories (drugs, weapons, assault on school staff, felony charges), it is considered a Non-Serious Offense (e.g. student fight, property destruction, classroom disruption, cursing out a teacher, skipping school).

Types of **Serious Offenses** include:

- **Possession of Drugs:** A student is found in possession of a controlled substance (e.g. marijuana, cocaine, heroin, prescription drugs not proscribed to him or her) on school property or at a school-related event (e.g. basketball game, school dance)
- **Possession of a Dangerous Weapon:** A student is found in possession of a dangerous weapon (e.g. gun, knife, brass knuckles) on school property or at a school-related event.
- **Assault on School Staff:** A student assaults any school staff member on school property or at a school-related event. The Massachusetts Department of Elementary and Secondary Education advises that "assault" is either:
 - physical assault (e.g. hitting, kicking or spitting) a school staff member; or
 - a threat of physical assault with the means to carry it out, putting a staff member in reasonable fear of immediate danger.
- **Felony Charges:** A student is facing a pending felony charge (or felony charges); or, a student has made an admission of guilt (e.g. pled guilty) or been convicted of a felony in criminal or juvenile court.
 - The school also must find that as a result of the felony charges "the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school."
 - The felony can be from an incident inside or outside of school.

If the offense does not fit into the categories mentioned above, it is considered a **Non-Serious Offense**. Here are some common examples:

- **Student Fights**
 - Physical fight between students (kicking, biting, kicking, pushing)
 - Verbal fights between students
 - Threats against another student or student's friends/family
- **Property Destruction & Theft**
 - Breaking desks, chairs, walls, windows, lockers, doors
 - Stealing other student or teacher possessions (e.g. cell phone, laptops, purse)
- **Classroom Disruption**
 - Cursing out a teacher
 - Refusing to do work
 - Refusing to follow directions
- **Skipping Class or School**
 - Wandering school halls
 - Refusing to go to class
 - Leaving class without permission
- **Uniform Violations**
 - Not wearing uniform
 - Wearing clothes against dress code
- **School Threats**
 - General threats against school (e.g. bomb threat)
- **Any other violation of the code of conduct**

Serious Offenses

What happens once a student is accused of a serious offense?

Written Notice of a Hearing: Students must receive written notice of a hearing with the principal or headmaster and have the opportunity to participate in the hearing **before** the student is suspended. A school cannot use an emergency removal for a serious offense.

Hearing Rights: At the hearing, the student may bring an attorney (at family's expense), provide evidence, bring in witnesses and cross examine the school's witnesses.

Written Decision: The student should receive a written decision from the school about the outcome of the hearing. This will tell the student how long he or she is not allowed to come to school. This also must include the educational service options available to the student during the suspension/expulsion and who the parent should contact to start the services.

The written notice, decision and hearing must be communicated in the parent/guardian's primary language.

How long can a student be suspended or expelled?

For felony charges, a student may be indefinitely suspended pending the outcome of the criminal charges.

For the other serious offenses, a student may be permanently expelled (i.e. kicked out of his or her school) or suspended for any amount of time (e.g. end of the school year, 180 days, 15 days, 5 days).

Can a student appeal the suspension or expulsion?

Drugs/Weapons/Assault on Staff:

- **Expulsion** – If a student is expelled (i.e. permanently kicked out of his or her school), he or she can appeal the decision to the Superintendent within 10 days (e.g. write a letter or e-mail to the Superintendent saying he/she want to appeal). Then, the student must have a hearing with the Superintendent who can change the expulsion to a suspension, or remove the expulsion.
- **Suspension** – If a student has been suspended for drugs/weapons/assault on staff, there is no legal right to appeal. However, some schools allow for appeals to the Superintendent as an extra right. Check the Student Handbook at your school for additional information.

Felony Charges Only: If the student is facing a felony charge, has pled guilty to a felony or has been convicted of a felony, the student can appeal either the suspension or expulsion to the Superintendent within 5 days.

What rights does a student have to educational services during a long-term suspension or expulsion for a serious offense?

The student must have the opportunity to earn credits, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school.

For long-term suspensions (more than 10 days in a row) and expulsions, parents can choose from at least two educational service options provided by the school district (e.g. tutoring, online classes, Saturday Academy, night school, alternative school placement). The student must have the opportunity to make academic progress toward state and local curriculum requirements with these options. These options must be included in the written decision for the long-term suspension or expulsion.

