



**LOWER PIONEER VALLEY EDUCATIONAL COLLABORATIVE
SPECIAL EDUCATION HANDBOOK**

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SERVING:

***AGAWAM, EAST LONGMEADOW, HAMPDEN-WILBRAHAM,
LONGMEADOW, LUDLOW, SOUTHWICK-TOLLAND-GRANVILLE,
WEST SPRINGFIELD***

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LOWER PIONEER VALLEY EDUCATIONAL COLLABORATIVE

SPECIAL EDUCATION SERVICES

The Lower Pioneer Valley Educational Collaborative (LPVEC) Special Education Services are an extension of the special education programs of the seven member districts. Placement in an LPVEC special education program is contingent on a referral from school districts, completion of the intake process, and a signed, agreed-upon IEP calling for placement in an LPVEC program. Transportation to and from the special education classes is the responsibility of the sending school districts.

This LPVEC Special Education Student Handbook applies to all students enrolled in any LPVEC special education program. Students and their parents shall be responsible for reading, understanding, and complying with all aspects of this Handbook, as well as any other applicable student handbooks, including those of the school in which the Collaborative class is located (the host school) and, if applicable, the LPVEC Career Tech Center.

This handbook is not meant to be a contract, nor can it anticipate or cover every conceivable situation that can arise in a school setting. LPVEC reserves the right to address unanticipated situations as it sees fit in the best interests of the entire program.

Philosophy and Objectives Of the Lower Pioneer Valley Educational Collaborative Special Education Services

PHILOSOPHY

The Lower Pioneer Valley Educational Collaborative Special Education Services (LPVEC SPED) offers special education and related services to the seven member school districts of Agawam, East Longmeadow, Hampden-Wilbraham Regional, Longmeadow, Ludlow, Southwick-Tolland-Granville Regional, and West Springfield. In addition, LPVEC SPED occasionally admits students from non-member school districts.

In recognition that students differ in level of ability, rate of learning, interests, and motivation, the LPVEC SPED curriculum adheres to the Massachusetts Curriculum Frameworks and MCAS, while adapting to a broad range of needs and abilities. LPVEC SPED strives to provide students with knowledge and thinking skills, to the extent they are able, in order to become active citizens and contributing employees in our democratic society, and to instill in its students a desire for life-long learning.

LPVEC adheres to the belief that all students have the right to be treated with dignity and respect at all times. Students have the responsibility to make sufficient effort, to the best of their abilities, in accomplishing their educational goals.

OBJECTIVES

- ◆ To implement each student's Individualized Education Program (IEP), as outlined in the Individuals with Disabilities Education Act (IDEA-2004), as amended, Section 504 of the Rehabilitation Act of 1973 and Massachusetts Special Education Law (M.G.L. c. 71B).
- ◆ To ensure that all students, regardless of disabilities, sex, race, religion, sexual orientation, color, national origin and gender identity, or economic status is given equal opportunity in LPVEC programs (M.G.L. c.76, s.5).
- ◆ To offer each student an opportunity to develop his/her educational potential by providing training that fosters the acquisition of personal, social, and academic and self help skills, and that will prepare the student to cope with decision-making, problem-solving, and communication skills in today's world.
- ◆ To provide a positive atmosphere for learning, including a physical environment maintained with appropriate equipment and materials.
- ◆ To recruit and sustain a responsible, committed, and cooperative educational staff, who seek to provide quality education to each one of their students and who will continue to improve themselves professionally.
- ◆ To develop and implement curricula that reflect state standards, current educational research and technologies.
- ◆ To provide all employees with an environment that promotes professional development and collegiality.
- ◆ To maintain open communication and mutual cooperation with school districts we serve.
- ◆ To provide parents/guardians with the opportunity to be a meaningful member of their child's TEAM so that they can facilitate the carry over and generalize the skills taught to their child in the home and the school setting.

GENERAL INFORMATION

The Lower Pioneer Valley Educational Collaborative Special Education Services (LPVEC SPED) offers students its advantages, privileges and programs of study without regard to disabilities, race, color, sex, religion, national origin, sexual orientation, and gender identity.

Any student of LPVEC who believes that he or she has been discriminated against, denied a benefit, or excluded from participation in a program activity on the basis of sex under Title IX of the Educational

Amendments of 1972, or on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964, on the basis of disability under Section of 504 of the Rehabilitation Act of 1973 or Title II of the Americans With Disabilities Act or sexual orientation, gender identity or religion under Chapter 622,, may file a complaint with the Title IX/Section504/Chapter 622 Coordinator in the Collaborative Central Office.

Admissions

Upon application from the home school Special Education office, accompanied by a current Individualized Education Program (IEP) and supporting diagnostic documents, the Collaborative Special Education office determines whether it can offer a Special Education program appropriate to the student's needs.

Out-of-district students are accepted on a space available basis and are subject to the application process and selection criteria as outlined in this policy. A student from a non-member school district will not be admitted over a student from a member school district. However, once a non-member student is enrolled, in order not to disrupt the student's education, that student is guaranteed continued enrollment over any newly referred students, no matter their school districts.

School Closings

School closing for inclement weather and other emergencies are announced on WGGB-TV (Channel 40), WWLP-TV (Channel 22). Collaborative Special Education programs will adhere to the same school closing or delayed opening as the school in which the Collaborative class is located. There will be no school functions held on days that school is canceled.

Change of Address/Telephone Number

Should any student have a change in the following during the school year, the Parent or Guardian should immediately report the change to the LPVEC teacher or Special Education office:

- Home address
- Home telephone number
- Guardian (if appropriate)
- Any change on the student emergency information form

GENERAL POLICIES

The following rules apply to all students enrolled in LPVEC Special Education programs. Schools in which Collaborative classes operate may impose additional rules that also must be adhered to.

