


# **CHAPTER 20: EDUCATION IN THE COMMUNITY**

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# EDUCATION IN THE COMMUNITY

DYS youth face decisions and possible difficulties as they transition back from a DYS residential facility to educational services in the community.

 **Tip for families:** DYS educational liaisons and caseworkers can help make decisions and address such problems when they arise. In addition, families may want to file a complaint with the Program Quality Assurance (PQA) division of the Massachusetts Department of Elementary and Secondary Education (DESE) if such a problem arises. PQA can be reached at (781) 338-3000 (ask for PQA) or <http://www.doe.mass.edu/pqa/>.


## Types of education youth may access

As youth return to the community, DYS will provide for educational services as part of the youth's grant of conditional liberty and individual service plan. These educational services include public school, private school, alternative education, GED preparation, post-secondary education, vocational training, and job skills training.

Public school options include: the school district in which the youth resides; another school district (accessed through the Inter-District School Choice Program or through the Metco program); a vocational school; a charter school; or a transition school (discussed later in this chapter).<sup>1</sup>

Often, a youth doesn't want to go back to school because of his past experiences of humiliation and failure. This situation is not the fault of the child, but the responsibility of adults working with him. Often a youth cannot go back because he has been expelled from a school.

Ultimately, if a youth, after his sixteenth birthday, decides not to enroll in school, other forms of education and training can and should be identified. These activities may include pursuing a GED or vocational training.


 **Tip for families:** DYS, parents, and local school districts must work together to support your child as he returns home. Make sure each is doing their part! If you need assistance, contact your child's DYS caseworker. If that fails, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

## Academic credit transfer

Schools in the community are sometimes reluctant to accept academic credit earned while in DYS custody. When reviewing the transcript of a youth coming from DYS, public schools have a right to consider the nature of the curriculum and the courses for which credits were earned, including hours, rigor, and alignment with curriculum frameworks.

This being said, should a youth, while in DYS custody, succeed in meeting the local school district requirements for graduation regarding course offerings, hours and credits, and in passing the MCAS, he has a right, like any other student, to receive a high school diploma from his school district.

DYS and DYS's education provider have worked to address school reluctance to accept credits by developing a standardized academic transcript, also called a "universal transcript," aligned with those used in public schools.<sup>2</sup> DYS education programs across the state use a standardized transcript form to record and transfer information about students' educational performance.<sup>3</sup> Pursuant to changes to policy guidelines, transcripts should be completed within 48 hours of a youth's transfer and/or release.<sup>4</sup>

 **Tip for families:** If your child is having trouble getting a school to accept credits, contact his DYS caseworker, whose role it is to ensure that credits get transferred from DYS educational programs to the community. If that fails, consider seeking help from one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

## Public schools refusing to enroll a student

Public school districts sometimes refuse to enroll or re-enroll a student living in the district upon release from DYS custody. This may be illegal. In Massachusetts, every person has the right to attend the public schools of the town where he resides.<sup>5</sup> Unless a student has been legally expelled from public school, he has a right to return to his previous or to a different public school when he leaves DYS (if he is a resident of the particular community in question).


## Suspension from public school

Suspension means temporary removal from school, as opposed to expulsion, which can be permanent.<sup>6</sup> Public school districts must have a

written discipline code that includes a list of offenses for which a student may be suspended.<sup>7</sup> For that reason, it is impossible to list here all the reasons for which a youth could be suspended from public school.

However, the U.S. Supreme Court has ruled that public schools must provide effective notice and an informal hearing for all suspensions of 10 days or less.<sup>8</sup> Public schools must provide “more formal hearings” for longer exclusions from school.<sup>9</sup>

A public school principal may suspend a student for a day or longer. If the suspension is “indefinite,” it must be treated as if it were an expulsion.

 **Tip for families:** If your child is threatened with an “indefinite suspension,” review local school district policies to see if they require a hearing before such suspension. Even if the policies do not, you should consider the proposed discipline an expulsion and seek the due process protections accorded for expulsions, discussed below.