Can a student be arrested or face criminal charges?

Yes, if a student is 12 years or older, he or she can be arrested and charged with a crime. If a student is 11 years old or younger, he or she cannot be charged with a crime.

Non-Serious Offenses

What happens once a student is accused of a non-serious offense?

School districts are required to consider ways to re-engage the student in learning and consider alternatives to suspension (e.g. mediation, conflict resolution, restorative justice, and positive interventions and supports). However, the school can also consider different types of suspension: 1) emergency removal; 2) in-school suspension; 3) short-term suspension (less than 10 days); or, 4) long-term suspension (10 days or longer). Each process and student rights are slightly different.

For all of the following, the written notice, decision and hearing must be communicated in the **parent/guardian's preferred language**.

Emergency Removal – Max 2 Days at a time:

A school can remove a student for up to two school days for non-serious offenses, if the principal decides:

1. that the “student poses a danger to persons or property”, or “materially and substantially disrupts the order of the school,” and,
2. there is no alternative available to alleviate the danger or disruption.

The school must communicate with the parent as soon as possible about the emergency removal (i.e. why the student is being removed and make sure the student can get home safely). The school must also provide the family with the opportunity for a hearing before the end of the two-day emergency removal period. The principal must decide (and communicate to the parent) whether the student will continue to be suspended by the end of the two-day period. A written decision must be issued the following day. The student rights during this hearing depend on whether the school is considering an in-school suspension, short-term suspension (less than 10 days) or a long-term suspension (more than 10 days) for the student conduct.

- **Example 1:** A student has a tantrum and roams the hallways ripping down bulletin boards and screaming and cursing loudly. When the school calls the parent, the student continues to tantrum despite the teacher and counselor's attempt to calm. The parent agrees to come to the school for an emergency removal. When the parent arrives, the student's behavior is still escalated. The disruption/danger continues and the school has exhausted alternatives. Emergency removal may be appropriate.
- **Example 2:** A student gets into a fist fight with another student during gym class. When the fight ends, the student debriefs with a counselor and is calm and apologetic. The student does not have any classes with the other student the rest of the day. The disruption/danger has ended. Emergency removal procedures would not be appropriate.

In-School Suspension – 10 days or less in a school year:

Definition: An in-school suspension is when a student is removed from his or her regular classroom, but not the school premises, for more than half the school day. The student must have the opportunity to make academic progress during in-school suspension (i.e. be given classwork to complete).

Oral Notice: Before a student is sent to in-school suspension, the principal must meet with the student, explain the infraction and give the student a chance to defend him or herself. The principal must also tell the student how long the in-school suspension will be.

Written Decision: The same day as the start of the school suspension, the principal must communicate the infraction, the length of the in-school suspension and the right to a meeting with the principal with the parent orally and in writing. If the parent wants a meeting, it should take place as soon as possible.

Max Days = 10: If a student faces an 11th day of in-school suspension in a school year, the student must receive long-term suspension hearing protections (see below) before the student is sent to in-school suspension for an 11th day.

Short-Term Suspension – 10 days or less in a school year:

Definition: A short-term suspension is a removal from school for 10 days or less (in a row or spread out) in a school year.

Written Notice of a Hearing: Students and parents must receive written notice of a hearing with the school administrator and have the opportunity to participate in the hearing before the student is suspended.

Hearing Rights: At the hearing, the student and parent have the opportunity to present the student's side of the story and any helpful information that the school administrator should consider.

Written Decision: The student should receive a written decision from the school about the outcome of the hearing. This will tell the student how long he or she is not allowed to come to school. This also must include the student's opportunity to make-up all school work (including tests and quizzes).

If a student faces an 11th day of suspension in a school year, the student must receive long-term suspension hearing protections (see below) before the student is short-term suspended for an 11th day.