Inspection of Students' Person and Property

A student shall be free from searches by school officials of his/her clothing, other personal property, or his/her person unless either the Collaborative or the school district is conducting a school-wide, random search or there is reasonable suspicion to believe that the student possesses something that may be of immediate danger to persons, property or the educational process, or may be evidence of criminal or disciplinary violation or the possession of which is prohibited under state/federal law or regulation or under the behavior code of the Lower Pioneer Valley Educational Collaborative. If school administrators believe there is reasonable suspicion, a proper search will be conducted. The search itself will be reasonable and not excessively intrusive when viewed in light of the age and sex of the student and the nature of the infraction.

Students should have no expectation of privacy in their lockers, desks, or other storage. Students' lockers, desks, or other storage provided to students remain the property of the Collaborative or the school district, and school officials retain the right to inspect and/or search lockers, desks or other storage provided to students at all times.

Electronic Devices

Electronic devices, including but not limited to pagers, beepers, iPods, PDA, iPads, Kindles, or similar electronic notebooks, and cellular phones, are not allowed in LPVEC classrooms or at LPVEC Career TEC and are subject to confiscation by the Director of Special Education, Director of Occupational Education and/or designee and will be returned at the end of the day or other time as determined by the administration.

Portable audio players and radios, such as "Walkman" "iPods" "PDA's" or cellular phones must be placed in the locker or with the teacher upon arrival at school. Such devices worn or in use during school time will be confiscated, and returned at the end of the day or other time as determined by the Administration.

Responsibility for Lost or Damaged Property

Each student is responsible for properly maintaining LPVEC and school property issued to them, including but not limited to: lockers, locks, books, safety equipment, tools, instruments, materials, etc. Such property is to be returned in good condition, allowing for normal wear. Replacement of lost or damaged items will be charged to the student responsible. In the event of intentional damage to school or LPVEC property, a student will be required to make restitution and will be subject to disciplinary consequences as well.

Computers/Technology/Telecommunications/Internet

Internet and telecommunications are essential to all LPVEC programs. LPVEC offers students the opportunity to expand educational resources in the global community by providing Internet access. With the use of this technology comes responsibility. The inappropriate use of computers and related hardware and software is subject to disciplinary action in conformity with the LPVEC Technology Acceptable Use Policy. **All** use of the Internet is to be conducted under the supervision of an instructor. Access to the Internet is a **privilege**, not a right. Students are responsible for appropriate use of computers, just as they are responsible for their behavior in all other aspects of their participation in LPVEC programs.

Students shall not have any expectation of privacy with regard to use of computers or the Internet.

LPVEC reserves the right, for legitimate school purposes, to access and disclose contents of students' electronic communications without regard to content, and to conduct periodic, unannounced inspections of communications. Students are advised to never view, send, or gain access to materials prohibited under the Technology Acceptable Use Policy. Illegal or improper use of computers or the Internet will be subject to disciplinary action by LPVEC, including potential referral to law enforcement officials.

School/Classroom Visitation

The Collaborative encourages the involvement of parents and professionals in the education of students enrolled in Collaborative programs. At the same time, the Collaborative has a duty to protect the safety and confidentiality of its students, as well as to ensure that the educational process is not unnecessarily disrupted. As a result, certain rules and procedures must be followed to ensure that visits are beneficial to the visitors but not detrimental to the students or the educational process.

“Visitors”, as used in this policy, are parents of current students in an LPVEC program or their representatives, parents of students and/or their educational consultants where the school district is recommending the student’s placement in an LPVEC program, professionals who are currently evaluating the student and want to observe the student in his/her current LPVEC program, or school/LPVEC personnel who wish to observe a program for a current or potential student.

Visitors will only be allowed to enter school buildings or Collaborative classes for pre-arranged meetings, visits, or observations. The only exception shall be for quick visits by parents or legal guardians, for the purpose of dismissing a student, bringing in medications, dropping off lunches, gym clothes, etc. Such “quick visits” need to be pre-arranged by a prior telephone call. Further, a “quick visit” does not mean that the visitor can visit the classroom of the student. Finally, if such “quick visits” become too frequent, or in the opinion of the administrator of the program, are being used to circumvent this visitation policy, this privilege may be withdrawn.

All visitors to a Collaborative program must report to the main office immediately upon entrance in the school building. All visitors must sign in at the main office, noting the time of their arrival and identifying the location and purpose of their visit. These visitors must adhere to the Collaborative’s and host school’s visitor procedures, which may include wearing a badge or having an escort while in the building.

Upon completion of their pre-arranged meetings, visits, or observations, all visitors shall proceed directly to the main office, sign out, noting the time of their departures, and return their visitor’s badges. Visitors may not proceed to any areas of the building other than the designated locations of their meetings, visits, or observations, without first returning to the main office and obtaining express administrative approval to do so.

All visitors must agree to fully protect the confidentiality of all students. Visitors must also agree that they will not evaluate staffing during their observation of a student or program. Visitors must also agree not to interfere, interrupt or disturb any class or activity which is the subject of the observation. Failure to abide by these guidelines will result in the immediate removal of the observer.

Absences from class/school

Consistent with M.G.L. c. 76, 1B, the Program Director/principal shall inform a parent/guardian if his/her child misses two (2) or more periods unexcused over at least five (5) school days or misses five (5) or more school days unexcused in a school year. “Unexcused” is defined as without the Parent/guardian’s prior permission which has been communicated to the Program Director/principal. The principal/Program Director or designee must make reasonable efforts to meet with the parent/guardian of a student with five (5) or more unexcused absences to develop an action plan for student attendance.

SAFETY AND HEALTH POLICIES

The personal safety and health of everyone in LPVEC programs is of primary importance. The prevention of injuries and illness is of such consequence that it will be given precedence over any operation whenever necessary. To the greatest degree possible, the administration will provide supports required for personal safety and health in keeping with the highest standards. The administration recognizes that educational programs and safety are inseparable. This requires the cooperation and proper attitude toward injury and illness prevention from all. It also requires cooperation in all safety and health matters, not only among

administration, staff and student body, but also between each student and his/her fellow students. Only through such a cooperative effort can safety be established and preserved.

Students, teachers, staff, and administration are individually responsible for wholehearted, genuine cooperation with all aspects of safety and health, including compliance with all rules and regulations, and for continuously practicing safety while performing their duties.

