

**Implementing the New School
Discipline Law: Chapter 222 of the
Acts of 2012**

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Introduction & Overview of Presentation (1)

- The Center for Public Representation: who we are and what we do?
- Focus of Presentation
- Why Chapter 222 is Important

Introduction & Overview of Presentation (2)

Overview of Presentation

- History, Purpose & Scope of Chapter 222
- Requirements of Chapter 222
- Status of Implementation & Next Steps
- Discussion, Questions, & Answers

Chapt. 222: History

- **History:**

- In 2012, the Massachusetts legislature enacted new legislation, Chapter 222 of the Acts of 2012 (“Chapter 222), that requires school districts to educate students who have been suspended or expelled from their schools, among other requirements.

Chapt. 222: Purpose & Scope (1)

- **Purpose:**
 - limit the use of long-term suspension
 - promote parent involvement
- **Scope:**
 - Applies to all public elementary and secondary school programs in Massachusetts
 - Includes charter and virtual schools

Chapt. 222: Purpose & Scope (2)

- **Scope continued:**

Applies to disciplinary suspensions for all offenses except:

- Possession of a dangerous weapon;
- Possession of a controlled substance;
- Assault on a educational staff; and
- Felony charge or delinquency, complaint, or conviction, adjudication, or admission of guilt of such felony,

“if a principal determines that a student’s continued presence in school would have a substantial detrimental effect on the general welfare of the school.”

G.L. c. 71, §§37H or 37H1/2, 603 C.M.R. § 53.03(a).

Requirements of Chapt. 222 (1)

- **Provision of Alternatives to Suspension**
 - At discretion of school principal to decide consequence of misconduct offense
 - Consider way to re-engage student in learning
 - Avoid using long-term suspension from school until other alternatives attempted
 - Alternatives include: evidence-based strategies, mediation, conflict resolution, restorative justice, and positive behavioral supports

Requirements of Chapt. 222 (2)

- School district obligations to provide students who have been expelled or suspended (in or out of school) with educational opportunities so that they may make academic progress students.

Requirements of Chapt. 222 (3)

- Due Process Requirements

Notice of suspension

Opportunity for hearing required

Notice and Hearing *before* suspension can occur (with some exceptions-emergency removal to be discussed later in the presentation)

Requirements of Chapt. 222 (4)

- **Notice Requirements**

- The disciplinary offense
- Basis of the charge
- Potential consequences for the offense (including the possible length of the student's suspension)
- Information about the right to have a hearing

Requirements of Chapt. 222 (5)

- **Notice Requirements (cont.)**
 - The date, time & location of the hearing
 - The right to interpreter services
 - If the student is placed on long-term suspension:
 - The right to alternative education
 - The right to appeal the principal's suspension decision to district's superintendent

Requirements of Chapt. 222 (6)

- How must notice be made?
 - In writing
 - Orally
- The school principal must make reasonable efforts to provide notice (which includes at least two attempts)
- Notice must be delivered by hand, first-class mail, certified mail or email, or any other method agreed upon by the parent and principal

Requirements of Chapt. 222 (7)

- **Emergency Removal of a Student**

Temporary removal allowed only if student's continued presence at school would:

- pose a danger to others;

- pose a danger to property; or

- materially and substantially disrupt school order; and

- there is no alternative to alleviate the danger or disruption

A principal cannot remove the student from school until provisions have been made for the student's safety and transportation

Requirements of Chapt. 222 (8)

- Emergency Removal of a Student (cont.)
- Temporary removal limited to two (2) days
- During the two days the principal must:
 - Make efforts to provide notice of the emergency removal to the student's parents;
 - Provide written notice of removal and right to hearing
 - Hearing must take place before the expiration of the two days unless otherwise agreed to by the parents, the student, and the principal; and
 - Issue an oral decision on the day of the hearing and a written decision no later than the next school day.

Requirements of Chapt. 222 (9)

- **Principal Hearings for Short-Term Suspensions**
 - Purpose of Hearing
 - Determination of whether student committed the offense and the consequence to be imposed
 - Notice of outcome of hearing and reasons for determination

Requirements of Chapt. 222 (10)

- **Principal Hearings for Long-term Suspensions**
 - Purpose of Hearing
 - Student/Parent Rights at Hearing:
 - Review student records and documents;
 - Right to representation by counsel;
 - Right to produce witnesses on student's behalf;
 - Right to cross-examine witnesses presented by the school district; and
 - Right to have hearing recorded and to receive a copy of recording.