Long-Term Suspension – More than 10 days in a school year:

Definition: A long-term suspension is a removal from school for more than 10 school days (in a row or spread out) in a school year

All Rights of Short-Term Suspensions: Parents/students have all the same rights as they do for short-term suspensions, plus:

Additional Hearing Rights:

- Right to review student's record and any documents the school administrator may use in the hearing in advance
- Right to an attorney (at family's expense)
- Right to bring in witnesses
- Right to cross-examine school district witnesses
- Right to request an audio recording (and copy) of hearing

Additional Written Decision Rights: The written decision must include the following:

- Identify the disciplinary offense, date of hearing and participants
- Include key facts and conclusions reached by administrator
- Indicate the dates and number of days for suspension, as well as return date
- Include information on the student's right to educational services and how to obtain them
- Include information on student's right to appeal suspension to Superintendent and how to appeal

How long can a student be suspended or expelled?

A student cannot be expelled.

A student cannot be suspended for more than 90 school days, or to the end of the school year, whichever is shorter.

- **Example 1:** A student punches another student on May 1, 2018. School ends June 21, 2018. The school can only suspend the student through June 21, 2018. The school cannot suspend the student into the next school year (e.g. October 1, 2018).
- **Example 2:** A student throws desks and leaves the school building on October 4, 2018. The school can suspend the student for up to 90 school days (e.g. until April 2018). The school cannot suspend the student for the rest of the year (e.g. until June 2018) because it is more than 90 days.

Can a student appeal the suspension?

Long-term suspensions (more than 10 days) can be appealed to the Superintendent. All other disciplinary actions (emergency removal, in-school suspension, short-term suspension) cannot be appealed. However, some school districts allow appeals for short-term suspensions. Check the Student Handbook for additional rights.

Long-term suspensions must be appealed to the Superintendent (i.e. write a letter or e-mail saying student or parent wants to appeal) with 5 calendar days.

A hearing with the Superintendent must convene within 3 days (unless parent/student asks for an extension). The Superintendent will decide whether the student committed the offense and how long the suspension should be.

The parents/student has all the same rights at the Superintendent appeal hearing as they do at a long-term suspension hearing with the Principal (see above).

What rights does a student have to educational services during a long-term suspension or expulsion?

The student must have the opportunity to earn credits, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school. This applies to suspensions of any length and all expulsions (e.g. 1 day or 180 days).

For long-term suspensions (more than 10 days in a row) and expulsions, parents can choose from at least two educational service options provided by the school district (e.g. tutoring, online classes, Saturday Academy, night school, alternative school placement). These are designed to ensure that a student who is out of school is still able to make academic progress toward state and local curriculum requirements. These options must be included in the written decision for the long-term suspension or expulsion. The school must include how the parent can choose and begin an option with the district.

Can a student be arrested or face criminal charges?

Yes, if a student is 12 years or older, he or she can be arrested and charged with a crime. If a child is 11 years old or younger, he or she cannot be charged with a crime. Students can no longer be arrested and charged with "Disturbing School Assembly" for misbehavior in school or at school-related events.

Other Questions

What counts as a suspension?

Anytime a student is removed from his or her classroom for behavioral issues for more than half the school day, it counts as a day of suspension. If a child remains in school, but out of his or her classroom for more than half the school day, the student is entitled to in-school suspension rights (see above).

Anytime a student is sent home early from school for behavioral issues (e.g. school calls and asks parent to pick student up), this counts as a suspension. If a child is sent home from school early for behavioral issues for any part of the school day, the family is entitled to short-term suspension or emergency removal rights (see above).

A school should not threaten a parent with calling 911, mobile crisis, the Department of Children and Families if a parent is unable to come to school early to pick up a child due to prior commitments (e.g. job, other caretaking responsibilities). Complain to the Department of Elementary and Secondary Education if your family experiences this (see below).

Additional Information

1. Where do I file a complaint if the school has violated the law?

A parent or guardian can file a complaint with the Massachusetts Department of Elementary and Secondary Education: <http://www.doe.mass.edu/pqa/prs/IntakeForm.pdf>

2. Where can I find more information about these laws?

- Massachusetts Felony School Discipline Law
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37H1~2>
- Massachusetts Drugs, Weapons, Staff Assault Law
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37H>
- Massachusetts Non-Serious Offense Law
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section37H3~4>
- Massachusetts School Discipline Regulations
<http://www.doe.mass.edu/lawsregs/603cmr53.html?section=all>
- Massachusetts Q&A on School Discipline Regulations
<http://www.doe.mass.edu/lawsregs/advisory/discipline/QA.html>
- Massachusetts Advisory on School Discipline Regulations
<http://www.doe.mass.edu/lawsregs/advisory/discipline/StudentDiscipline.html>

Additional Rights for Students with Disabilities

Students with disabilities have all the same rights as general education students outlined in Part I. However, students with disabilities have additional protections under federal law. The two key rights are: 1) right to a manifestation determination review for long-term suspensions or a pattern of removals that causes a change in placement; and, 2) for IEP students, a right to a free and appropriate public education (FAPE) during long-term removals (i.e. right to make meaningful educational progress in the curriculum and toward IEP goals during removal).

