

Secrets to Success: Effective Alternatives to Out-of-School Suspension

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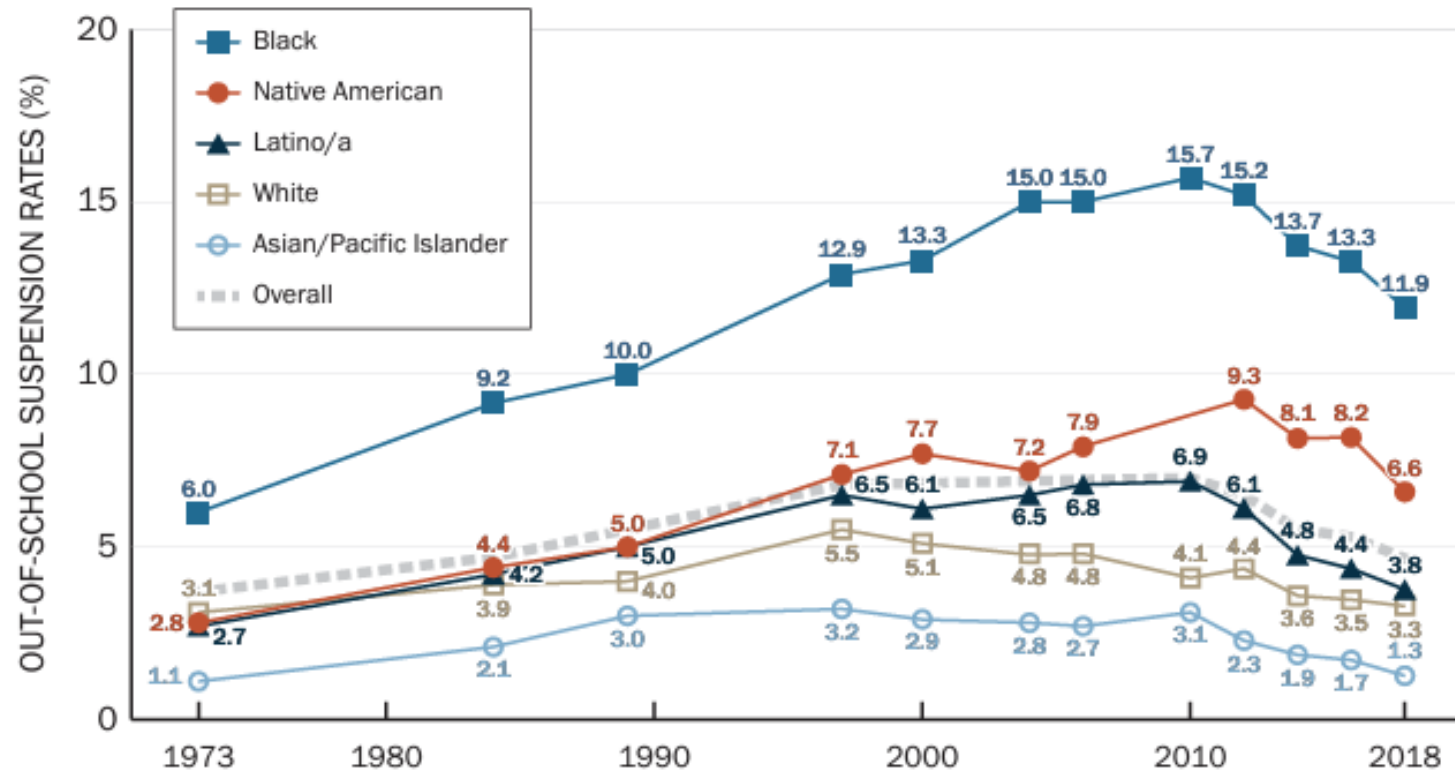
Please Note:

This presentation and the accompanying materials are for educational purposes only and do not constitute legal advice. Charter schools should consult their local counsel with questions about the information discussed in this presentation.