This cooperation manifests itself in behavior that provides the following:

- Safety to yourself
- Safety to peers
- Safety to all staff members
- Protection to all visitors
- Compliance with all rules set forth by LPVEC, host schools, Massachusetts Department of Public Health, and the Federal Office of Safety and Health Administration (OSHA).
- Prompt reporting of all injuries and/or accidents
- Prompt reporting of any unsafe situation in a classroom, shop, or worksite to the teacher and/or administrator.

Protective equipment for eyes, face, head and extremities will be provided as needed, and shall be used and maintained in a sanitary and reliable condition. Students are required to wear appropriate personal protective equipment in all operations where the need is indicated.

Physical Restraint Policy

Physical restraint is defined as the use of bodily force to limit a student's freedom of movement (Physical escort is defined as the touching or holding of a student without the use of force for the purpose of directing the student. Physical escort is **not** physical restraint and is not covered by this policy/procedure). Physical restraint shall only be used to prevent an assault of a student, staff member or visitor. In the event that physical restraint is required to protect the safety of the student or other school community members, the LPVEC has enacted policies and procedures to ensure the proper use of restraint and to prevent or minimize any harm to the student as a result of the use of restraint. These procedures shall be annually reviewed, provided to school staff, and made available to parents of enrolled students. A copy of the policies and procedures may be obtained from the LPVEC Special Education office – 174 Brush Hill Avenue, West Springfield. None of the foregoing paragraph precludes any teacher, employee, or agent of the LPVEC from using reasonable force to protect students, other persons, or themselves from imminent serious harm. (603 CMR 46.00 and MGL Ch. 69 Sec. 1B and Ch. 71 Sec. 37G)

Health Services

Health Services provide students with medical care should the occasion arise in the school setting. In accordance with state law, certain health requirements are necessary for **all** students. The school nurse's responsibility is to follow through with each student's medical record for compliance. The school nurse keeps Student Emergency Information Forms, and relevant information is updated on a periodic basis. If there are any questions regarding the welfare of a student, parents/guardians are encouraged to contact the school nurse or the LPVEC nurse for further information.

Availability of Information and Precaution

Lower Pioneer Valley Educational Collaborative supports the Massachusetts Board of Education's encouragement to provide current, age appropriate information to our students through our curriculum. Further, we promote the importance of the Massachusetts Board of Education's Policy on HIV/AIDS Prevention that education should include information about sexually transmitted diseases, as well as the value of both sexual abstinence and the use of condoms as disease prevention methods. Students seeking such information may contact the LPVEC nurse.

Distribution of Medication

The school nurse employed by each town is the person authorized to administer medications. In addition, the LPVEC nurse serves certain LPVEC programs and, from time to time, provides substitute coverage for the administration of medications in the absence of a school nurse. The LPVEC is now registered with the Department of Public Health (D.P.H.) to delegate administration of prescription medication by designated, unlicensed personnel in the case of field trips and other short-term special school events.

Under D.P.H. regulations, a LPVEC teacher may be delegated authorization by the nurse to administer prescription medication in the absence of the nurse while on field trips. The teacher will have been trained in the administration of medication of the particular student. The LPVEC school nurse will supervise all delegated administration of prescription medication.

The following D.P.H. regulations shall also apply:

- Only a student's parent or guardian or responsible adult designated by the parent/guardian may deliver prescription medications to be administered by school personnel to the school nurse or other person designated by the school nurse.
- There will be a medication administration record in each school for each student receiving medication during school hours. This record shall contain a daily log and a medication administration plan. All documentation shall be in ink and shall not be altered.
- All medication delivered to school shall be in a pharmacy or manufacturer labeled container and shall be accompanied by specific medication instructions from the child's physician. The school nurse or other responsible person receiving medication shall document the quantity of medication delivered. All prescription medications are to be stored in their original pharmacy containers. They shall be kept in a securely locked cabinet used exclusively for medications. The cabinet shall be substantially constructed and anchored securely to a solid surface.
- Any medication errors shall be documented by the school nurse on an accident/incident report form.
- All over-the-counter medications shall be given to the school nurse at the beginning of the school day who shall administer the over-the-counter medication consistent with Department of Public Health rules and regulations. Students may not keep prescription or over-the-counter medications in their possession.
- Nothing in Chapter 369 of the Acts of 2012 or 105 CMR sect. 725.000 (medical use of marijuana) requires LPVEC to accommodate the use of marijuana by students or employees on school grounds, at school-sponsored events, or on school buses, whether during the regular school day or at other times. Therefore, the possession, use and/or distribution of marijuana is strictly prohibited, and can be the basis of application of M.G.L. c. 71, sect. 37H if a student is involved or discipline of an employee.:

With the exception of delegated administration of prescription medication, as outlined above, no LPVEC employee may distribute medication of any type, including aspirin or other over-the-counter drugs. Such medications are not to be brought or sent to school.

Immunization Policy

In accordance with the General Laws of Massachusetts and the School Immunization Law, Chapter 76, Section 15, LPVEC Immunization Policy is as follows:

- The school physician will certify that students of the LPVEC program are properly immunized and may attend school under the following circumstances:
- An up-to-date immunization record must be kept on file for each student in an LPVEC program.
- The month, day, and year of all immunizations are required along with the health care provider signature.
- Any telephone contact to a health care provider regarding immunization status must be followed up with a written and signed verification of immunization information from the health care provider.
- A medical exception is allowed if a health care provider submits a document that an immunization is medically contraindicated. This document shall be submitted at the beginning of each school year.
- A religious exception is allowed if a parent submits a signed statement that immunizations are contrary to their religious beliefs. The parent, foster parent, or legal guardian must submit an up-to-date letter when the child is newly enrolled in an LPVEC program.
- Both the medical exemption and the religious exemption are available subject to state and federal laws and regulations which restrict/permit such exemptions.