State statutes that allow for expulsion can also be used as grounds for suspension. Massachusetts General Laws Chapter 71, Section 37H provides that a principal may move to suspend a student who:

- is found in possession of a dangerous weapon (including, but not limited to, a gun or a knife) or a controlled substance on school premises or at school-sponsored or school-related events;<sup>10</sup> or
- assaults a principal, assistant principal, teacher, teacher’s aide or other educational staff on school premises or at school-sponsored or school-related events.<sup>11</sup>

Any student to be suspended for such possession or assault must be notified in writing of an opportunity for a hearing before the principal.<sup>12</sup> At the hearing, the student may bring representation and may present evidence and witnesses.<sup>13</sup>

In addition, Massachusetts General Laws Chapter 71, Section 37H1/2 provides that a principal may move to suspend a student who, while enrolled, is issued a criminal complaint charging him with a felony offense and if the principal believes that the student’s continued presence in school would have a substantial detrimental effect on the general welfare of the school.<sup>14</sup> The school must provide the student with written notification of the charges and the reasons for such suspension prior to such suspension taking effect.<sup>15</sup>

Students with disabilities (whether or not they have been identified as students with disabilities) are entitled to certain protection from suspensions that exceed a total of ten days in a school year. See the section entitled “Protections of students with disabilities from suspensions and expulsions” below.

 **Tip for families:** Parents should receive notice of each proposed suspension. If you are not receiving such notices, contact the school principal.

## Expulsion from public school

Expulsion from public school is legal in certain circumstances only. Before outlining those circumstances, it is important to note that the U.S. Supreme Court and Massachusetts courts have ruled that public school students have a right to some level of due process prior to suspensions of over ten days and expulsion. At a minimum, this due process right guarantees a student the right to notice and some meaningful opportunity to be heard.<sup>16</sup>

There are several Massachusetts statutory provisions that describe when a student may be expelled and the required process. These provisions are discussed below.

Massachusetts General Laws Chapter 76, Section 17, states that when a student is expelled from a public school, he shall, upon request, be given by the school committee a written statement of the reasons.<sup>17</sup> The state Department of Elementary and Secondary Education has issued an advisory opinion stating that a student could be expelled pursuant to this provision if he assaults another student, but only if the misconduct and the penalty of expulsion are included in the school discipline code and if the expulsion is approved by the school committee.<sup>18</sup> If a school committee seeks to expel a student pursuant to this provision, the committee must first give the student and the student’s parent or guardian an opportunity to be heard.<sup>19</sup>

Additionally, Massachusetts General Laws Chapter 71, Section 37H, provides that a public school principal may move to permanently expel a student who:

- is found in possession of a dangerous weapon (including, but not limited to, a gun or a knife) or a controlled substance on school premises or at school-sponsored or school-related events;<sup>20</sup> or


- assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events.<sup>21</sup>


Any student to be expelled for such possession or assault must be notified in writing of an opportunity for a hearing before the principal.<sup>22</sup> At the hearing, the student may bring representation and may present evidence and witnesses.<sup>23</sup>

A student expelled under this provision has the right to appeal to the superintendent.<sup>24</sup> If a student has been properly expelled under this section, no other school district in Massachusetts has to enroll or provide educational services to that student.<sup>25</sup>


Finally, Massachusetts General Laws Chapter 71, Section 37H1/2, provides that a public school principal may move to permanently expel a student if, while enrolled, the student is adjudicated a delinquent for a felony offense and if the principal believes that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.<sup>26</sup> The school must provide the student with written notice of the charges and the reasons for such expulsion prior to such expulsion taking effect.<sup>27</sup> A student may appeal an expulsion under this provision to the superintendent.<sup>28</sup> Moreover, if a student has been properly expelled under this section, no other school district in Massachusetts has to enroll or provide educational services to that student.<sup>29</sup>

If a student has been formally expelled, using the proper procedures, he has no legal right to continue receiving educational services from his district during the period of expulsion. However, federal law requires school districts to continue to provide special education services to students with special needs who have been suspended or expelled from school for more than ten school days. This topic is discussed below.