The Landscape

Out-of-School Suspensions

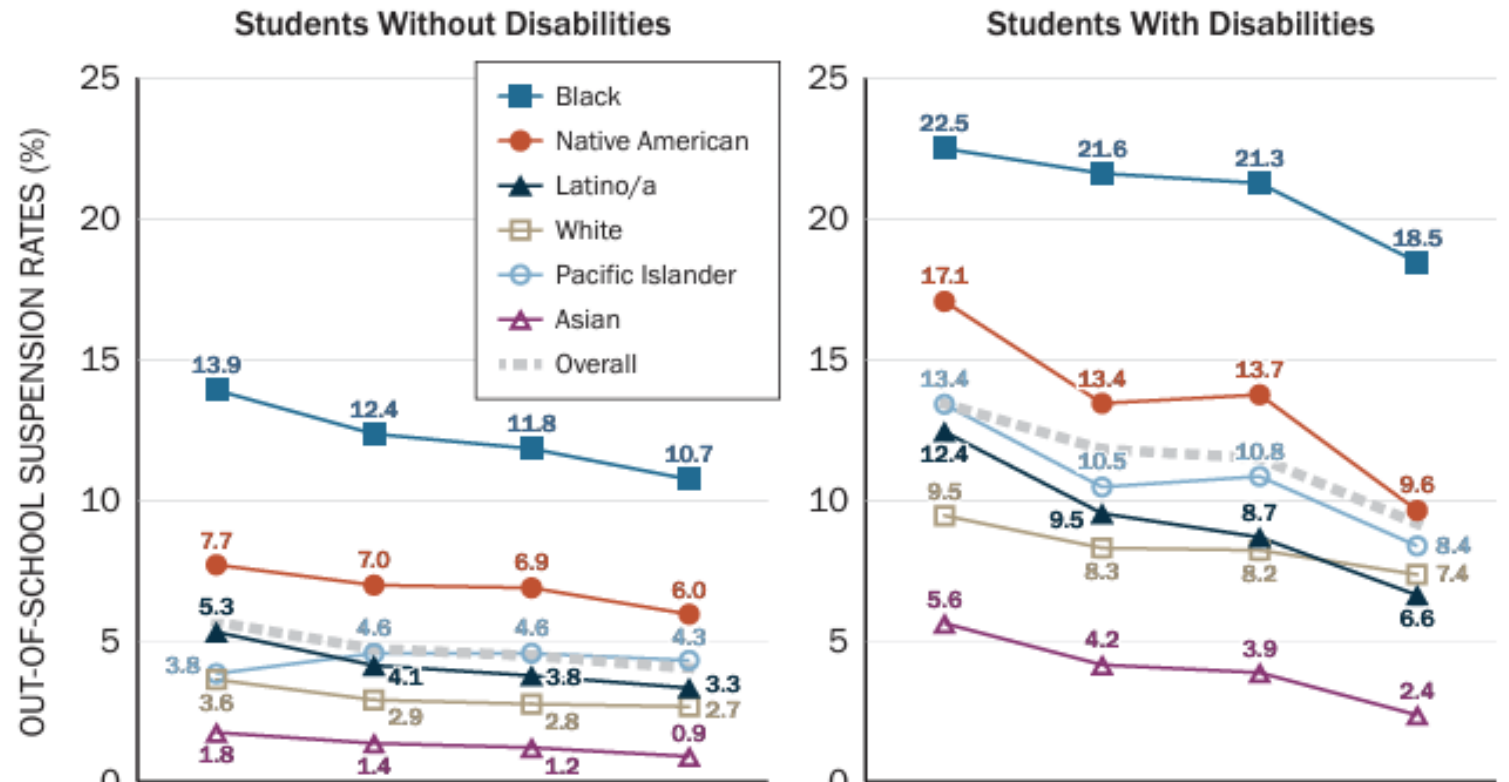
Trends in Out-of-School Suspension Rates in K–12 Schools, by Race and Ethnicity, 1973–2018



Leung-Gagné, M., McCombs, J., Scott, C., & Losen, D. J. (2022). Pushed out: Trends and disparities in out-of-school suspension. Learning Policy Institute. <https://doi.org/10.54300/235.277>

Out-of-School Suspensions

Trends in Out-of-School Suspension Rates of K–12 Students by Race and Ethnicity and Disability Status, 2011–12 to 2017–18