Communicable Disease Policy

In accordance with recommendations of the Massachusetts Department of Public Health and our LPVEC school physician, the Communicable Disease Policy is as follows:

CHICKEN POX (Varicella):

- **Symptoms:** Sudden onset of mild fever, sometimes vomiting, malaise and loss of appetite. Appear as flat, red spots within 24 hours, which tends to form into pimples on body, face, and forehead. Pimples then blister, crust and scab. New crops may continue to develop for 3-4 days. There may be a few skin lesions, or many.
- **Minimum Exclusion From School:**
 - **6 days. Very contagious 1-2 days before onset until all lesions scabbed.**
- **Treatment:** Call health care provider to confirm diagnosis. Do not give aspirin.

CONJUNCTIVITIS (Pink Eye):

- **Symptoms:** Bloodshot eyes, redness, tearing, yellow discharge, burning, itching, light sensitivity, swelling of eyelids.
- **Minimum Exclusion From School:**

- **24 hours after medical treatment has been started unless otherwise indicated by child's physician.**
- **Treatment:** Antibiotic drops or ointment.

□ **IMPETIGO:**

- **Symptoms:** Scattered blistering or pustule lesions, which become crusted and commonly found on face, arms, or scattered on the body.
- **Minimum Exclusion From School:**
 - **Until lesions are dry, and active treatment has been ongoing for 48 hours.**
- **Treatment:** Antibiotic therapy.

□ **PEDICULOSIS (Head or Body Lice):**

- **Symptoms:** Itchy scalp caused by the louse insect. Eggs appear as tiny gray-white pearls glued to the hair shafts, especially around neck and behind ears.
- **Minimum Exclusion From School:**
 - **Children must be free from nits upon re-entering school.**
- **Treatment:** Recommended medicated shampoo or cream rinse prescribed by M.D. for Pediculosis or recommended by pharmacist.

Pediculosis Outbreak Policy

1. TWO OR MORE REPORTED CASES WITHIN 10 DAYS IN A CLASSROOM:
 - a. Formulate a letter and send to entire class.
 - b. Check entire class.
 - c. Exclude suspected cases for 24 hours.
2. TREATMENT:
 - a. Medicated shampoo or cream rinse prescribed by M.D. or recommended by pharmacist. Apply as directed.
 - b. Removal of nits with a metal fine toothcomb. It may even be necessary to use tweezers or even fingernails.
3. RETURN TO SCHOOL:
 - a. Must be checked by nurse or teacher.
 - b. Screen each child before class in bright, lighted room. (sunlight is best)
 - c. If nits remain, child will be excluded from school again and every day until, nits are completely gone.

□ **RINGWORM:**

- **Symptoms:** Fungal infection of scalp or body. Flat spreading, ring-shaped lesions, red on the edge and clear in the center.
- **Minimum Exclusion From School:**
 - **24 Hours after treatment has been started, if affected skin area remains covered with dressing.**
- **Treatment:** Anti-fungal cream or lotion.

□ **SCABIES:**

- **Symptoms:** Skin infection caused by mites. Spread through direct skin contact and shared bedding. Itchy bumps, scratch-like lines under the skin around hands, wrists, forearms, between fingers and around the waist.
- **Minimum Exclusion From School:**
 - **24 Hours after treatment started.**
- **Treatment:** Scabicide as prescribed by child's physician.

□ **STREPTOCOCCAL INFECTIONS (Scarlet Fever, Strep Throat):**

- **Symptoms:** Headache, vomiting, sore throat, fever, rash, slight to transient or non-occurring, difficulty swallowing, irritability, fussiness. Throat may be red and tonsils enlarged. Hoarseness and coughing may occur.
- **Minimum Exclusion From School:**
 - **36-48 hours after treatment has been started with antibiotic therapy to continue for a total of 10 days and free of fever for at least 24 hours.**
- **Treatment:** Antibiotic therapy for full 10 days.

In all the common communicable diseases listed above, a note from the child's health care provider stating he/she is under care is required before re-entering school. As the experience with COVID-19 made clear, novel, highly contagious viruses can emerge at any time. In those circumstances, LPVEC will follow state and federal laws, regulations and protocols, including any protocols/recommendations issued by the CDC.

If any question arises concerning any of these contagious problems, the LPVEC School Physician or LPVEC Nurse should be called.

EMERGENCY PROCEDURE INFORMATION

Procedure for Evaluation of Ill Child

If a child is considered to be ill by the LPVEC nurse or one of the school nurses, or has a possible contagious disease or detectable fever, then that child should be excluded from school and referred to his/her own physician for evaluation and treatment. No student should come to school if he/she has a fever and/or is displaying signs of illness.

STUDENT RECORDS

General Provisions

The student record contains all information concerning a student that is kept by the Collaborative.

The rights outlined below may be exercised by the parent(s) with physical custody of a child/guardian, the non-custodial parent unless denied access pursuant to 603 CMR sect. 23.07(5) and M.G. L. c. 71, sect. 34H, or jointly by the parents/guardians and the student. A student over the age of 13 years or in the ninth grade is called "an eligible student." A student 18 years or older may, in writing, deny his parents/guardian access to his/her student record, with the exception of transcripts, report cards and/or progress reports.

Each eligible student and eligible parent/guardian has the right to review his/her own student record. Copies of any record may be obtained upon request and shall be provided within ten (10) school days of the request. A reasonable charge of \$.10 per page may be assessed for copying.

The student's record is available to authorized school personnel. This includes administrators, teachers, therapists, consultants, counselors, administrative office staff and clerical personnel. They do not need permission to see student records.

No information in the student's record is available to anyone outside the Collaborative or the LEA system without written permission from the student and/or parent or guardian, unless the access is permitted by 603 CMR sect. 23.07. Otherwise, a written release must be signed by the parent/guardian or eligible student to have any part of the school record accessed by a third party or sent outside the Collaborative. This includes, but is not limited to prospective employers, technical schools, and colleges.

Directory Information Notice

The Lower Pioneer Valley Educational Collaborative has designated certain information contained in the education records of its students as directory information for purposes of the Family Educational Rights and Privacy Act (FERPA) and the Student Record Regulations at 603 CMR 23.00 et seq.

