

SCHOOL DISCIPLINE LAW REVISITED

KROKIDAS & BLUESTEIN
ATTORNEYS

Presented to the:



September 2016

Today's Trainers

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Allison Belanger
Law Clerk



Elka Sachs, Esq.
Partner

Krokidas & Bluestein LLP

Providing legal services in the areas of public, non-profit and for-profit general corporate law, health and education law, real estate development, finance and property management, public and private civil litigation, labor and employment law, and social services law.

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Objectives

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Overview of the new Massachusetts Student Discipline & Access to Education Law and how charter schools should prepare for compliance

- Understand the intent behind the law
- Understand the different methods of student discipline
- Understand the notice requirements
- How you can help ensure compliance

Overview

4a

Addressing Student Behavior

Alternatives to Discipline

In-school Suspension

Short-term Suspension

Long-term Suspension

“The Big Four”

Emergency Removal

Student Procedural Rights

Notice

Principal* Meetings

Superintendent* Appeals

K-3: Special Rules

Student Academic Rights

Academic Progress

Special Education

Overview

4b

Addressing Student Behavior

Alternative Dispute Resolution

In-school

Short-term

Long-term

"The Day After Tomorrow"

Emergency Removal

Student Procedural

K-3: Special Rules

Student Academic Progress

Progress

Special Education

***NOTE:**

"Principal" and "Superintendent": Board of Trustees must designate who will serve as the "Principal" and "Superintendent" for the purpose of the student discipline regulations.

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Addressing Student Behavior

Alternatives to Discipline

In-school Suspension

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Long-term Suspension

“The Big Four”

Emergency Removal

Alternatives to Discipline

- Employing behavioral management tactics to avoid suspension

In-school Suspension

- Removal of a student from regular classroom activities, but not from school premises, for 10 days* or less.

Short-term Suspension

- Removal of a student from school premises and regular classroom activities for 10 days* or less.

Long-term Suspension

- Removal of a student from school premises and regular classroom activities for more than 10 days*.

“The Big Four”

- Removal of a student from school premises for an unlimited period of time for certain serious offenses

Emergency Removal

- Temporary removal of a student from school premises because the student’s presence poses a danger or is substantially disruptive, and no other methods would be effective

Addressing Student Behavior

5b

Addressing Student Behavior

Alternatives to Discipline

- Employing behavioral management tactics to avoid suspension

***NOTE:**

“10 Days”: For the purpose of calculating the number of days, the aggregate number of days must be used.

Ex: On Occasion 1, Student faced an out-of-school suspension for 6 days. On Occasion 2, Student faced an in-school suspension for 2 days. Currently, School seeks to suspend Student for 4 days. The current 4-day suspension would be a long-term suspension.

$$[6 + 2 + 4 > 10]$$

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Long-te

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Emergency Removal

Emergency Removal

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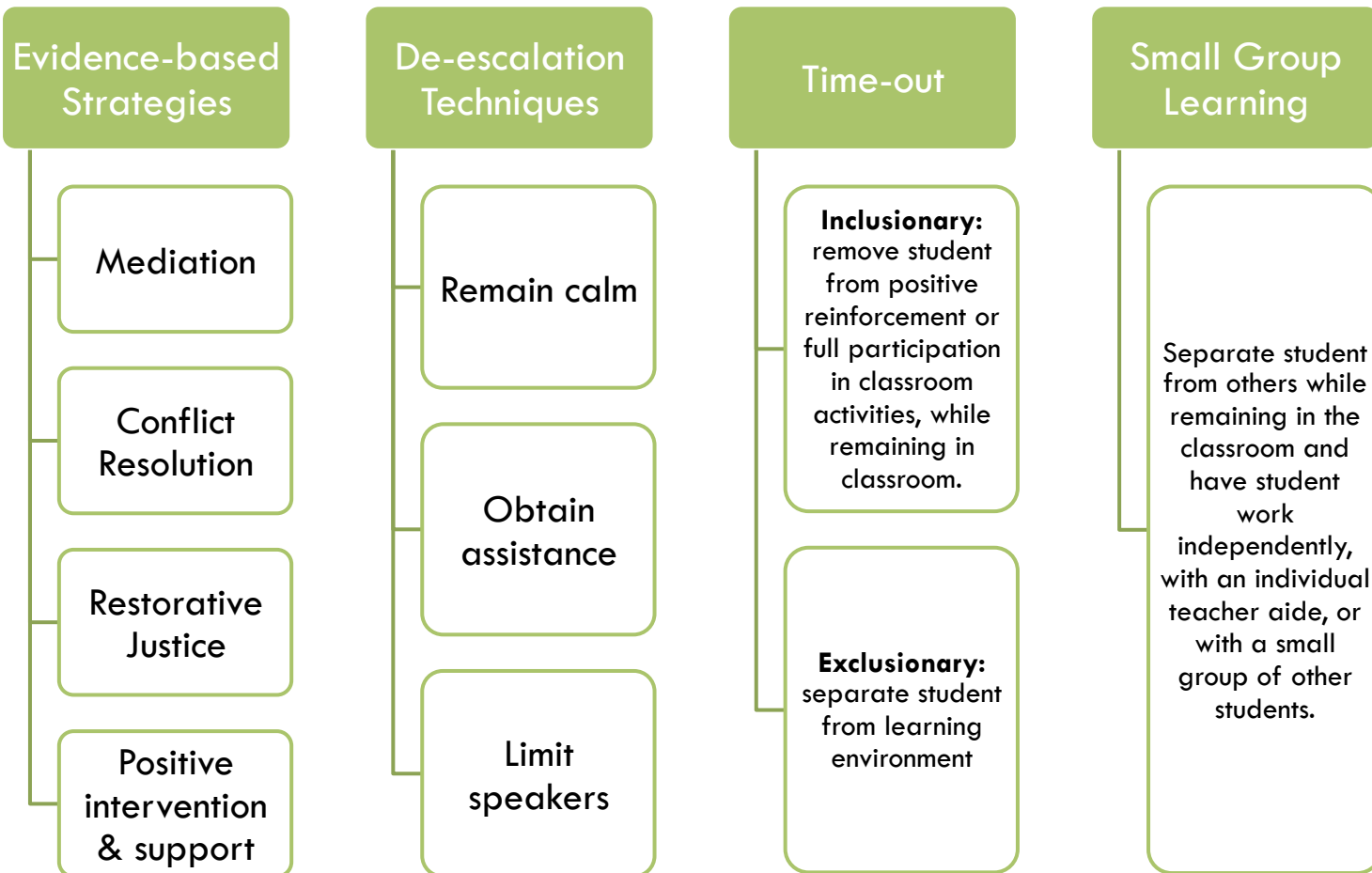
Emergency Removal