 **Tip for families:** If a student is expelled, it is important to find out if the expulsion is of limited duration and, if so, the length of expulsion. For example, in the Boston Public Schools, the length of expulsion is not to exceed one calendar year, and is to be determined by the Building Administrator. If a school district has established a length of expulsion, this information usually can be found in the code of discipline or in the student handbook.

 **Tip for families:** If your child has been permanently expelled from public school, there may nonetheless be other public school options

for him. For example, you might investigate whether a charter school would accept him as a student. Also, you might consider whether he could arrange to live in another community and attend school there. Some communities, such as some larger communities closer to Boston, are more used to accommodating youth with histories of expulsion.

 **Tip for families:** For further information on rights regarding expulsion, see “School Suspension and Expulsion” under the Community Education Materials at <http://www.clcm.org/>.

## Protections for students with disabilities from suspension and expulsion<sup>30</sup>

Students receiving special education services have special protections against suspensions totaling more than ten days in one school year and against expulsion.<sup>30</sup> Under federal special education law, prior to such students being removed from school for more than ten days in one school year, the school must hold a meeting of school district staff, the parent or legal guardian and “relevant” members of the IEP team, called a “manifestation determination,” to determine whether the behavior triggering removal is a manifestation of the student’s disability.<sup>31</sup>

The participants at the manifestation determination meeting determine whether the behavior was caused by, or had a direct and substantial relationship to, the student’s disability or is the direct result of the local education authority’s failure to implement the IEP.<sup>32</sup> If either of these conditions is met, the team concludes that the conduct is a manifestation of the disability.<sup>33</sup>

In such a case, school is required to provide appropriate assessments, supports and services to the student. The IEP team must conduct a functional behavioral assessment and implement a behavioral intervention plan.<sup>34</sup> If a behavioral intervention plan already exists, the team must review and modify it, as necessary, to address the problem behavior.<sup>35</sup>

Additionally, except in the special circumstance discussed next, the IEP team must return the student to his placement unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.<sup>36</sup>

Special circumstances for which the above does not apply and for which the school may remove the student to an interim alternative educational setting for not more than 45 school days, without regard to


whether the behavior is determined to be a manifestation of the youth's disability, exist if the youth:

- carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a state educational agency (SEA) or a local educational agency (LEA);
- knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA; or,
- has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.<sup>37</sup>


However, if the participants at the manifestation determination meeting conclude that the behavior was not related to the disability or the failure to implement the IEP, the student may be disciplined like a regular education student (such as by being removed from school for more than ten days).<sup>38</sup>

If a special education student is removed from his current school placement for more than ten days in a school year, the school must provide educational services to the student.<sup>39</sup> These educational services must meet the requirements of “free appropriate public education” (FAPE), so as to enable the child to continue to participate in the general education curriculum, although in a different setting, and to progress towards meeting his IEP goals.<sup>40</sup> The school must also provide a functional behavioral assessment, as well as behavioral intervention services and modifications, so that this behavior does not recur.<sup>41</sup> These rights exist even if the student is expelled. The educational services do not have to be provided at the school; they can be provided somewhere else.

Students who have not yet been found eligible for special education services may still ask for the protections of federal special education law if the student can show that the school district had knowledge of the student's need for services.<sup>42</sup> The school's knowledge may be demonstrated by such facts as the parent expressing concern in writing or requesting an evaluation, by student behavior, or by school staff expressing concern about a pattern of behavior to the school special education director.<sup>43</sup>

 **Tip for families:** If your child receives special education services (or you believe he should receive such services) and he has been repeatedly suspended, keep track of the number of days. Your child


has a right to a manifestation determination meeting if the suspensions exceed ten days.

 **Tip for families:** For further rights regarding suspension and expulsion of special education students, see

- Protections for Special Education Students Who are Being Disciplined by School Officials, prepared by Children’s Law Center of Massachusetts (May 2005), available at <http://www.youthadvocacyproject.org/pdfs/CLCM/SpEd%20Discipline%20revised%206-05.pdf>.
- “Expulsions and Suspensions of Special Education Students” prepared by Kids Legal Aide of Maine, available at [http://www.kidslegalaid.org/parents/education/expulsion\\_specialed.htm](http://www.kidslegalaid.org/parents/education/expulsion_specialed.htm).