The following information regarding students is considered directory information: (1) name, (2) address, (3) telephone number, (4) date and place of birth, (5) major field of study, (6) participation in officially recognized activities and sports, (7) weight and height of members of athletic teams, (8) dates of attendance, (9) degrees, honors and awards received, (10) post high school plans of the student.

Directory information may be disclosed for any purpose in the discretion of the Collaborative, without the consent of a parent of a student or an eligible student. Parents of students and eligible students have the right, however, to refuse in writing to permit the designation of any or all of the above information as directory

information. In that case, this information will not be disclosed except with the consent of a parent or student, or as otherwise allowed by FERPA and 603 CMR 23.00 et seq.

You are hereby notified that pursuant to this notification, the Collaborative will provide requested directory information to military recruiters unless the parent or eligible student specifically directs otherwise in writing, as required by the No Child Left Behind Act.

Any parent or student refusing to have any or all of the designated directory information disclosed must file written notification to this effect with the appropriate administrator (Director of Special Education or Director of Occupational Education) on or before the 15th day of each September.

In the event that a refusal is not filed, it is assumed that neither a parent of a student nor an eligible student objects to the release of the directory information designated.

Non-Custodial Parents Access to School Records:

In order for the LPVEC to release student information to a non-custodial parent, the directives of Massachusetts General Laws c. 71 Section 34H must be satisfied. Section 34H requires that LPVEC provide access to student records to a non-custodial parent only if the non-custodial parent is eligible to receive information pursuant to this section. Custodial parent is defined as the parent who has physical custody of the child under any court order or custody agreement. Non-custodial parent is defined as the parent who does not have physical custody of the child. Please note that a non-custodial parent may have joint legal custody of the child and still be deemed to be a non-custodial parent. Likewise, the non-custodial parent may have visitation rights and still be considered a non-custodial parent.

It is presumed that a non-custodial parent may have access to student records. It is the custodial parent who must alert LPVEC to the fact that there is a non-custodial parent who may request access to the student's records. It is necessary for a custodial parent to submit a copy of the custody agreement or order, and any subsequent changes made thereto, to LPVEC so that LPVEC personnel may identify which parents has physical custody of the child. The custodial parent may access the student's records immediately. The non-custodial parent may access his/her child's records only in compliance with the following procedure. The non-custodial parent must submit a written request to access the records to the principal. The principal must ensure that the non-custodial parent is not subject to one of the following circumstances:

1. the parent has been denied legal custody or has been ordered to supervised visitation, based on a threat to the safety of the student, and the threat is specifically noted in the order pertaining to custody or supervised visitation, or
2. the parent has been denied visitation, or
3. the parent's access to the student or the custodial parent has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record, or
4. there is an order of a probate and family court judge which prohibits the distribution of the student records the parent.

LPVEC shall place in the student's record any documents indicating that a non-custodial parent's access to the student's record is limited or restricted pursuant to 603 CMR 23.07(5) (a).

LPVEC's only action upon receiving a request from a non-custodial parent who does not fall into one of the four (4) categories above, is to contact the custodial parent, advise them of the request, and provide the custodial parents twenty-one (21) days in which to supply documentation showing that the non-custodial parent should be denied access. If LPVEC receives no response from the custodial parent within the twenty-one days, or does not receive a court order barring release of records to the non-custodial parent, it must release the redacted records to the non-custodial parent.

The custodial parent must alert LPVEC personnel whenever there is a change in the legal status of the non-custodial parent that would render him/her ineligible to access the children's records.

The information provided to the non-custodial parent shall be marked to indicate that it may not be used to support admission of the child to another school.

Amending a Student's Record

A parent has the right to add information, comments, data, or any other relevant written material to the student's record. The parent should submit the additional information in writing to the appropriate Collaborative Administrator (Director of Special Education or Occupational Education) with a written request that the information be added to the student record.

A parent has the right to request in writing deletion or correction of any information contained in the student's record, except for information which was inserted into that record by the Special Education TEAM. Such information inserted by the TEAM shall not be subject to such a request until after the acceptance of the Individualized Educational Program (IEP), or, if the IEP is rejected, after the completion of the special education appeal process. Any deletion or amendment shall be made in accordance with the following described procedure:

If a parent is of the opinion that adding information is not sufficient to explain, clarify or correct objectionable material in the student's record, the parent shall present the objection in writing and/or have the right to have a conference with the Director or his/her designee to make the objections known.

The Director or his/her designee shall within one week after the conference or receipt of the objection, if no conference was requested, render to such parent a decision in writing, stating the reason or reasons for the decision. If the decision is in favor of the parent, the Director or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

If the Director's decision is not satisfactory to the parent, the parent may file an appeal to the Executive Director. Such appeal shall be in writing and submitted to the Executive Director within five (5) business days of receipt of the Director's decision. The Executive Director shall render a written decision on the appeal within two (2) weeks of receipt of the written appeal.

If the Executive Director's decision is not satisfactory to the parent, the parent may appeal to the Board of Governors by filing a written appeal within five (5) business days of receipt of the Executive Director's decision. The Board of Governors shall conduct a hearing as required on the appeal as required by 603 CMR §23.09(4).

Notice On Transfer To Other Schools

Pursuant to 603 CMR 23.07(g), notice is hereby given to parents and eligible students that the Lower Pioneer valley Educational Collaborative forwards all school records to the student's home school district (LEA) upon the student's transfer out of the Collaborative. Such transfer of records takes place without consent of the parent or eligible student.

Destruction of Records

Notice is hereby given that the temporary record of a student will be destroyed or returned to the home school district (LEA) no later than seven (7) years after that student transfers, graduates or withdraws from the Collaborative system. When the student transfers, graduates or withdraws from Collaborative, and if the eligible student or the parent/guardian want the temporary record, they must request, in writing, prior to the last day of school, that the documents be provided to them. No additional notice, other than this Notice in the handbook, will be provided to the student or his parent/guardian of such destruction.

In addition, each year the Collaborative Administrators and/or teachers and/or other service providers may destroy the following documents that are considered part of the student's temporary record: disciplinary record (other than documentation of suspensions/expulsions/exclusions), any notes from the parent/guardian or other documents concerning absences, early dismissals, late arrivals, as well as examples of student work. If the eligible student or the parent/guardian want those records, they must request, in writing, prior to the last day of school that the documents be provided to them.