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Alternatives to Discipline

- Employing behavioral management tactics to avoid suspension

6a



Alternatives to Discipline

- Employing behavioral management tactics to avoid suspension

6b

Exclusionary Time-Out

- Must get Principal permission to exceed 30 minutes
- Student must be continuously observed by a staff member
- Staff must be with, or immediately available, to student at all times
- Space must be clean, safe, sanitary, and appropriate for the purpose of calming

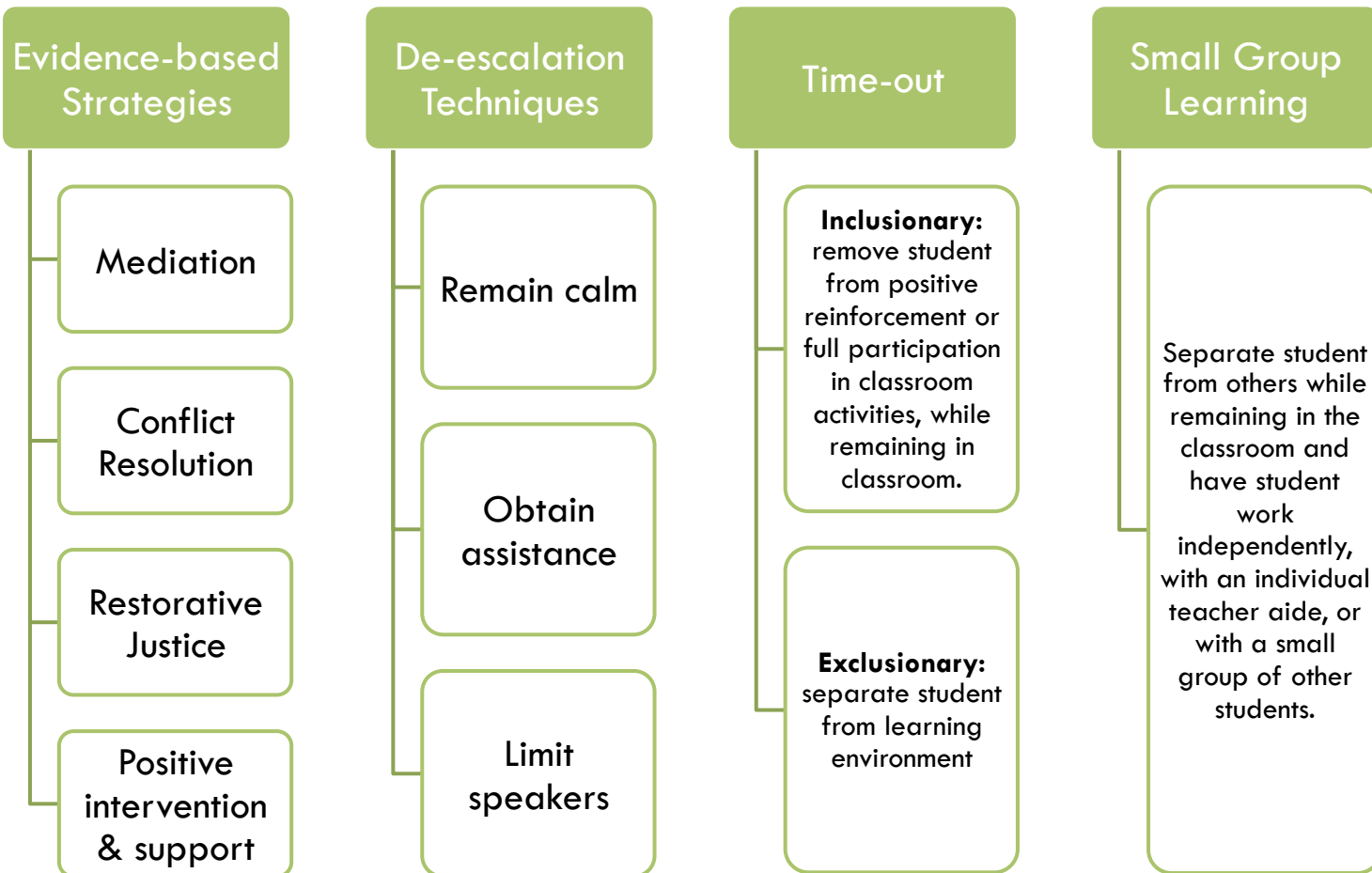
Seclusion

- Student is involuntarily confined to a room
- Door is closed and/or student is physically prevented from leaving
- Student is alone, with no staff members inside the room
- No staff members are immediately available outside the room
- Staff members are not continuously observing or providing support to assist the student in calming

Alternatives to Discipline

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6c



Addressing Student Behavior

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Addressing Student Behavior

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8a

KEY POINTS

- ❑ Removal from participation in extracurricular activities or school-sponsored events does not constitute in-school suspension.
- ❑ All in-school suspension days count toward the 10-day limit*

In-school Suspension

- Removal of a student from regular classroom activities, but not from school premises, for 10 days* or less.