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Out-of-School Suspensions

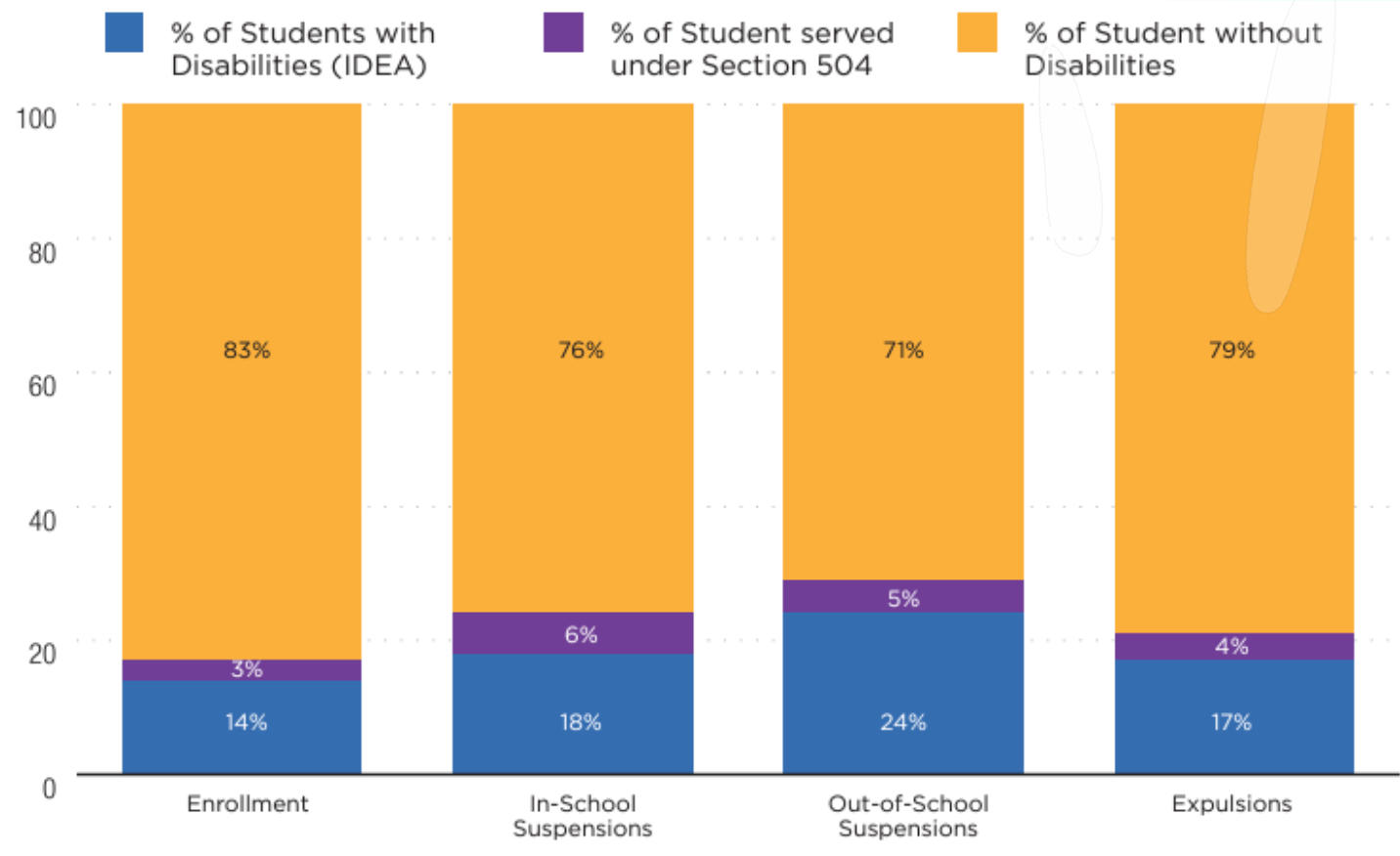
Percent of K-12 students who were disciplined in public schools, by sex and race/ethnicity

		Hispanic or Latino of any race	American Indian or Alaska Native	Asian	Native Hawaiian or Other Pacific Islander	Black or African American	White	Two or more races
Boys	Enrollment	15%	<1%	3%	<1%	8%	24%	2%
	In-School Suspensions	13%	1%	<1%	<1%	15%	37%	3%
	Out-of- School Suspensions	12%	1%	1%	<1%	18%	36%	4%
	Expulsions	14%	1%	1%	<1%	18%	34%	3%
Girls	Enrollment	14%	<1%	3%	<1%	7%	22%	2%
	In-School Suspensions	6%	<1%	<1%	<1%	8%	14%	2%
	Out-of- School Suspensions	5%	<1%	<1%	<1%	9%	13%	2%
	Expulsions	6%	<1%	<1%	<1%	8%	13%	2%

U.S. Department of Education, Office for Civil Rights, 2020-21 Civil Rights Data Collection, released November 2023, available at <https://civilrightsdata.ed.gov>.