BEHAVIORAL POLICY

School Behavior Code

The overarching principle of the behavior code is to ensure that all students, regardless of disabilities, sex, race, religion, sexual orientation, color, national origin and gender identity, or economic status are given equal opportunity to participate safely in LPVEC programs (M.G.L. c.76, s.5).

Students in LPVEC Special Education programs will be expected to adhere to both the LPVEC Behavioral Policy and the behavioral policy of the school they attend. Student behavior must take into account the rights of others as well as the effective operation of the school.

Most school behavioral problems can be prevented by effective intervention before disciplinary measures become necessary. LPVEC staff makes a concerted effort to discuss problem areas with students before these problems interfere with school performance.

Explanation of Disciplinary Consequences

The Behavioral Policy of LPVEC includes such consequences as time out, suspension of privileges, teacher detainment, detention, discipline letters, restitution, community service, and placement in an interim alternative educational setting, internal or external suspension and expulsion. In some cases, students may be directed to undergo a risk assessment at the expense of LPVEC and with an evaluator of LPVEC's choosing. Such an action would be taken only where the student acted and/or wrote/spoke in a manner that provided a reasonable basis for concern for the safety of the student and/or others. Students may also be assigned to internal after-school suspension. Notwithstanding the following, LPVEC shall comply with all federal and state mandates regarding suspension and expulsion of students with disabilities.

A **teacher detainment** is warranted for minor student misbehavior which takes place within the confines of the classroom setting and which disrupts the learning environment. Teacher detainment consists of student detainment, loss of break privilege, loss of classroom privilege or other prescribed teacher monitored penalty employed to avoid office detention consequences. The teacher detainment concept encourages a productive, cooperative and responsible working relationship between teaching staff and student.

A **discipline letter** is a written communication to a student's parent/guardian informing them of the student's misbehavior. Daily and weekly notes and communication books are not discipline letters.

An **in-school suspension (ISS)** is a temporary removal from the classroom for more than three (3) hours as a disciplinary consequence for misbehavior. A meeting with an administrator or a counselor, a check-in, or an opportunity for a student to gain his/her composure outside of the classroom is not an in-school suspension.

An **out-of-school suspension (OSS)** is a temporary loss of a student's membership in the school community for up to 30 school days after opportunity for a hearing. Students will be notified of the reasons for the suspension and will have the opportunity to be heard. A temporary severing of a student's membership from the school community denies the student permission to be on school grounds or to participate in school sponsored activities during the time of the suspension. In most cases, external suspension from an LPVEC program is reciprocal with the home school district, and all rules and regulations of both LPVEC and the home school district will apply.

Expulsion in cases not arising under M.G.L. c. 71, sect. 37 H nor 37H ½ (please see pages 23 - 25 for the procedure under these two (2) statutes) is limited to a total of ninety (90 school days) pursuant to M.G.L. c. 71, sect. 37H 3/4. The transfer of a student from a LPVEC program, based on determination by a Special Education Evaluation Team and/or reflected in an IEP, does not constitute expulsion and also may not constitute change in placement as defined in Special Education law.

Specific Offenses and Consequences

Prohibited behaviors and their consequences are as follows:

1. Students who threaten or intimidate any student or staff person may be suspended. Further, if the purpose of the intimidation was to obtain money or something of value, then the student must make restitution as well.
2. Students who use or are in possession of any of the following, including but not limited to fire crackers, stink bombs, smoke bombs or the like may be suspended .
3. Students who assault another student may be suspended or expelled.
4. Students harassing others may be suspended.
5. The fire alarm boxes located in and around the school serve an important and serious function. The availability of these services is crucial to insure the safety of our students and staff, and their misuse encumbers the system to the detriment of others in need. Any misuse or other act that results in a false alarm may result in a suspension of the offending student. In addition, a fine may be assessed by the responding fire department when the name of the offender is forwarded to the fire department.
6. Students who destroy, vandalize, steal, or deface property of the LPVEC, or the school district, a staff member, or another student will be responsible for restitution and may be suspended from school. The length of the suspension will be determined by the seriousness of the act. Police will be notified when appropriate.
7. Students who fight or otherwise cause physical injury to others will be suspended. School authorities will set the length of the suspension after viewing all the pertinent facts. Factors to be considered include but are not limited to: student's ability to understand and intent, degree of injury inflicted to other parties, cooperation with supervising personnel and possible self-defense factor.
8. Students who engage in a riot, disorderly conduct involving three or more persons that results in or threatens to cause an injury or damage to school or other persons, or which materially and substantially disrupts any school activity, may be suspended.
9. Students who disrupt the educational program may be suspended; the number of days will depend on the particular circumstances.
10. Students who use vulgarity or profanity (non-threatening) towards staff members may be suspended, with the number of days depending on the particular circumstances.
11. Classroom disturbances, including but not limited to constant tardiness, public display of affection and other acts distracting from the learning environment that cannot be handled in individual classes, may result in a student suspension.
12. Pornographic material will be confiscated and the parents notified. Any student accessing pornographic Internet sites may be suspended and will lose computer privileges. Students distributing or displaying pornographic and/or lewd materials even on their own phones may be suspended. In the case of other materials that detract from the educational process, the student will be asked to remove the materials from the classroom to his/her locker. A parent or guardian at their request may retrieve materials that are confiscated, except for pornography, which will be destroyed.
13. Students who telephone the school or classroom representing themselves as someone else (i.e... their parents, someone else's parents, etc.) or forge notes or other information may receive a suspension. Any

student who refuses to identify himself/herself or who misrepresents himself/herself to staff may be suspended.