8b

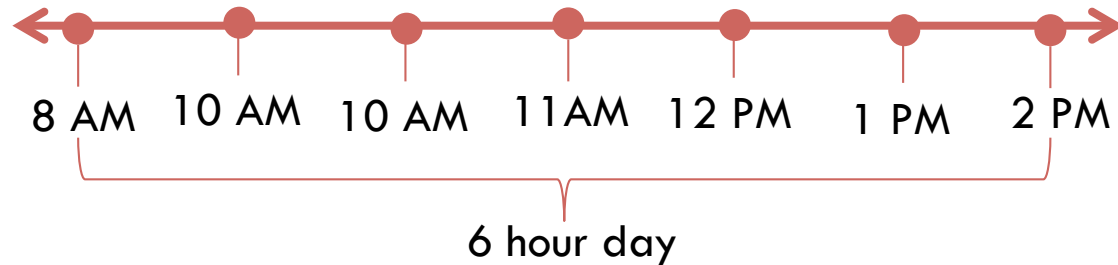
KEY POINTS

- Removal from regular classroom activities for 10-15 days
- All day

***NOTE:**

One-half a day or more constitutes a day

3 hour ISS = 1 day



10-

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Student Procedural Rights

Notice

Principal*
Meetings

Superintendent*
Appeals

K-3: Special Rules

Student Academic Rights

Academic
Progress

Special Education

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Student Procedural Rights

Notice

Principal* Meetings

Superintendent* Appeals

K-3: Special Rules

Inform student of offense charged and basis for charge

Give student opportunity to dispute charges and explain circumstances

Principal exercises discretion and decides whether student committed offense charged

Inform student of length of in-school suspension

Immediately make reasonable effort to orally notify parent and invite parent to meeting

Hold meeting on day of suspension, if possible

Send written notice to student and parent

In-school Suspension

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13a

KEY POINTS

- ☐ Any removal from school premises counts as a day, regardless of length
- ☐ Removal from activities that constitute a privilege is not considered suspension
- ☐ No need to provide transportation

Short-term Suspension

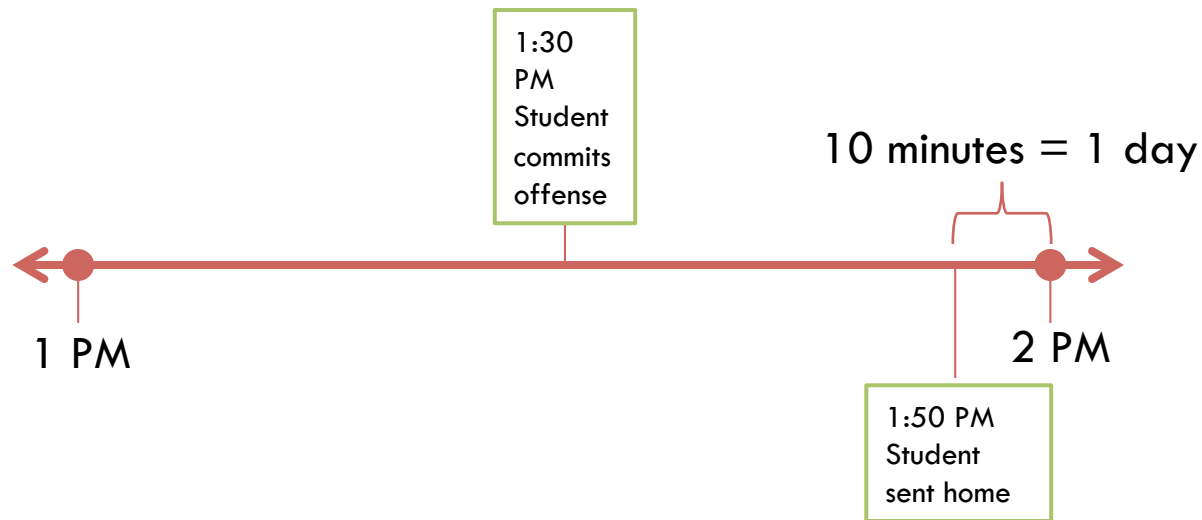
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13b