## Transition schools


Some DYS youth leaving DYS’s residential care and returning to school in their communities will be transitioned through a special school program before entering regular school classes. DYS uses transition schools for several reasons. First DYS reports that some youth feel more comfortable transitioning back into their classes out of the mainstream. Second, DYS reports that the transition placement allows teachers to work with youth having trouble adjusting and addresses any security issues that may arise with the youth re-entering the community.

 **Tip for families:** If your child is returning to the community, talk to his DYS primary/community caseworker and the DYS Educational Liaison about school placement options. A youth or family can always request to have a discussion of what would be an appropriate educational program, both before and after the grant of conditional liberty is prepared and signed. Take care when making educational placement decision.


Youth requiring special education services should only be sent to transition schools if needed special education services would be available. Transition schools are not currently equipped to provide a full range of special education services. For example, a transition school (as they currently operate) is not appropriate for a student who needs a substantially separate classroom in order to access his education.

When evaluating transition schools, some issues to ask the DYS caseworker about include the following questions:

- What will be the connection between the transition school and the Community Re-entry Center? Will the school report infractions by the student to the DYS primary/community caseworker? If so, what infractions will be reported?
- What classes will be offered? What is the curriculum? What are the qualifications and certifications of the teachers? How does the curriculum and teaching quality compare to the regular public school?
- Will all the special education services that my child needs be available at the school?

 **Tip for families:** If you are not sure if your community's transition school provides special education services, be sure to ask.

The schools are designed to be short-term programs to help students identify their strengths and their next educational placement. While there is no set time period that students must remain at a Community Transition School, they attend on a quarterly basis and do not transition mid-quarter.<sup>44</sup>

 **Tip for families:** If you feel that your child is not leaving the transition school soon enough or is leaving too soon, talk to DYS, the staff of the transition school, and the staff of the school your child is planning to ultimately attend. You may want to seek assistance from one of the organizations providing legal representation listed in the Resource Guide at the end of this book.

DYS and the local school districts jointly fund and run these schools in Boston and Lynn. These schools are described below. In certain other communities – Lowell, Lawrence, the Holyoke area and Springfield – DYS works with local school districts to ease the transition process, particularly around educational needs.<sup>45</sup>

- Boston

Youth returning to Boston after extended stays in DYS residential facilities transition with help from the DYS Boston Transitional Services Program, also known as the Boston Success Initiative.<sup>46</sup> This initiative is a collaboration between DYS and Boston Public Schools.<sup>47</sup>

Through this initiative, DYS staff and Boston Public Schools first develop a transition plan for the youth. Once the plan is in place, the youth will most likely return to the Boston Community Transition School, located

at the Youth Opportunity Unlimited center in Dudley Square, Roxbury.<sup>48</sup> The Boston Community Transition School has one special education teacher who is able to provide special education services up to a specified special education level.<sup>49</sup> Additionally, youth with significant mental health problems can receive clinical services through Youth Opportunity Boston and help from a field coordinator who works with the DYS caseworker and the family.<sup>50</sup>

- Lynn

Youth leaving DYS residential treatment and returning to Lynn receive assistance from the Lynn Transition Program, a collaboration between DYS and the Lynn Public Schools.<sup>51</sup> The school system provide a full-time transition coordinator who works exclusively with DYS youth returning to the community.<sup>52</sup> The transition coordinator operates from the Lynn Community Re-entry Center and the MAST School, a transition school for DYS youth.<sup>53</sup> In addition to the MAST School, Lynn offers other options to DYS youth, such as alternative schools, a night school and a vocational high school.<sup>54</sup>

## **Special rights for youth receiving special education services**

### IEP's transition plan

In addition to DYS's re-entry plan for the youth that DYS drafts, a youth is entitled to another transition plan if he has an IEP. This long-range plan, developed at an education team meeting and contained in the IEP, describes the skills and services that the youth would need upon transitioning from school to adult life.<sup>55</sup> Beginning at age sixteen, the IEP must include this transition plan describing the services to be rendered.<sup>56</sup>