Out-of-School Suspensions

Percent of K-12 students who were suspended and expelled in public schools, by disability



U.S. Department of Education, Office for Civil Rights, 2020-21 Civil Rights Data Collection, released November 2023, available at <https://civilrightsdata.ed.gov>.

Impacts of Out-of-School Suspensions on Students

- Higher number of behavioral incidents and days suspended in subsequent years
- Higher number of absences in subsequent years
- Lower academic credit accumulation
- Lower graduation rates
- Lower college enrollment rates
- Higher involvement in juvenile and adult criminal justice systems

Moving Away from Out-of-School Suspensions

States With the Largest Decreases in Out-of-School Suspension Rates in Secondary Schools, 2011–12 to 2017–18

State	Average Annual Enrollment, 2011–12 to 2017–18	Out-of-School Suspension Rate, 2011–12 (%)	Out-of-School Suspension Rate, 2017–18 (%)	Change in Suspension Rates, 2011–12 to 2017–18 (Percentage Points)
Illinois	883,312	9.8	5.4	-4.4
California	2,852,723	8.9	4.9	-4.0
Massachusetts	422,665	8.3	4.8	-3.5
Vermont	31,205	8.5	5.2	-3.3
Oregon	268,953	8.9	5.7	-3.2
Maryland	417,187	9.7	6.8	-3.0
Washington	523,610	8.7	5.7	-3.0
Texas	2,412,610	8.9	6.4	-2.5
Idaho	133,100	5.8	3.7	-2.2
Wisconsin	385,063	8.2	6.2	-2.0

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Alternatives to out-of-school suspensions MUST be considered	Alternatives to out-of-school suspensions MAY be considered	No legislative guidance available
Arizona	Alaska	Alabama
Arkansas	California	Iowa
Delaware	Colorado	Kansas
District of Columbia	Connecticut	Montana
Idaho	Florida	New Mexico
Illinois	Georgia	New York
Indiana	Hawaii	North Dakota
Kentucky	Louisiana	Oklahoma
Maine	Michigan	Pennsylvania
Maryland	Minnesota	Rhode Island
Massachusetts	Missouri	South Dakota
Mississippi	Nebraska	Wisconsin
Nevada	North Carolina	Wyoming
New Hampshire	Ohio	
New Jersey	South Carolina	
Oregon	Texas	
Tennessee	Vermont	
Utah	Washington	
Virginia		
West Virginia		

Laws and Legislative Guidance Regarding Alternatives, by State

Examples of Out-of-School Suspension Alternatives

- Community service
- Counseling
- In-school suspension
- Peer mediation
- Mentoring
- Parent conference or supervision
- Restitution
- Restorative justice
- Restriction on extracurricular activities/ school-sponsored events

Case Studies

Mindsets First:

- All of the children are all of ours.
- Strong, consistent, school-wide cultural systems set up 90% of students to never even be eligible for suspension.
- Suspension is our **last** move, but it is a move we will make.
- The first incident is an opportunity (for all of us) to learn so we set all of us up to succeed in the future.
- Logical consequences are powerful, immediate, and proximate responses to cultural violations.
- Restoring and mediating can also include consequences.

Case Study: Elementary School

- **Jay – 4th grader – severe class disruption; damage to property; yelled/swore at teacher.**
- **Step 1: “Win the room/space”**
 - Cool down corner OR call for help.
 - Student’s disruption stops or is removed.
- **Step 2: Space & Time to dig into why/Caregivers**
 - Dean conversation – engage family.
 - AP checks in with teacher & class.
- **Step 3: Logical Consequences/Caregivers**
 - Student had to finish work.
 - Student had restorative conversation with teacher & some classmates.
- **Step 4: Proactive Moves to reduce likelihood of repeat**
 - Teacher practices moves
 - Student accesses tools
 - Dean/counselor checks in
 - Support plan

Case Study: Middle School

- **Joselyn & Jordan – 8th graders – cafeteria argument leads to pushing/shoving & when adults engaged, they got cursed out.**
- **Step 1: “Win the room/space”**
 - Cool down corner OR call for help.
 - Student’s disruption stops or is removed.
 - **Stop the world moment**
- **Step 2: Space & Time to dig into why/Caregivers**
 - Dean conversation – engage caregivers.
 - AP checks in with teacher & class.
- **Step 3: Logical Consequences/Caregivers**
 - Lunch in a more structured setting
 - Students set ground rules.
- **Step 4: Proactive Moves to reduce likelihood of repeat**
 - Teacher practices moves
 - Student accesses tools
 - Dean/counselor checks in
 - Support plan