KEY POINTS

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15a

Student Procedural Rights

Notice

Principal* Meetings

Superintendent* Appeals

K-3: Special Rules

Provide student and parent with oral and written notice of proposed suspension and hearing

Hold hearing

Notify student and parent, in writing, of determination and reasons

If K-3, notify superintendent of suspension

Short-term Suspension

- Removal of a student from school premises and regular classroom activities for 10 days* or less.

15b

Student Procedural Rights

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K-3: Special Rules

NOTICE MUST INCLUDE:

- Disciplinary offense with which student is charged;
- Basis for charge;
- Potential consequences (length of suspension);
- Opportunity for hearing;
- Date, time, and location of hearing; and
- Right to have interpreter at hearing.

If K-3, notify
superintendent
of suspension

Short-term Suspension

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15c

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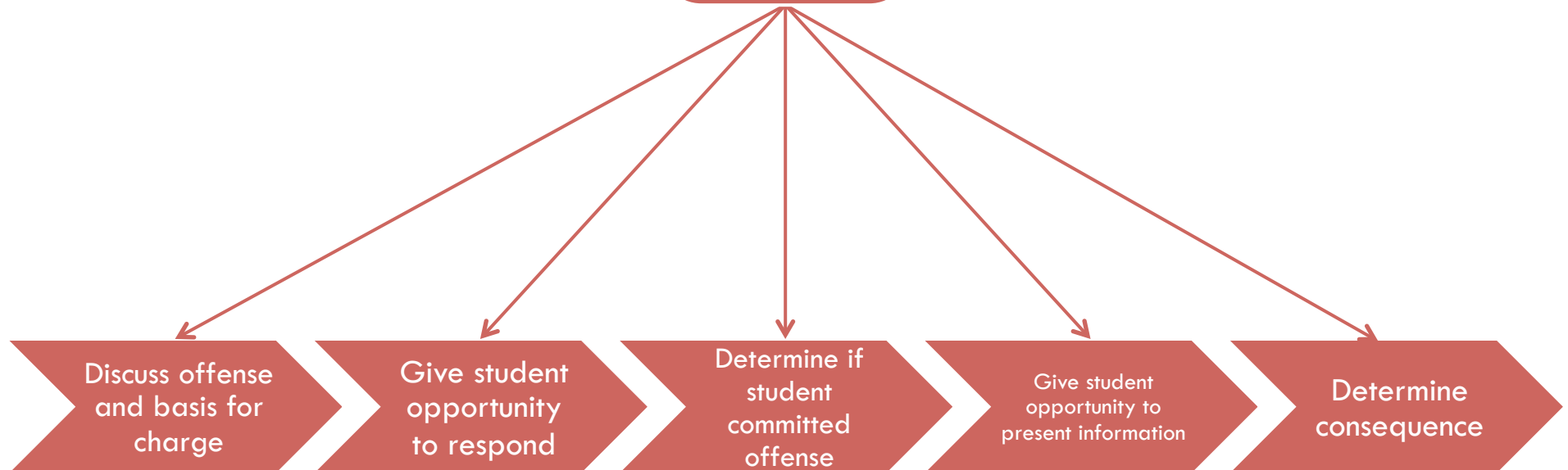
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Hold hearing



Short-term Suspension

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KEY POINT

- ❑ Recall aggregation rule
- ❑ No longer than 90 days unless Big Four
- ❑ Very comprehensive procedural requirements

Long-term Suspension

- Removal of a student from school premises and regular classroom activities for more than 10 days*.

20a

Student Procedural Rights

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Hold hearing

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If K-3, notify superintendent of suspension

Appeal to superintendent (all grades)

Long-term Suspension

- Removal of a student from school premises and regular classroom activities for more than 10 days*.

20b

Student Procedural Rights

No

Principal*

Superintendent

K-3: Special Rules

NOTICE MUST INCLUDE:

- Disciplinary offense with which student is charged;
- Basis for charge;
- Potential consequences (length of suspension);
- Opportunity for hearing;
- Date, time, and location of hearing; and
- Right to have interpreter at hearing.
- **Specific rights to which student is entitled at hearing; and**
- **Right to appeal to superintendent.**

If K-3, notify
superintendent
of suspension



Appeal to
superintendent
(all grades)

Long-term Suspension

- Removal of a student from school premises and regular classroom activities for more than 10 days*.