Manifestation Determination Review

What is manifestation determination review?

A manifestation determination review (sometimes called a “manifestation meeting” or an “MDR”) is an IEP Team meeting, where the IEP Team decides whether a student’s conduct (disciplinary offense) is directly and substantially related to the student’s disability.

When must a school hold a manifestation determination review?

A school must hold a manifestation determination when a suspension or removal is a change in placement. A change of placement occurs if a student has been excluded from his or her IEP placement for more than 10 days, or there has been a pattern of removals for more than 10 days in a school year.

More than 10 Days in a Row: A student is removed from his or her IEP placement (e.g. suspension, expulsion) for more than 10 school days. The school must hold a manifestation meeting prior to suspending a student from school for an 11th day in a row.

Pattern of Removals for more than 10 Days in a school year:

- a. A student has been repeatedly removed from his or her IEP placement in a way that constitutes a pattern. A pattern of removals is when:
 - The student has been removed through short-term suspensions, in-school suspensions and emergency removals for more than 10 days in the school year;
 - The behavior the student has been removed for is substantially similar (e.g. repeatedly removed for classroom disruption and aggression toward peers); and,
 - The removals are close together (e.g. student has been suspended 4 times for 1-3 days each over a 3 month period).
- b. If there has been a pattern of removals (i.e. the student has been suspended for similar behavior more than 10 days over a period of a few months), then the school must also hold an MDR before continuing to suspend the student.
- c. If there has not been a pattern of removals (i.e. multiple suspensions for different conduct), but the student has been suspended or removed from his or her IEP placement for more than 10 days, the school must consult with at least one of the student’s teachers to determine what educational

are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting IEP goals (i.e. receive FAPE).

Bus Suspensions – If a school district provides a student on an IEP with transportation and suspends the student from the bus or van without providing alternative transportation, these days count as suspensions. So, if a student has been suspended from a bus for more than 10 days in a row (or through a pattern of removals) without alternative transportation, the school must hold a MDR.

Student Being Evaluated for an IEP – If a student is in the process of being evaluated for special education eligibility, but does not yet have an IEP, the school district must hold an MDR for a pattern of removals or more than 10 days in a row of suspension. However, if an IEP Team has determined a student is not eligible for special education services before the disciplinary offense, the student is not entitled to an MDR.

Who should participate in the manifestation meeting?

The IEP Team, not a school administrator, makes the manifestation determination. The IEP Team must include “all relevant members” as decided by the school district and the parent. At a minimum, the IEP Team should include the parent, a special education teacher, as well as a Team Chair (person with decision-making authority). It is best practice to include a School Psychologist to review recent evaluations. It is also best practice to include a general education teacher if the student participates in general education courses. Parents can bring outside service providers to the MDR.

Parents must receive written notice of the manifestation meeting before the meeting takes place. The notice must include the purpose, time, location and attendees, and must inform the parent of the right to bring outside providers to participate.

How does an IEP Team make the manifestation determination?

The IEP Team reviews all of the relevant information in the student’s file and any relevant information provided by the parent prior to making a determination. The IEP Team should review: 1) the student’s most recent IEP; 2) the student’s most recent evaluations; 3) student’s conduct history; 4) teacher/provider observations; and, 5) any relevant information the parent’s bring to the meeting (outside evaluation, medical information, letters from outside providers).

The IEP Team must use this relevant information to answer the following questions:

1. Was the student’s conduct caused by, or have a direct and substantial relationship to the student’s disability?
2. Was the student’s conduct a direct result of the school’s failure to implement the IEP?