Case Study: High School

- **Terri – 11th Grade – social media arguing leading to students threatening to fight one another in school. Lots of buzz from other students.**
- **Step 1: “Win the room/space”**
 - Leader meets student(s) upon arrival, separates them, and investigation begins.
 - **Bookbag check; locker check**
 - *Engage caregivers.*
- **Step 2: Space & Time to dig into why/Caregivers**
 - Dean conversation with other students.
- **Step 3: Logical Consequences/Caregivers**
 - Temporarily disallowed from participating in after-school events
- **Step 4: Proactive Moves to reduce likelihood of repeat**
 - Advisors notified to leverage restorative conversations when ready
 - Ground rules set
 - Dean/counselor checks in
 - Support plan

Questions?



Optimizing the Use of Alternatives to Suspension

School Climate and Culture

- Charter school staff understand their roles and responsibilities related to student discipline
- Targeted and timely professional development opportunities
- Discipline Policies are clear, flexible, & equitable and allow the decision-maker a range of options
- School routines are thoughtfully designed and implemented
- SRO and law enforcement is minimized

Massachusetts Example

603 CMR 53.05: Alternatives to Suspension under M.G.L. c. 71, § 37H^{3/4}

In every case of student misconduct for which suspension may be imposed, a principal, headmaster, superintendent or other person acting as a decision-maker at a student meeting or hearing **shall first consider ways to re-engage the student in learning and shall not use suspension from school as a consequence until alternative remedies have been tried and documented, except as follows: (1) where said decision-maker documents specific reasons why alternative remedies are unsuitable or counterproductive; or (2) where the student's continued presence in school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm to another person while in school.** Alternative remedies may include, but are not limited to, the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and collaborative problem solving.

Operations Best Practices

- Develop targeted forms and checklists to ensure compliance with relevant state laws and school policies

- Template Letters
- Checklists
- Investigations
- Manifestation Determination Reviews
- Alternative remedies by grade range (elementary/middle/high school)

- Quick Reference Guides

STEPS	☒
STEP 1: GIVE ORAL NOTICE TO STUDENT The principal² must inform the student and parent orally of the following: • The disciplinary offense; • Basis for the charge; • Potential consequences, including the potential length of the student's suspension; • The opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident and for the parent to attend the hearing; • The date, time, and location of the hearing; • The right of the student and the students' parent to interpreter services at the hearing if needed to participate; • The student's hearing rights³; and • If a suspension is imposed, the right to appeal the decision to the superintendent⁴.	Date: _____ Time: _____ Method: ☐ Phone ☐ In-Person Language: ☐ English ☐ Language spoken at home Included: ☐ Disciplinary offense ☐ Basis for charge ☐ Potential consequence ☐ Opportunity to have hearing with principal ☐ Opportunity to dispute charges ☐ Opportunity to present explanation of alleged incident ☐ Opportunity for parent to attend hearing;

Operations Best Practices

Make Best Internal Use of Data Collection and Analysis:

- **Track** types of discipline and when used
- **Consider impact** of suspensions of students of color; students with disabilities; LGBTQIA students; low-income students; English learners
- **Review data** by charter school (district); school; decision-maker; referrals for discipline by teacher/other staff.
- **Coordinate regular review and analysis of data** by, and feedback from, school administrators and other staff, School trustees, students, parents and other stakeholders
- **Adjust/Revise/Refine policies as needed!**

Questions and Answers

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CHECKLIST: LONG-TERM, OUT-OF-SCHOOL SUSPENSION

Student's Name: _____ Date: _____

Total Number of Suspension Days Student Has Served this Academic Year: _____

Does the student have an IEP or 504 Plan? ☐ Yes¹ ☐ No

Primary Language Spoken at Home: _____

Checklist Completed By: _____

Note 1: This checklist applies where the disciplinary offense may result in a suspension lasting more than ten (10) days (including, in the aggregate, any prior suspensions throughout the academic year).