20c

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Provide student and parent with oral and written notice of proposed suspension and hearing

Hold hearing

Notify student and parent, in writing, of determination and reasons

If K-3, notify superintendent of suspension

Appeal to superintendent (all grades)

Hold hearing
with principal

Before Hearing

Right to notice

Opportunity to review
record and documents

During Hearing

Student

Right to be
represented

Right to produce
witnesses

Right to cross-
examine

Right to request
recording

Parent

Opportunity to
discuss student's
conduct and offer
additional
information,
including mitigating
facts

Long-term Suspension

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Student Procedural Rights

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Hold hearing

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If K-3, notify superintendent of suspension

Appeal to superintendent (all grades)

Long-term Suspension

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22a

Student Procedural Rights

No

Principal*

Superintendent

K-3: Special Rules

NOTICE MUST:

- Identify offense;
- Identify date on which hearing took place and participants of hearing;
- Set out key facts and conclusions reached by principal;
- Identify length and effective date of suspension;
- Identify date on which student should return to school;
- Inform student of right to academic progress; and
- Inform student of right to appeal to superintendent.

If K-3, notify
superintendent
of suspension



Appeal to
superintendent
(all grades)

Long-term Suspension

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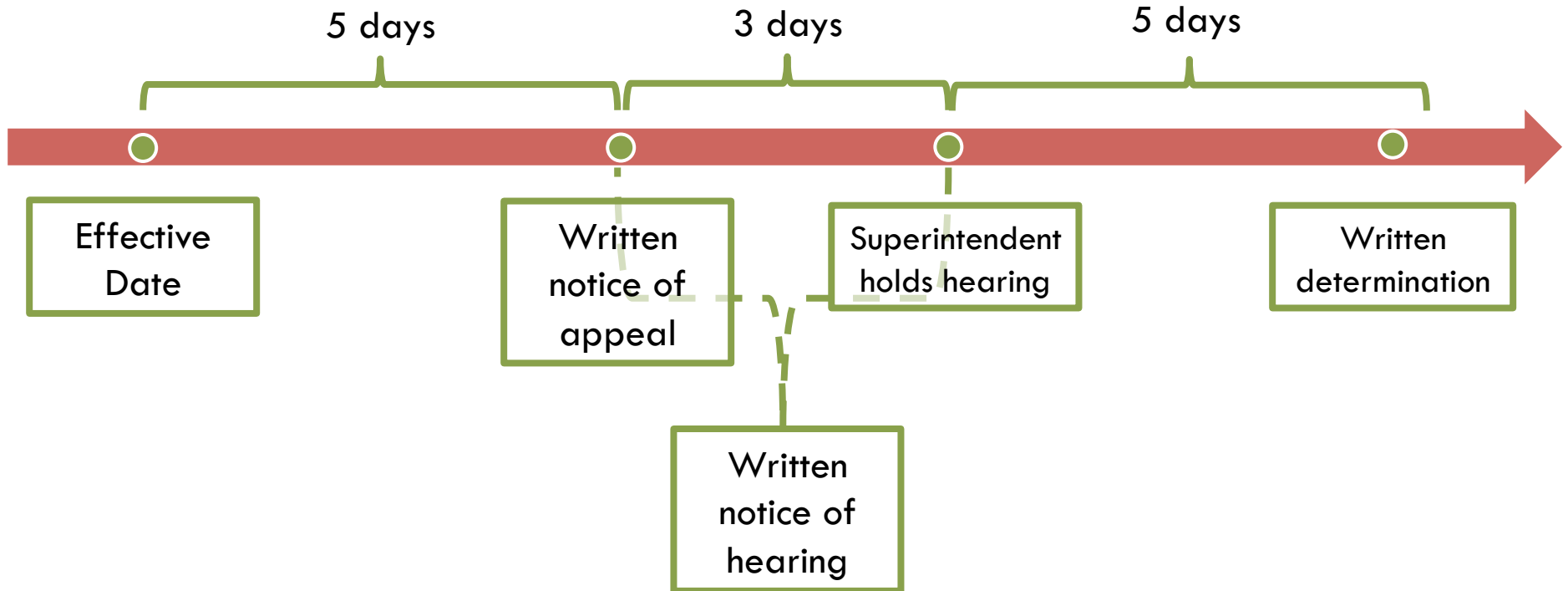
Hold hearing

Notify student and parent, in writing, of determination and reasons

If K-3, notify superintendent of suspension

Appeal to superintendent (all grades)

Appeal to
Superintendent
(all grades)



Appeal to
Superintendent
(all grades)

Before Hearing

Right to notice

Opportunity to
review record and
documents

During Hearing

Student

Right to be
represented

Right to produce
witnesses

Right to cross-
examine

Parent

Opportunity to
discuss student's
conduct and offer
additional
information,
including
mitigating facts

Appeal to
Superintendent
(all grades)

HEARING

Arrange recording



Inform attendees of recording



Determine if student committed charged offense



Determine consequence

26a

Appeal to
Superintendent
(all grades)

5 days

3 days

5 days

Effective
Date

Written
notice of
appeal

Superintendent
holds hearing

Written
determination

Written
notice of
hearing

Appeal to
Superintendent
(all grades)

NOTICE MUST :

- Identify offense;
- Identify date on which hearing took place and participants of hearing;
- Set out key facts and conclusions reached by principal;
- Identify length and effective date of suspension;
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Effective
Date