If the IEP Team answers “yes” to either question, then the conduct is considered a manifestation of the student’s disability. If the IEP Team answers “no” to both questions, then the student’s conduct is not a manifestation of his or her disability.

Conduct Caused by Disability?

The IEP Team is not answering whether or not a student understands right from wrong, but rather whether the student's conduct is caused by (or directly/substantially related to) the student's disability. The student's ability to understand right from wrong is not relevant. Evidence of a direct connection between the student's misconduct and disability often results in a finding that the child's conduct was a manifestation of her disability. However, conduct resulting from a student's poor self-esteem or bad judgment generally is considered unrelated to a student's disability.

Examples of "Yes"

- Student with autism's "aggression, limited coping skills, and lack of self-control" caused him to strike a teacher during a classroom disruption
- Student's emotional disability, which made him prone to aggressiveness, caused him to fight with another student, even though his disability had not previously manifested in a physical aggression
- Student with an intellectual disability cursed at staff and ran out of the building when he was not able to access a preferred activity

Examples of "No"

- Student with a learning disability is caught with drugs or a weapon on school grounds.
- Student with ADHD who has a history of skipping class and being disruptive, but no history of peer conflict issues, bullies a classmate.
- Student with a hearing impairment threatens a teacher with physical harm because she received a poor grade.

Conduct Caused by Failure to Implement the IEP?

The IEP Team should examine whether the IEP has been fully implemented (service grid and relevant accommodations – Behavior Intervention Plan, Safety Plan, Crisis Plan, etc.). If the IEP has not been fully implemented, the Team then must consider whether the failure to implement a particular service or accommodation directly caused the student's conduct.

Examples of "Yes"

- Finding that a child's emotional and oppositional behavior "spiraled out of his control" when an assistant principal confronted the child rather than allowing him to back off as provided in his Behavior Intervention Plan
- The student's 1:1 paraprofessional went on maternity leave and no replacement was provided. The student's behavior drastically escalated without the 1:1 support.
- The student's School Adjustment Counselor (SAC) went on medical leave and the student did not receive counseling services in her IEP. Without counseling behavior escalated.

Examples of "No"

- Student's IEP has been fully implemented, but the parent has been asking for additional services not in the IEP. Even if the child requires these additional services, the school is still in compliance with the IEP and the answer would be no.
- Student did not receive speech/language therapy because the provider quit. Although the student should get make up speech services, this is likely not related to a student's behavioral outburst.
- Student with inclusion IEP was moved from one classroom to another (both inclusion). The move resulted in increased behavioral difficulty. The school is still in compliance with the inclusion program and the answer would be no.

What happens if an IEP Team finds that a student's conduct is is related to his or her disability?

For most offenses, a student cannot be suspended or removed any further for conduct that is related to his or her disability. There is an exception for drugs, weapons and serious bodily injury (see below), but for most offenses, the student must be immediately returned to his or her IEP program and placement. The school district also must conduct a Functional Behavioral Assessment (FBA) and develop a Behavior Intervention Plan (BIP). If the student already has a BIP, then the IEP Team must revise the BIP to better meet the student's needs.

Exceptions – Weapons, Drugs and Serious Bodily Injury

A school district may remove a student with a disability for up to 45 school days in an Interim Alternative Educational Setting (IAES), regardless of the manifestation determination review outcome (i.e. even if the conduct is related to a student's disability), if the student engaged in any of the following:

1. **Weapons** - A student carries or possesses a weapon (guns, knives with more than ½ inch blade, brass knuckles, etc.) at school or at a school-related event;
2. **Drugs** – A student knowingly possesses, uses, sells or attempts to sell drugs (e.g. marijuana) at school or at a school-related event; or
3. **Serious Bodily Injury** – A student who inflicts serious bodily injury onto another person at school or at a school related event. The injury must cause extreme physical pain (more than some pain/discomfort) and generally require immediate and continued medical attention (e.g. impair person's function for some sustained amount of time). Hearing Officers have found a broken nose, swollen knee and migraine did not meet this standard and were not serious bodily injuries.

The IEP Team must select an appropriate IAES placement (not the school administrator), which will allow the student to make meaningful progress in the general education curriculum and toward his or her IEP goals. If a student has social/emotional IEP goals, he or she likely cannot make progress toward these goals in an online learning program or home tutoring program. An alternative school placement should be considered for such students.