### "Stay put" right

For youth who receive special education services and have been released from DYS custody, if there is a dispute about the youth's educational placement, the youth has the right to remain in the last agreed upon educational placement until the dispute is resolved.<sup>57</sup> This principle is called the "stay put" right.<sup>58</sup> Changing the placement of a student receiving special education services requires an education team meeting and the agreement of the youth's parents.<sup>59</sup> If a change of placement is made without following this process, contact one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

In addition, special education youth have the right, under the “stay put” provision, to initial admission to a public school even if the school is disputing the right to that admission, at least until a resolution is reached.<sup>60</sup> In addition, if a youth moves from one community to another within a state, the new school district must provide such child with special education services consistent with the IEP that was in effect before the move.<sup>61</sup> Thus, if a youth is released from DYS to a new school district, that new district cannot refuse to enroll the youth. The student must be enrolled immediately and provided the services described in the IEP.


## Alternative education<sup>62</sup>


For a youth having difficulties finding an educational placement in the community, alternative education may be appropriate. Alternative education is an initiative within a public school district, charter school, or educational collaborative serving at-risk students whose needs are not being met in the traditional school setting. “At-risk” students can include: pregnant or parenting teens; truant students; and suspended or expelled students; returned dropouts; delinquent youth; and other students who are not meeting local requirements for promotion.

Alternative education may operate as a program or as a separate self-contained school. In either case, alternative education is under the control of the district’s school committee.<sup>63</sup>

Alternative education can serve students for varying amounts of time. The program or school may have the goal of keeping students until graduation or may have the goal to transition students back to a traditional middle or high school.

Students enrolled in alternative education programs or schools must be taught to the same academic standards established for all Massachusetts students.

 **Tip for families:** When choosing an alternative program or school for your child, research what services each program or school offers in order to determine which one is most appropriate. For an alternative education to be helpful, the student must be carefully matched to a program that will meet his needs. Further, the curriculum must be as challenging as that offered to students in traditional classrooms. In addition, the program or school’s facilities, transportation services, non-core courses, and extra-curricular activities must be comparable to the traditional program of studies.

 **Tip for families:** More information on alternative education is available at the Massachusetts Department of Elementary and Secondary Education (DESE) website at <http://www.doe.mass.edu/alted/>. To determine what alternative programs and schools exist in your area, visit <http://www.doe.mass.edu/alted/>, then click on “Programs” under Alternative Education or contact the Office of the Superintendent in your local school district.