Written
termination

When
notice of
hearing

Student Procedural Rights

Notice

Principal* Meetings

Superintendent* Appeals

K-3: Special Rules

Provide student
and parent with
oral and
written notice
of proposed
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Hold hearing

Notify student
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and reasons

If K-3, notify
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Appeal to
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(all grades)

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Possession of a
dangerous weapon

Assault on educational
staff

Possession of
controlled substance

Felony charge,
conviction, admission
of guilt, or
delinquency complaint

Addressing Student Behavior

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Addressing Student Behavior

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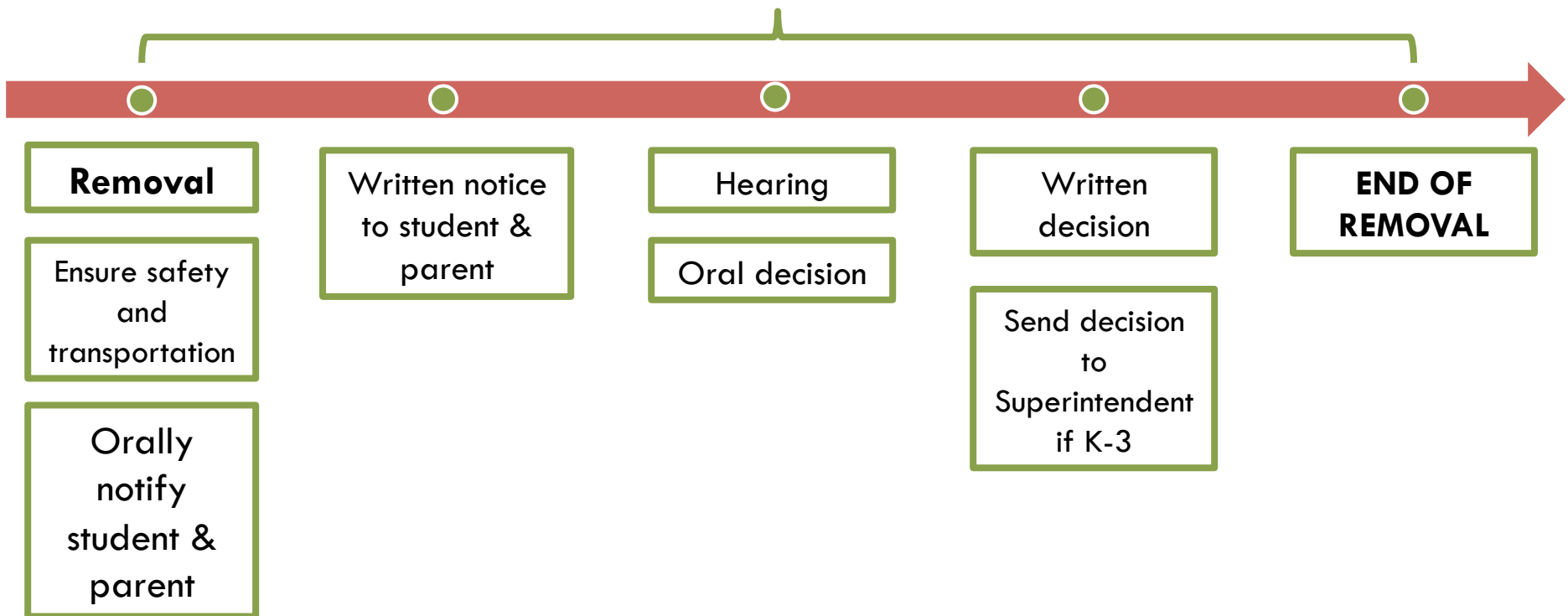
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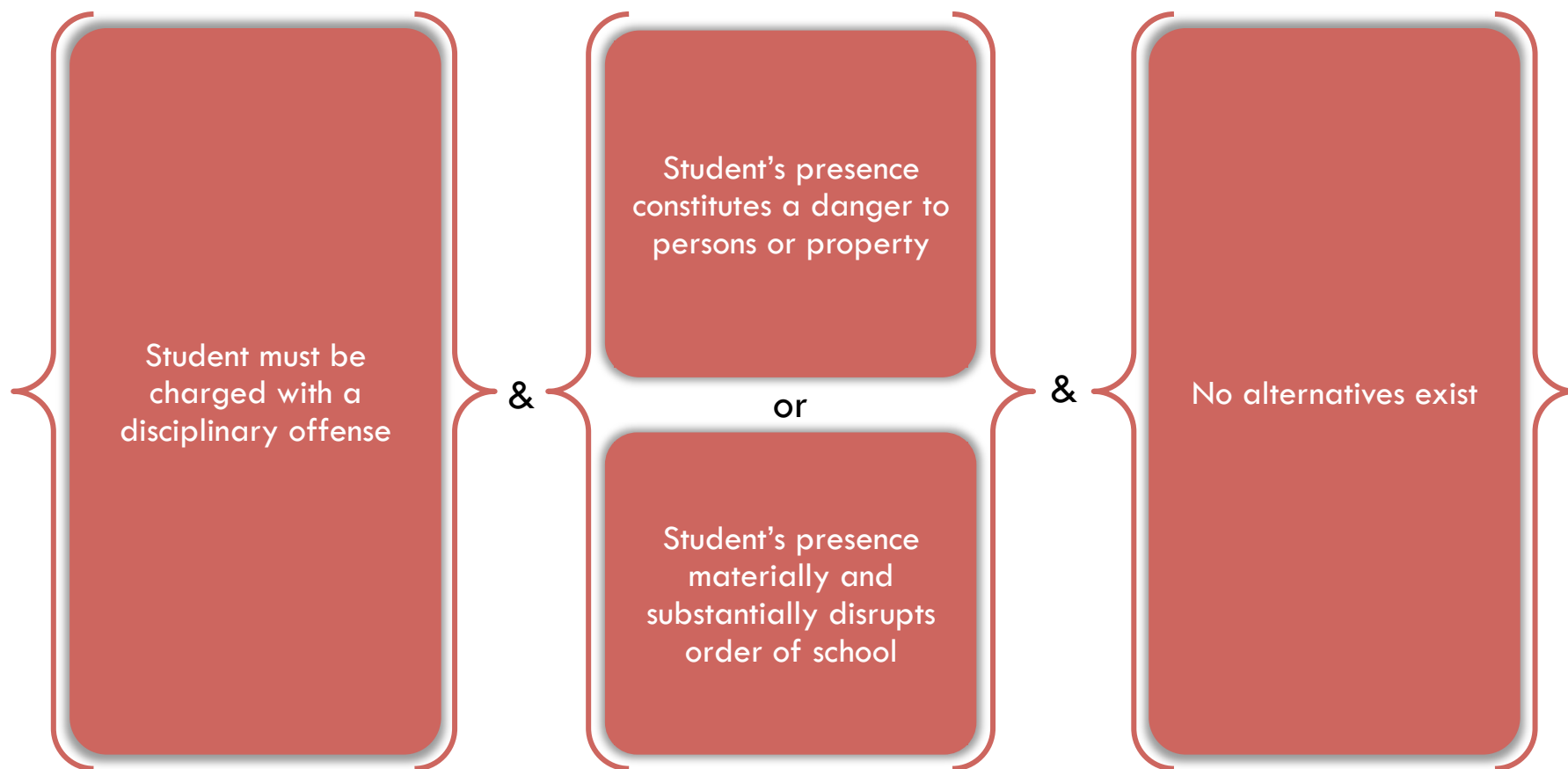
2 DAYS



