

To: School Leaders & BPS Staff Responsible for Code of Conduct Implementation

From: David Murphy, Deputy Superintendent of Administration

CC: Laura Perille, Interim Superintendent; Sam DePina, Operational Superintendent; Catherine Lizotte, BPS Legal Advisor; Carolyn Weisman, Asst. Corporation Counsel/Office of Legal Advisor; John Hanlon, COO; Zack Scott, Deputy COO; AS/OS Teams

Date: February 13, 2019

RE: Implementation of the BPS Code of Conduct and Due Process Requirements

This is guidance to educational staff regarding the implementation of the BPS Code of Conduct, and an update regarding new requirements under Massachusetts law and the settlement agreement recently reached between the Boston Public Schools and Greater Boston Legal Services. In addition to the full Operational Superintendent team, the primary points of contact for questions regarding the implementation of the BPS/GBLS Code of Conduct settlement agreement are **Carolyn Weisman** (cweisman@bostonpublicschools.org) in the Office of the Legal Advisor and Operational Superintendent **Sam DePina** (sdepina@bostonpublicschools.org).

Emergency Removals:

Generally students have the right to remain in school until the completion of a full suspension hearing. The limited exceptions to this rule under Massachusetts law include:

- 1) if the student is accused of assaulting staff; *or*
- 2) if the student is in possession of a dangerous weapon or drugs; *or*
- 3) if the underlying allegations the student is facing relate to a felony charge or conviction; *or*
- 4) if the student meets the Emergency Removal criteria set forth in the statute and articulated below.

A principal or headmaster may remove a student from school temporarily *before* providing the necessary written notice and conducting the disciplinary hearing when the following criteria for an Emergency Removal apply:

- 1) if the student is alleged to have committed a suspendable offense pursuant to M.G.L. c. 71 § 37H $\frac{3}{4}$ (and as described in [Section 8 of the Code of Conduct](#)); *and*
- 2) if the student presents a continuous danger or materially and substantially disrupts the school environment; *and*
- 3) if the student poses such a threat that there is no other way to alleviate the danger or disruption posed other than removing the student from school; *and*
- 4) if the student is afforded adequate arrangements to safely be transported home.

The student is entitled to remain in school if there is no ongoing disruption to the school environment and/or threat to safety. If there is no ongoing disruption to the school environment and/or threat to safety there would be no basis to remove the student on an emergency basis.



Principals and headmasters must make and document in writing reasonable efforts *on the day of the removal* to talk to the student and the student's parent/guardian to notify each of the removal and the basis for the removal. If a student is removed on an emergency basis, the school shall provide the required verbal and written notice *and* convene the disciplinary hearing within two (2) school days.

Implementation of new mandates required by the GBLs settlement agreement

Over the past several weeks, five focus group meetings were held to gather feedback regarding the implementation of the GBLs settlement agreement. Based on the feedback we received during these meetings, from school-based and central office staff, we have established a timeline by which we intend to implement the action items in the [settlement agreement](#).

Please review the below information on action items thoroughly.

I. Universal Sign-Out Procedures:

Effective March 18, 2019: ALL emergency removals will need to be logged in the universal sign out system. Between now and March 18, BPS will engage a cross functional team made up of central office and school-based staff to develop this system through all emergency removals will be logged.

Operational Superintendents will provide additional details regarding the use of this universal sign out system prior to the March 18 effective date and will support school leaders in its utilization on an ongoing basis.

II. Grades K0 - 2 Suspensions:

Effective March 18, 2019 BPS will no longer suspend students in grade K0 - 2. BPS will convene a cross functional working group made up of central office staff and school leaders to further discuss the impact of this change. This working group will also discuss additional and alternative supports needed for schools to implement this requirement. If you are interested in participating in this working group, please contact OS Sam DePina at 617-594-7341 or plan to attend an information session on one of the dates listed below at which time additional details regarding the implementation will be available. Sam or your OS will provide additional information prior to the March 18 implementation date.

III. Grades 3 - 5 Suspensions

Effective the 2019 - 2020 school year, students in grades 3-5 may only be suspended:

1. if the student is accused of having assaulted a classmate or staff member; *or*
2. if the student is accused of being in possession of a dangerous weapon; *or*
3. if the student is accused of being in possession of a controlled substance; *or*
4. if the student is accused of sexual misconduct; *or*
5. if the student is accused of a civil rights violation; *or*
6. if the student is accused of repeated bullying.



Prior to the conclusion of the 2018 - 2019 school year, the working group composed of central office and building-based staff will convene to discuss the impact of this change and the additional supports schools will need to implement this change in practice. Again, if you are interested in please contact OS Sam DePina at the number above or attend one of the information sessions listed below.

Alternatives to Expulsions:

Schools must attempt and document in ASPEN (SIS) alternatives to exclusionary discipline before any suspension can be imposed except when the student is facing suspension pursuant to M.G.L. c. 71 § 37H (possession of a dangerous weapon; possession of a controlled substance; assault on a member of an educational staff) or 37H ½ (felony charge/complaint or felony delinquency complaint / conviction, adjudication, or admission of guilt with respect to such felony).

BPS/GBLS Settlement Information Sessions

<u>Date</u>	<u>Time</u>	<u>Location</u>
<u>February 13, 2019</u>	<u>9am - 11am</u>	<u>West Roxbury Education Complex (Check in at main office)</u>
<u>February 20, 2019</u>	<u>3pm - 4:30pm</u>	<u>Bolling Building, Room 5-64 (February Vacation Week for those available)</u>
<u>February 27, 2019</u>	<u>3pm - 4:30pm</u>	<u>Boston Green Academy (Check in at main office)</u>
<u>March 6, 2019</u>	<u>3pm - 4:30pm</u>	<u>Mildred Avenue (Check in at main office)</u>
<u>March 13, 2018</u>	<u>3pm - 4:30pm</u>	<u>Bolling Building, Room 5-64</u>



When you are considering imposing a student suspension, you must do the following:

1. Schedule a disciplinary hearing;
2. Provide written *and* verbal notice of the hearing to the parent or guardian. All written notices must be provided in the primary language spoken in the student's home.
3. Document in ASPEN the method of notice to parent/guardian regarding the hearing and parent/guardian acknowledgment of same. Please use "Disciplinary Hearing Sign - In Form" (Code of Conduct attachment 4.4) for this purpose. There is a section on the form that must be complete prior to the start of any disciplinary hearing.
4. Accommodate the parent/guardian's reasonable written request (defined as no more than five (5) calendar days) to postpone the hearing date and/or time;
5. Arrange for interpretation services (if applicable): Pursuant to Section 2.2 of the Code of Conduct, students and parents have a right to an interpreter in their primary language at a disciplinary hearing. The interpreter must be provided by BPS, and may not be a student or family member.
6. Hold a disciplinary hearing as described in Section 9.5 of the Code of Conduct. The purpose of the hearing is for the school administration to present information and evidence about the situation to the student, parent, or guardian. It is also an opportunity for the student, parent (or guardian) to also provide testimony and question information and evidence presented. The hearing officer must listen to what the student or parent has to say, and consider their perspective, before making an impartial decision based on the facts presented at the hearing.
7. Offer Alternative Educational Services: In the event of a long-term suspension, schools must allow suspended students to receive alternative educational services to make academic progress.

Reporting unlawful suspensions:

Any BPS staff members with concerns related to a suspension that was conducted without following due process procedures should contact the Academic Superintendent with concerns related to potentially unlawful suspensions. As a reminder, retaliation against any employee for reporting any such concerns is strictly prohibited.