STEPS	☒
STEP 1: GIVE ORAL NOTICE TO STUDENT The principal² must inform the student and parent orally of the following: - The disciplinary offense; - Basis for the charge; - Potential consequences, including the potential length of the student's suspension; - The opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident and for the parent to attend the hearing; - The date, time, and location of the hearing; - The right of the student and the students' parent to interpreter services at the hearing if needed to participate; - The student's hearing rights³; and - If a suspension is imposed, the right to appeal the decision to the superintendent⁴.	Date: _____ Time: _____ Method: ☐ Phone ☐ In-Person Language: ☐ English ☐ Language spoken at home Included: ☐ Disciplinary offense ☐ Basis for charge ☐ Potential consequence ☐ Opportunity to have hearing with principal ☐ Opportunity to dispute charges ☐ Opportunity to present explanation of alleged incident ☐ Opportunity for parent to attend hearing;

¹ Offenses involving special education students must be handled pursuant to the school's procedures as required by federal and state special education laws. The attached procedures may apply, but only after the school has determined that the behavior was not a manifestation of the student's disability.

² The Massachusetts Student Discipline regulations require that a charter school's board of trustees designate an individual to serve as the "principal" for the purpose of effectuating the Massachusetts Student Discipline Regulations. The charter school must identify this individual in its code of conduct.

³ A list of student's rights at a long-term suspension hearing is attached.

⁴ The Massachusetts Student Discipline regulations require that a charter school's board of trustees designate an individual to serve as the "superintendent" for the purpose of effectuating the Massachusetts Student Discipline Regulations. The charter school must identify this individual in its code of conduct.

	☐ Right to interpreter ☐ Date, time, and location ☐ Long-term suspension hearing rights ☐ Right to appeal decision
STEP 2: ORAL NOTICE TO PARENT⁵ The principal must inform the parent orally of the following: • The disciplinary offense; • Basis for the charge; • Potential consequences, including the potential length of the student's suspension; • The opportunity for the student to have a hearing with the principal concerning the proposed suspension, including the opportunity to dispute the charges and to present the student's explanation of the alleged incident and for the parent to attend the hearing; • The date, time, and location of the hearing; • The right of the student and the students' parent to interpreter services at the hearing if needed to participate; • The student's hearing rights; and • If a suspension is imposed, the right to appeal the decision. The principal must make reasonable efforts to notify the parents orally of the opportunity to attend the hearing. The principal is presumed to have made reasonable efforts if the principal has sent written notice and documented at least two attempts to contact the parent in the manner specified by the parent for emergency notification.	Date: _____ Time: _____ Method: ☐ Phone ☐ In-Person Language: ☐ English ☐ Language spoken at home If applicable, dates and times of various attempts to contact parent: _____ _____ _____ _____ Included: ☐ Disciplinary offense ☐ Basis for charge ☐ Potential consequence ☐ Opportunity to have hearing with principal ☐ Opportunity to dispute charges ☐ Opportunity to present explanation of alleged incident ☐ Opportunity for parent to attend hearing; ☐ Right to interpreter ☐ Date, time, and location ☐ Long-term suspension hearing rights ☐ Right to appeal decision

⁵ The hearing may be held without parent provided that the school has sent written notice and made two attempts to contact parent in manner specified by parent for emergency notification, as indicated in the checklist here.

STEP 3: WRITTEN NOTICE TO STUDENT AND PARENT Must include all items described in the oral notice of Step 2. Must be provided in English and the primary language of the student's home.	Date Sent: _____ Method: ☐ Hand-Delivery ☐ Certified ☐ First-Class ☐ Email ☐ Other agreed to by principal and parent (explain: _____) Included: ☐ Disciplinary offense ☐ Basis for charge ☐ Potential consequence ☐ Opportunity to have hearing with principal ☐ Opportunity to dispute charges ☐ Opportunity to present explanation of alleged incident ☐ Opportunity for parent to attend hearing; ☐ Right to interpreter ☐ Date, time, and location ☐ Long-term suspension hearing rights ☐ Right to appeal decision
STEP 4: PROVIDE STUDENT WITH OPPORTUNITY TO REVIEW STUDENT RECORD AND OTHER DOCUMENTS In advance of the hearing, school must provide the student with the opportunity to review the student's record and the documents upon which the principal may rely in making a determination to suspend the student or not.	☐ Student Declined ☐ Student Accepted Date of Review: _____

STEP 5: CONDUCT LONG-TERM SUSPENSION HEARING

The purpose of the hearing with the principal is to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction.

For § 37H 3/4 offenses: Discuss ways to re-engage the student in the learning process and alternative remedies in lieu of suspension.