Emergency Removal

- Temporary removal of a student from school premises because the student's presence poses a danger or is substantially disruptive, and no other methods would be effective

31

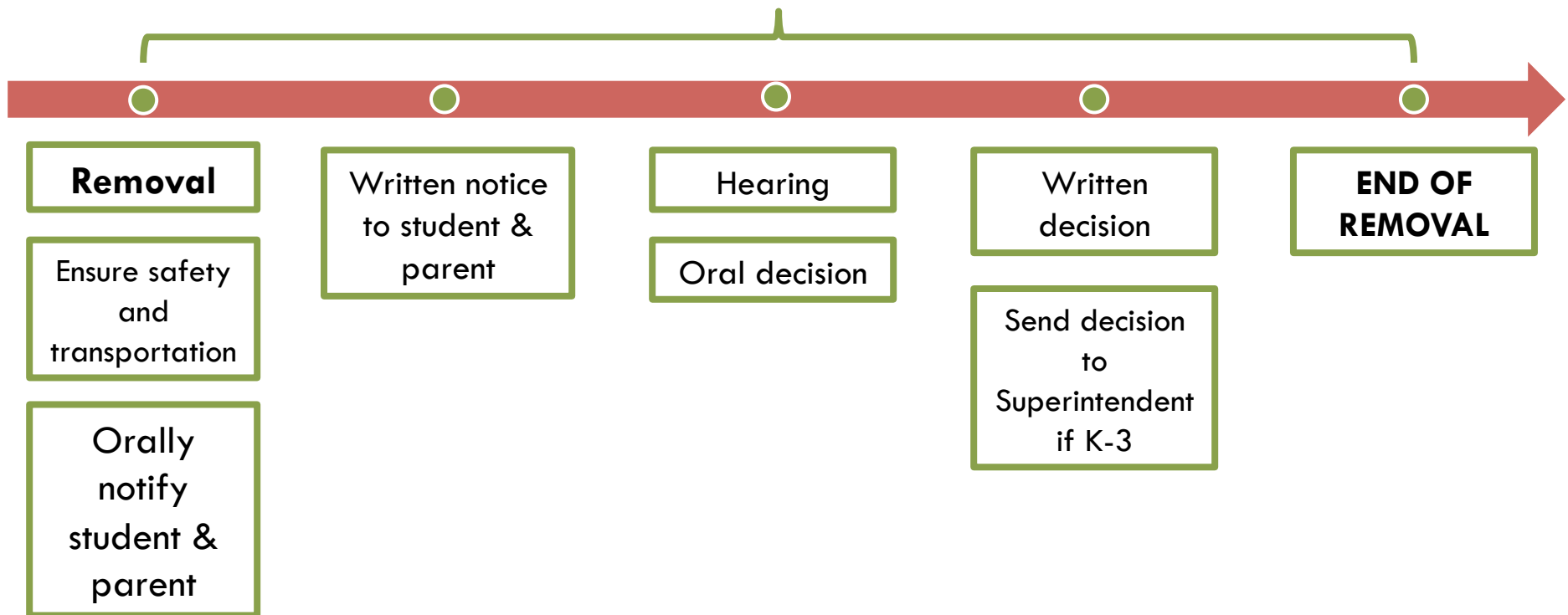


Emergency Removal

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32a

2 DAYS



Emergency Removal

- Temporary removal of a student from school premises because the student's presence poses a danger or is substantially disruptive, and no other methods would be effective