## Endnotes

- 1 For more information, see Mass. Department of Education, Choosing a School: A Parent's Guide to Educational Choices in Massachusetts, (Aug. 29, 2006), [http://finance1.doe.mass.edu/schoice/choice\\_guide.html](http://finance1.doe.mass.edu/schoice/choice_guide.html).
- 2 Center for Youth Development and Education, Enhancing Education at the Massachusetts Department of Youth Services, Special Issue, <http://www.cbwl.org/youth/pdf/DYSnewsletter.pdf>.
- 3 Center for Youth Development and Education, Enhancing Education at the Massachusetts Department of Youth Services, Special Issue, <http://www.cbwl.org/youth/pdf/DYSnewsletter.pdf>.
- 4 Center for Youth Development and Education, Enhancing Education at the Massachusetts Department of Youth Services, Special Issue, <http://www.cbwl.org/youth/pdf/DYSnewsletter.pdf>.
- 5 Mass. Gen. L. ch. 76, § 5.
- 6 Some Massachusetts school districts allow their expelled students to return to their district's schools after a set period, such as a year.
- 7 Mass. Gen. L. ch. 71, § 37H.
- 8 *Goss v. Lopez*, 419 U.S. 565, 584 (1975). The notice may be oral or written. *Goss v. Lopez*, 419 U.S. 565, 581 (1975).
- 9 *Goss v. Lopez*, 419 U.S. 565, 581 (1975).
- 10 Mass. Gen. L. ch. 71, § 37H(a).
- 11 Mass. Gen. L. ch. 71, § 37H(b).
- 12 Mass. Gen. L. ch. 71, § 37H(c).
- 13 Mass. Gen. L. ch. 71, § 37H(c).
- 14 Mass. Gen. L. ch. 71, § 37H1/2(1).
- 15 Mass. Gen. L. ch. 71, § 37H1/2(1). A student may appeal a suspension under this provision to the superintendent, although the suspension remains in effect prior to any appeal hearing. The student must notify the superintendent, in writing, of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent must hold a hearing with the student and the student's parent or guardian within three calendar days of the suspension. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and has the right to have a lawyer present. The superintendent may overturn or alter the decision, including recommending an alternate educational program for the student. The superintendent must issue a decision within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension. Mass. Gen. L. ch. 71, § 37H1/2(1).
- 16 *Parkins v. Boule*, 2 Mass.L.Rptr. 331, 1994 WL 879558, \*13 (Mass. Super. 1994) (citing *Goss v. Lopez*, 419 U.S. 565, 581 (1975)) (suspensions which exceed ten days and expulsions require "more formal hearings" than those a student would have for a suspension of 10 days or less). The notice may be oral or written. *Goss v. Lopez*, 419 U.S. 565, 581 (1975).
- 17 Mass. Gen. L. ch. 76, § 16.
- 18 Mass. Department of Education, Advisory Opinion On Student Discipline (Jan. 27, 1994, rev. Sept. 1, 1994 and Oct. 17, 1994), # 8, <http://www.doe.mass.edu/lawsregs/advisory/discipline/AOSD1.html>; see also *Parkins v. Boule*, 2 Mass.L.Rptr. 331, 1994 WL 879558, \*10 (Mass. Super. 1994), n.8 (citing *Antell v. Stokes*, 287 Mass. 103, 107-108 (1934) for the proposition that "a student who violates disciplinary rules 'especially after having made [an] express promise to obey them, may be excluded from the school by the school committee acting in good faith'").
- 19 Mass. Gen. L. ch. 76, § 17.
- 20 Mass. Gen. L. ch. 71, § 37H(a).
- 21 Mass. Gen. L. ch. 71, § 37H(b).

- 22 Mass. Gen. L. ch. 71, § 37H(c).
- 23 Mass. Gen. L. ch. 71, § 37H(c).
- 24 Mass. Gen. L. ch. 71, § 37H(d). The student has ten days from the expulsion date to notify the superintendent of his appeal. The student has the right to have a lawyer present at this hearing. The subject matter of the appeal must be more than solely a dispute of the factual determination of whether the student violated the statute. Mass. Gen. L. ch. 71, § 37H(d).
- 25 Mass. Gen. L. ch. 71, § 37H(e).
- 26 Mass. Gen. L. ch. 71, § 37H1/2(2).
- 27 Mass. Gen. L. ch. 71, § 37H1/2(2).
- 28 Mass. Gen. L. ch. 71, § 37H1/2(2). The suspension remains in effect prior to any appeal hearing. The student must notify the superintendent, in writing, of his request for an appeal no later than five calendar days following the effective date of the expulsion. The superintendent must hold a hearing with the student and the student's parent or guardian within three calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and has the right to have a lawyer present. The superintendent may overturn or alter the decision, including recommending an alternate educational program for the student. The superintendent must issue a decision within five calendar days of the hearing. Such decision shall be the final decision of the school district. Mass. Gen. L. ch. 71, § 37H1/2(2).
- 29 Mass. Gen. L. ch. 71, § 37H1/2(2).
- 30 The rights described in this section, provided by the federal Individuals with Disabilities in Education Act and its regulations, apply not only to special education students in public schools, but also to publicly funded students placed in private special education facilities. *In Re: Northampton Public Schools & Lolani*, BSEA #04-0359 (hearing officer concludes "I can find no justification for excluding publicly funded private school students from the procedural protections accorded to all other disabled students under the IDEA"). Massachusetts students with disabilities also have protection from termination from private schools providing special education services pursuant to 603 CMR 18.05(7)(c) (planned termination) and 603 CMR 18.05(7)(d) and 603 CMR 28.09(12)(b) (emergency termination).
- 31 20 U.S.C. § 1415(k)(1)(E)(i); 34 CFR 300.530(e). Students who do not receive special education services, but who do have accommodations subject to a 504 plan also have the right to a manifestation determination meeting prior to suspension and expulsion. 20 U.S.C. § 1415(k)(1)(E)(i); 34 CFR 300.530(e)(1). However, should the manifestation determination team conclude that the behavior was unrelated to the disability and the student is disciplined, unlike a special education student, the student with the 504 plan does not have a right to receive educational services after the discipline is implemented.
- 32 20 U.S.C. § 1415 (k)(1)(F); 34 CFR 300.530(f).
- 33 20 U.S.C. § 1415(k)(1)(E)(ii); 34 CFR 300.530(e)(2).
- 34 20 U.S.C. § 1415(k)(1)(F)(i); 34 CFR 300.530(f)(1)(i).
- 35 20 U.S.C. § 1415(k)(1)(F)(ii); 34 CFR 300.530(f)(1)(ii).
- 36 20 U.S.C. § 1415 (k)(1)(F)(iii); 34 CFR 300.530(f)(2).
- 37 20 U.S.C. § 1415(k)(1)(G)(i)-(iii); 34 CFR 300.530(g)(1)-(3).
- 38 20 U.S.C. § 1415(k)(1)(C); 34 CFR 300.530.
- 39 20 U.S.C. § 1415(k)(1)(D)(i); 34 CFR 300.530(d).
- 40 20 U.S.C. § 1415(k)(1)(D)(i); 34 CFR 300.530(d).
- 41 20 U.S.C. § 1415(k)(1)(D), 20 U.S.C. § 1412(a)(l)(A), 34 CFR 300.530(d).
- 42 20 U.S.C. § 1415(k)(5); 34 CFR 300.534.
- 43 20 U.S.C. § 1415(k)(5); 34 CFR 300.534.
- 44 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).