14. Skateboards, roller blades and the like are prohibited at school. Such items may be confiscated.
15. Students who bring pets/animals without prior approval, including but not limited to mice, lab rats, hamsters, birds, frogs, and snakes of any kind may be suspended.
16. Students who gamble in any way including, but not limited to money pitching and card playing may be suspended.
17. Students who engage in plagiarism or cheating on tests, quizzes, projects, papers, book reports or other work to be submitted as part of the educational program will not receive credit for work. In certain circumstances, additional disciplinary penalties such as suspension may occur.
18. Any act, not otherwise specified above, which causes harm to the Collaborative, staff member or another student, and/or which disrupts the educational process shall be subject to disciplinary measures based upon consideration of all the circumstances.

PLEASE NOTE: Any student who shall aid, urge, encourage or abet any other student to commit any of the offenses prohibited by any provision of this Behavioral Policy shall be subject to the same penalties identified in this handbook. Additionally, any student who is subject to disciplinary action to M.G.L. c.71, 37H or 37H1/2 may be subjected to any and all disciplinary consequences outlined in those two (2) statutes...

Any student on out of school suspension is not permitted on school grounds and is not allowed to participate in any school-sponsored activity. If reported on school grounds, the student will be asked to leave. If he/she does not comply, the police will be notified and a trespassing violation will be filed.

In most cases, external suspension from an LPVEC program is reciprocal with the home school and host school, whose rules and regulations shall also apply.

Massachusetts General Laws - Chapter 71: Section 37H.

Section 37H. The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of other student's civil rights. The policies shall also prohibit bullying as defined in Section 37O and shall include the student – related sections of the bullying prevention and intervention plan required by said section 37O. Codes of discipline, as well as procedures used to develop such codes, shall be filed with the Department of Education for informational purposes only.

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules

pertaining to the conduct of students. The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school LPVEC by the principal. A dangerous weapon is any gun, rifle, shotgun, knife, scissors, screwdriver or other implement capable of inflicting bodily injury when used as such.

(b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal.

(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal.

After said hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (a) or (b).

(d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

(e) When a student is expelled under the provisions of this section, no school or school district within the commonwealth shall be required to admit such student or to provide educational services to said student. If said student does apply for admission to another school or school district, the superintendent of the school district to which the application is made may request and shall receive from the superintendent of the school expelling said student a written statement of the reasons for said expulsion.

Section 37H1/2. Notwithstanding the provisions of section eighty-four and sections sixteen and seventeen of chapter seventy-six:

(1) Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the principal or headmaster of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said principal or headmaster if said principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive

written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension; provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the suspension to the superintendent. The student shall 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 shall hold a hearing with the student and the student's parent or guardian within three calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal 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.

(2) Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school in which the student is enrolled may expel said student if such principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and reasons for such expulsion prior to such expulsion taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the expulsion to the superintendent. The student shall 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 shall 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 shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal 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 expulsion.

Mass. General Laws c.71 § 37H ¾- Updates Amended by St.2022, c.177, § 29, November 8, 2022

- A. This section shall govern the suspension and expulsion of students enrolled in a public school in the commonwealth who are not charged with a violation of subsections (a) or (b) of section 37H or with a felony under section 37H.5.
- B. (effective November 8, 2022) Any principal, headmaster, superintendent or person acting as a decision-maker at a student meeting or hearing, when deciding the consequences for the student, shall consider ways to re-engage the student in the learning process; and shall 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 shall not be limited to: (i) mediation; (ii) conflict resolution; (iii) restorative justice; and (iv) collaborative problem solving. The principal, headmaster, superintendent or person acting as a decision-maker shall also implement school- or district-wide models to re-engage students in the learning process which shall include but not be limited to: (i) positive behavioral interventions and supports models and (ii) trauma sensitive learning models; provided, however, that school- or district-wide models shall not be considered a direct response to a specific incident.

- C. For any suspension or expulsion under this section, the principal or headmaster of a school in which the student is enrolled, or a designee, shall provide, to the student and to the parent or guardian of the student, notice of the charges and the reason for the suspension or expulsion in English and in the primary language spoken in the home of the student. The student shall receive the written notification and shall have the opportunity to meet with the principal or headmaster, or a designee, to discuss the charges and reasons for the suspension or expulsion prior to the suspension or expulsion taking effect. The principal or headmaster, or a designee, shall ensure that the parent or guardian of the student is included in the meeting, provided that such meeting may take place without the parent or guardian only if the principal or headmaster, or a designee, can document reasonable efforts to include the parent or guardian in that meeting. The department shall promulgate rules and regulations that address a principal's duties under this subsection and procedures for including parents in student exclusion meetings, hearings or interviews under this subsection.
- D. If a decision is made to suspend or expel the student after the meeting, the principal or headmaster, or a designee, shall update the notification for the suspension or expulsion to reflect the meeting with the student. If a student has been suspended or expelled for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year, the student and the parent or guardian of the student shall also receive, at the time of the suspension or expulsion decision, written notification of a right to appeal and the process for appealing the suspension or expulsion in English and in the primary language spoken in the home of the student; provided, however, that the suspension or expulsion shall remain in effect prior to any appeal hearing. The principal or headmaster or a designee shall notify the superintendent in writing, including, but not limited to, by electronic means, of any out-of-school suspension imposed on a student enrolled in kindergarten through grade 3 prior to such suspension taking effect. That notification shall describe the student's alleged misconduct and the reasons for suspending the student out-of-school. For the purposes of this section, the term "out-of-school suspension" shall mean a disciplinary action imposed by school officials to remove a student from participation in school activities for 1 day or more.
- E. A student who has been suspended or expelled from school for more than 10 school days for a single infraction or for more than 10 school days cumulatively for multiple infractions in any school year shall have the right to appeal the suspension or expulsion to the superintendent. The student or a parent or guardian of the student shall notify the superintendent in writing of a request for an appeal not later than 5 calendar days following the effective date of the suspension or expulsion; provided, that a student and a parent or guardian of the student may request, and if so requested, shall be granted an extension of up to 7 calendar days. The superintendent or a designee shall hold a hearing with the student and the parent or guardian of the student within 3 school days of the student's request for an appeal; provided that a student or a parent or guardian of the student may request and, if so requested, shall be granted

an extension of up to 7 calendar days; provided further, that the superintendent, or a designee, may proceed with a hearing without a parent or guardian of the student if the superintendent, or a designee, makes a good faith effort to include the parent or guardian. At the hearing, the student shall have the right to present oral and written testimony, cross-examine witnesses and shall have the right to counsel. The superintendent shall render a decision on the appeal in writing within 5 calendar days of the hearing. That decision shall be the final decision of the school district with regard to the suspension or expulsion.