Requirements of Chapt. 222 (11)

- **Principal Hearings for Long-term Suspensions**
(cont.)
 - Parent's right to discuss student's conduct and offer mitigating information that should be considered by the principal
 - Written determination of whether student committed the offense and appropriate remedy/consequence to the student

Requirements of Chapt. 222 (12)

- **Notice of Determination Where Long-Term Suspension Imposed**

- Identification of disciplinary offense, date of, and participants at hearing
- Key facts and conclusions reached by principal
- Identification of length and effective date of suspension and date student may return to school
- Notice of right to receive educational services during suspension period
- Notice of right to appeal to superintendent

Requirements of Chapt. 222 (13)

- **Superintendent Hearings**

- Available to students placed on long-term suspensions
- Written notice of appeal must be filed within five (5) calendar days of the effective date of the long-term suspension (although extensions can be requested of up to seven (7) additional calendar days)
- Hearing to be held within three (3) school days of the request for an appeal, unless parent requests an extension of up to seven (7) calendar days

Requirements of Chapt. 222 (14)

Superintendent Hearings (cont.)

- Written notice of time & place of hearing required
- Students and parents have same rights as in principal hearings for long-term suspensions
- Superintendent to issue decision within five (5) calendar days
- Superintendent may impose same or lesser, but not greater, punishment than imposed by principal
- Superintendent decision final decision of school district

Requirements of Chapt. 222 (15)

- **In-school Suspension**

- Alternative to short-term out-of-school suspension for disciplinary offenses
- Student must be provided opportunity to make academic progress during period of in-school suspension
- Notice to student of offense and length of suspension (not to exceed 10 cumulative days or consecutively, in a school year)
- Notice to parent & meeting invitation
- Written notice to parent and student & meeting invitation

Requirements of Chapt. 222 (16)

- **Exclusion from Extracurricular Activities & School Sponsored Events**
 - The principal may remove a student from participation in extracurricular activities and school sponsored events and also deny the student privileges.
 - No right to due process for denial of these privileges, activities, and events under Chapt. 222

Requirements of Chapt. 222 (17)

- **Disciplinary Offenses Under Section 37H or 37H ½**
 - Section 37H and 37H ½ offenses
 - All school districts must adopt disciplinary policies that comply with Chapt. 222 for students accused of Section 37H and 37H ½ offenses
 - Students may be suspended from school for more than 90 days for Section 37H and 37H ½ offenses
 - Students suspended for Section 37H and 37H ½ offenses must be given the opportunity to receive educational services & make academic progress during the suspension period

Requirements of Chapt. 222 (18)

- Right to receive educational services and make academic progress during suspension or expulsion
- Rights of students suspended from school for more than ten (10) days or expelled-right to opportunity to receive educational services and make academic progress through school-wide education service plan
- Requirements of School-wide Education Service Plan
- Notice of Educational Services for Students in Long-term Suspension & Expulsion

Requirements of Chapt. 222 (19)

- **Data collection and reporting requirements**
 - School districts must annually collect and report data to DESE on in-school suspension, short and long-term out-of-school suspensions, expulsions and emergency removals
 - Principals of each school must periodically review discipline data by selected populations (*e.g.*, race, ethnicity, gender, socioeconomic status, English language learner status , and student with a disability status)

Requirements of Chapt. 222 (20)

Data collection and reporting requirements (cont.)

- Annually, every fall, DESE shall publically publish online an analysis of discipline data by selected populations
- DESE identification of schools in need of assistance due to over-reliance upon suspension and expulsion & identify models that these schools can incorporate to address the problem
- DESE identification of significant disparities in use of suspension and expulsion to address misconduct. Districts to develop & implement plan to address such disparities

Conclusion:

Status of Implementation & Next Steps

- DESE Promulgation of Regulations
- Date Statute goes into Effect
- Next Steps

Next Steps: Implementation