- 45 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC). Youth returning to Lowell receive assistance from the Lowell Transition Program. Through this program, the Lowell Re-entry Center offers GED preparation classes for youth appropriate for this service. Youth returning to Lawrence receive assistance from the Lawrence Transition Program. Through this program, the Lawrence Re-entry Center offers GED preparation classes for youth appropriate for this service. Youth returning to one of the 19 towns in the Holyoke area may receive assistance from the Holyoke Transition Program, a collaboration between DYS and the Holyoke Street School's Literacy Education Alliance Project (LEAP) in Holyoke. The LEAP program provides an Adult Basic Education/GED program with vocational and transitional services for DYS youth not enrolled in traditional educational programs. LEAP staff work closely with DYS Holyoke Community Re-entry Center staff and DYS caseworkers. DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 46 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 47 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 48 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 49 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 50 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 51 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
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- 54 DYS and Department of Education, Report to the House and Senate Committees of Ways and Means on December 1, 2005 pursuant to line items 4200-0010 and 7028-0031 of the Fiscal Year 2006 General Appropriations Act (draft) (on file with MHLAC).
- 55 20 U.S.C. § 1414 (d)(1)(A)(VIII).
- 56 20 U.S.C. § 1414 (d)(1)(A)(VIII).
- 57 20 U.S.C. § 1415 (j); 34 CFR 300.518; 603 CMR 28.08(7).
- 58 20 U.S.C. § 1415 (j); 34 CFR 300.518; 603 CMR 28.08(7). See *In Re: Harwich Public Schools and Spaulding Youth Center*, BSEA # 06-2300 ("Massachusetts and federal regulations allow for limited exceptions to the universal application of this principle in instances of serious disciplinary infractions or substantial risk of injury to the student or others if a stay put placement is required. To change a student's placement otherwise requires a court order. 603 CMR 28.08(7)(d).")

59 20 U.S.C. § 1415 (k)(1)(E).

60 34 CFR 300.518(b); 603 CMR 28.08(7)(a).

61 20 U.S.C. § 1414 (d)(2)(c)(i)(I).

62 The information in this section is taken from the Massachusetts Department of Elementary and Secondary Education web pages on alternative education, available at <http://www.doe.mass.edu/alted/>.

63 P.L. 107-110, § 1401(b).