32b

2 DAYS

ORAL NOTICE MUST :

- Identify offense;
- Identify reason for removal;
- Explain basis;
- Explain potential consequences;
- Notify of right to hearing;
- Notify of right to dispute charges and present explanation;
- Identify date, time, and place for hearing; and
- [If >10 days] explain rights held at hearing and right to appeal to superintendent

Removal

Ensure safety and transportation

Orally notify student & parent

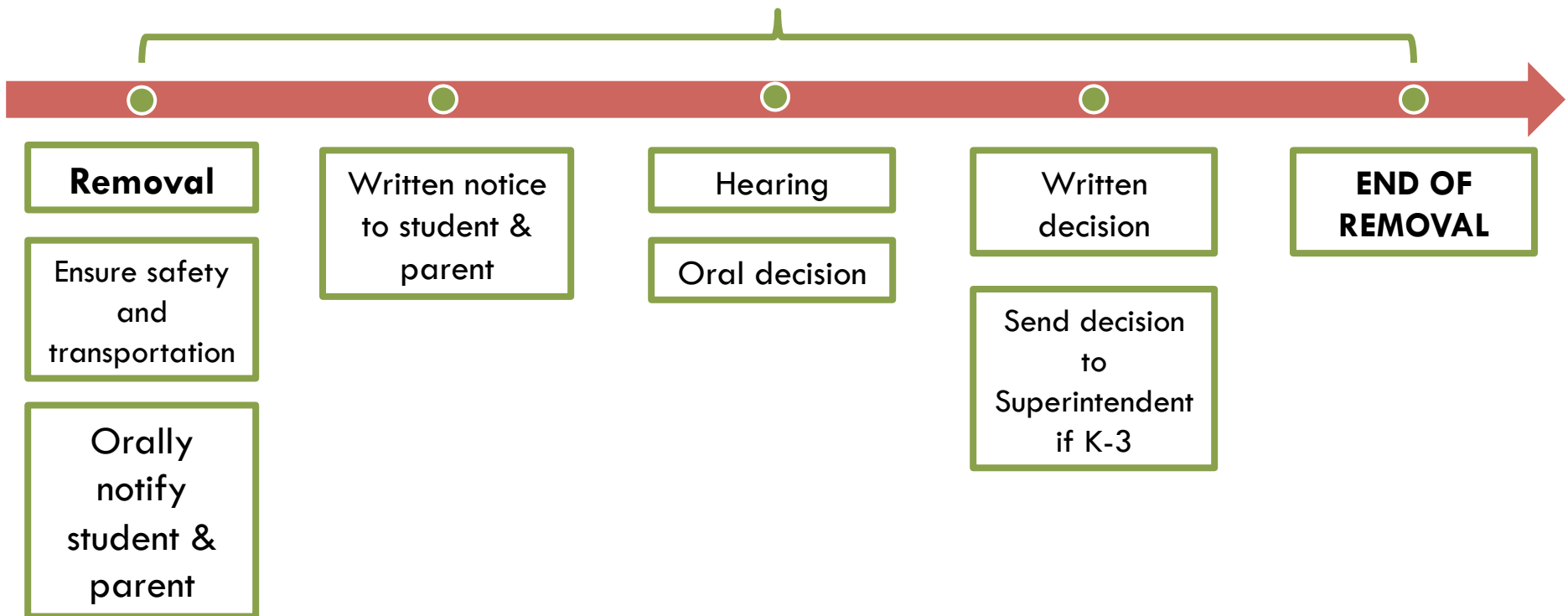
END OF REMOVAL

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32c

2 DAYS



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Student Academic Rights

Academic Progress

Special Education

Student Academic Rights

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Student Academic Rights

Academic Progress

Must be given opportunity to earn credits, make up assignments, tests, papers, and other school work

Special Education

Additional protections provided by IDEA and Section 504

Student Academic Rights: Academic Progress

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All suspensions

Right to make up
quizzes, tests,
assignments, etc.

Long-term suspension

Right to make up
quizzes, tests,
assignments, etc.

School-wide
education service
plan

Student Academic Rights

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Student Academic Rights

Academic Progress

Must be given opportunity to earn credits, make up assignments, tests, papers, and other school work

Special Education

Additional protections provided by IDEA and Section 504

Questions

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Allison Belanger
Law Clerk



Elka Sachs, Esq.
Partner

Krokidas & Bluestein LLP

Providing legal services in the areas of public, non-profit and for-profit general corporate law, health and education law, real estate development, finance and property management, public and private civil litigation, labor and employment law, and social services law.

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