Note: The Principal or decision-maker may not suspend or expel a student until alternative remedies have been employed and their use and results documented, following and in direct response to a specific incident or incidents, unless specific reasons are documented as to why such alternative remedies are unsuitable or counter-productive, and in cases where the student's continued presence in school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in school. Alternative remedies may include, but are not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice; and (iv) collaborative problem solving.

Must afford student all opportunities listed in Student's Rights at Long-Term Suspension Hearing.

Must afford parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the principal should consider in determining consequences for the student.

Date: _____

Time: _____

Location: _____

☐ Afforded Rights Listed
Student's Rights at Long-Term
Suspension Hearing

☐ Afforded Parent Right to
Discuss Conduct and Offer
Information

☐ Student Requested Audio

☐ Student Requested Copy of
Audio
Date Provided: _____

STEP 6: RENDER WRITTEN DECISION

Based on the evidence, the principal shall determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension and ways to re-engage the student in learning, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension.

Written decision must:

- Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
- Set out the key facts and conclusions reached by the principal;
- **For § 37H ¾ offenses:** document the specific reasons why alternative remedies are unsuitable or counter-productive, and whether and how the student's continued presence in school would pose a specific, documentable concern about the infliction of serious bodily injury or other serious harm upon another person while in school.
- Identify the length and effective date of the suspension, as well as a date of return to school;

Date: _____

Time: _____

Method: ☐ Hand-Delivery
☐ Certified
☐ First-Class
☐ Email
☐ Other agreed to
by principal and
parent (explain:

_____)

**Did the student commit the
offense?** ☐ Yes
☐ No

Considered:

☐ Mitigating circumstances
☐ Alternatives to suspension

Written Decision:

• Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school⁶; • Inform the student of the right to appeal the principal's decision to the superintendent or designee, but only if the principal has imposed a long-term suspension. Notice of the right of appeal shall be in English and the primary language of the home if other than English, or other means of communication where appropriate, and shall include the following information stated in plain language: ○ The process for appealing the decision, including that the student or parent must file a written notice of appeal with the superintendent within five calendar days of the effective date of the long-term suspension; provided that within the five calendar days, the student or parent may request and receive from the superintendent an extension of time for filing the written notice for up to seven additional calendar days; and ○ That the long-term suspension will remain in effect unless and until the superintendent decides to reverse the principal's determination on appeal. Must be sent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or other method of delivery agreed to by the principal and the parent.	☐ Identified disciplinary offense ☐ Identified the date on which the hearing took place ☐ Identified the participants at the hearing ☐ Set out the key facts and conclusions ☐ Describe alternatives to suspension tried or why alternatives would unsuitable or counter-productive (req. for § 37H ¾ offenses only) ☐ Identified length of suspension ☐ Identified effective date of suspension ☐ Identified return date to school ☐ Explained right to make academic progress during removal ☐ Informed student of right to superintendent appeal in both English and primary language spoken at home ☐ Explained superintendent appeal process
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⁶ A sample list of alternative educational services is attached.

Students' Rights at Long Term Suspension Hearing

Students who may be placed on long-term suspension following a hearing with the principal are entitled to the following rights:

1. In advance of the hearing, the opportunity to review the student record and any documents upon which the principal may rely in making a determination to discipline the student;
2. The right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense;
3. The right to produce witnesses on the student's behalf and to present the student's explanation of the alleged incident;
4. The right not to be compelled to produce witnesses or to present the student's explanation of the alleged incident;
5. The right to cross-examine witnesses presented by the school, if any;
6. The right to request that the hearing be recorded by the principal, and a copy of the audio recording provided to the student or parent upon request. If the student or parent requests an audio recording, the principal shall inform all participants before the hearing that an audio recording will be made and a copy will be provided to the student and parent upon request;
7. The right to interpreter services at the hearing if necessary to participate. If interpreter services are necessary, please notify us immediately; and
8. The right to appeal the principal's decision to the Executive Director.

Educational Services Plan

[THESE ARE EXAMPLES, USE SCHOOL-SPECIFIC OPTIONS]

- Tutoring at [NAME] Library by a [SCHOOL] employee
 - o [SCHOOL] Assistant Principal will provide tutor with all work from the student's classroom teachers to be completed
 - o Ability to take all quizzes, tests, and other evaluations required by classroom teachers in the presence of the tutor
- Online learning/Tutoring
- Access to Google Classroom

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