What happens if an IEP Team finds that a student's conduct is not related to his or her disability?

The school district can suspend or expel the student under the rules for all students (see Part I). The student does not have a right to return to his or her IEP placement, but the student is still entitled to FAPE during removal (i.e. opportunity to make progress in the general education curriculum and toward his or her IEP goals).

Can a student be arrested or face criminal charges for a behavior that is related to his or her disability?

Yes, if students are 12 years or older, he or she can be arrested and charged with crimes at school, even if the conduct is related to his or her disability. If a student is 11 years old or younger, he or she cannot be charged with a crime. The MDR law only applies in school discipline proceedings and does not impact criminal matters.

Can a student or parent appeal an MDR finding?

Yes. A student/parent can appeal the MDR finding at the Bureau of Special Education Appeals (BSEA). The family can file a hearing request with or without an attorney. The family must file within two years of the manifestation determination. The family should ensure that it asks the Hearing Officer for an “expedited hearing” in the complaint. A family appealing an MDR finding is entitled to a faster hearing – within 15 calendar days from the filing date. Find more information and the form to file a complaint go to the BSEA website here:

- <https://www.mass.gov/orgs/bureau-of-special-education-appeals>.

What is a manifestation determination process for a student with a 504 plan?

Students on 504 Plans have substantially similar rights to an MDR and the MDR process as students with IEPs with a few exceptions:

- Students who are currently engaging in the use/possession of illegal drugs or alcohol are not entitled to a MDR prior to disciplinary removal. The use of drugs or alcohol disqualifies the student from disability status under the law. Thus, the student will have the same protections as general education students (see Part I).
- Schools can only use IAES for possession of guns (not for other weapons or serious bodily injury).
- If an MDR Team finds a student’s conduct is related to his disability, he/she is not necessarily automatically entitled to a FBA/BIP, but instead is entitled to a re-evaluation to determine the student’s overall educational needs.

Right to FAPE During Removal

Do students with disabilities have a right to FAPE during long-term (10+ days) disciplinary removals?

If a student has an IEP, yes. If a student has a 504 Plan, no. Students with 504 Plans do not have a right to FAPE, but do have the same educational service rights as general education students (see Part I).

Students on IEPs are entitled to have the opportunity to make meaningful educational progress toward the general education curriculum and toward their IEP goals during long-term removals (more than 10 days in a school year).

IEP Teams must ensure that during long-term removal (10+ days) students with IEPs are able to access the general education curriculum and have the opportunity to make progress toward IEP goals during removal. However, school districts do not have to follow the child's IEP plan as written (e.g. service grid) during removal. Schools only have to provide enough services and support to give the student an opportunity to progress.

- Generally, a student with a social/emotional/behavioral goal on his or her IEP requires a school environment in order to have the opportunity to make progress toward this goal.
- Generally, a student who requires special education teacher instruction during a regular school day is going to require special education teacher instruction to make progress in the grade-level curriculum while he or she is excluded (i.e. requires special education, not general education tutoring).
- Generally, if a student has a vocational-technical goal on his or her IEP and/or is enrolled in a credit-bearing vocational-technical course, he or she is going to require some access to this program and/or an alternative at-home project in order to have the opportunity to make progress.
- Generally, if a student has a physical therapy, occupational therapy, speech/language therapy, social skills group, counseling or other related service goal, the student requires access to some of these services during removal in order to have the opportunity to make progress toward these goals.

How can a family complain if they do not think the school is providing a student FAPE during removal?

A student/parent can complain about the level of educational services during a long-term suspension or expulsion at the Bureau of Special Education Appeals (BSEA). The family can file a hearing request with or without an attorney. The family must file within two years of disciplinary removal. The family should ensure that it asks the Hearing Officer for an "expedited hearing" in the complaint. A family filing a complaint about services during a disciplinary removal is entitled to a faster hearing – within 15 calendar days from the filing date. Find more information and the form to file a complaint, go to the BSEA website here:

- <https://www.mass.gov/orgs/bureau-of-special-education-appeals>.

Additional Information

- Chart on Special Education Rights in School Discipline:
http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.pdf
- US Department of Education Letter on Inclusion of Behavioral Supports for IEP Students:
<https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>