- F. No student shall be suspended or expelled from a school or school district for a time period that exceeds 90 school days, beginning the first day the student is removed from an assigned school building.

School Suspension Procedures for offenses other than those covered by M.G.L. c. 71, sect. 37H and 37H ½ – LPVEC shall follow the procedures for in-school suspension, short-term out-of-school suspension and long term suspension as outlined in 603 CMR sect. 53.00 et seq. A copy of those regulations are contained in an Appendix of this handbook.

Disciplinary Action Relative To Special Education Students

Eligible students with disabilities, as defined by the reauthorized Individuals with Disabilities Education Act (IDEA 2004) and Massachusetts General Laws, Chapter 71B (Chapter 766) are subject to, and may be disciplined for, the same offenses as non-disabled students.

Federal and Massachusetts laws, regulations and policies do not prohibit the exclusion of students with disabilities. **A short term suspension of less than ten (10) consecutive school days or suspensions of ten or less cumulative days may be implemented after the hearing procedures contained in 603 CMR sect. 53.00 et seq. have been followed. However,** suspensions which exceed these number of days must be preceded by a “manifestation determination” meeting unless it is an emergency situation affecting the health/safety of the student, other students and/or employees/contractors of LPVEC.

With respect to the exclusion of students with disabilities for more than ten (10) consecutive days, or a cumulative pattern of exclusions resulting in a change of placement, federal laws and regulations are applicable pursuant to Section 504 of the Rehabilitation Act of 1973 and the IDEA.

Procedures For The Exclusion Of Special Education Students

Definition of Suspension:

Suspension shall be defined as any action which results in the removal of a student from the program prescribed in his/her Individualized Education Program (IEP) and the student does not receive his/her special education/related services and does not have access to the general curriculum.

General Requirements:

Each school shall ensure that:

- A. It has an appropriate procedure to notify the Director of the misconduct for which exclusion of a student with disabilities for more than ten (10) school days is proposed so that the required procedures can be implemented consistently;
- B. The number and duration of exclusions of students with disabilities is recorded and maintained by school administrators;

- C. No student with disabilities may be excluded for more than ten (10) consecutive school days or be subject to a pattern of cumulative exclusions resulting in a change of placement except as provided hereunder.

Manifestation Determination Meeting:

When it is known that the exclusion(s) of a student with disabilities will be or will exceed ten (10) consecutive school days or when there is a pattern of exclusions from school in excess of ten (10) school days, a manifestation determination shall be conducted. Participants in the meeting shall include relevant members of the Team as well as the parent(s). At that review, the review TEAM will determine whether the student's misconduct was caused by or was substantially related to the student's disability or was caused by non-implementation of the IEP. School personnel may consider any unique circumstances on a case-by-case basis before deciding whether a change in placement is warranted. Depending on the result of the determination, exclusion may or may not be implemented.

Circumstances under which the student may not be suspended for more than ten (10) consecutive school days:

1. If the TEAM concludes that the student's misconduct is a manifestation of the student's disability (ies) or that the student's IEP was not fully implemented and the non-implementation led to the misconduct, the student will not be excluded except where an IAES is permitted. Instead, an FBA shall be conducted, and the Team shall develop a positive behavioral intervention plan, or if an FBA had previously been done and a behavioral plan put in place, then the Team shall modify, change or add to the behavioral plan. If the misconduct resulted from an appropriate IEP that was not fully implemented, all necessary steps shall be taken by the school to ensure that the IEP is fully implemented. If revision of the student's IEP is required, development of an amended or new IEP shall occur.

Circumstances under which exclusion may be imposed for more ten (10) consecutive school days or in excess of ten (10) cumulative days:

1. If the school wishes to impose a suspension/expulsion which results in ten (10) or more consecutive school days, and the TEAM concludes that: the student's misconduct is not a manifestation of the student's disabilities and/or the current IEP was fully implemented, the school shall implement the exclusion, but provide the student with services to allow the student to access the general curriculum and make progress toward his/her goals.

Please note that the IDEA permits the exclusion of a student even where the misconduct is a result of or substantially related to his/her disability, or results from the non-implementation of the IEP, where the student's misconduct is being in possession of a weapon or a controlled substance or where the student inflicted serious bodily injury on another person while on school grounds or at a school-related event. In such a situation, the student can be placed in a forty-five (45) school day Interim Alternative Educational Setting (IAES). For further information regarding special education students, please see the "Parent's Notice of Procedural Safeguards" (formerly entitled the "Notice of Procedural Safeguards") by the Massachusetts Department of Elementary and Secondary Education contained herein at the end of the handbook.

Students identified as having a disability and provided with a Section 504 plan

Students with Section 504 plans are expected to meet the expectations for behavior identified in this handbook. A student on a Section 504 plan may be disciplined like any other non-disabled student.

However, if the student is going to be suspended for ten (10) or more consecutive days, expelled or suspended for more than fifteen (15) cumulative days (and there is a change in placement as a result), then a manifestation determination shall be done. If the misconduct was a manifestation of the student's disability or resulted from the failure to implement the 504 plan, then the student may not be suspended or expelled from school. If not, then the student may be suspended or expelled.

Exception for Students on Section 504 Plans for Drug-Related Offenses:

Section 504 of the Rehabilitation Act makes an exception for students on Section 504 Plans who have been disciplined for drug-related offenses and are currently using illegal drugs. Section 504 permits a district to take the same disciplinary action against such a student as it would against a regular education student, including exclusion, without conducting a manifestation determination.

TWAIN SCHOOL: Student Conduct And Behavior Support Policy

Twain School develops and implements a written behavior support policy and procedures consistent with new regulations under 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention.

Behavior support policies are reviewed annually and provided to program staff and made available to parents of enrolled students through the parent/student handbook and the staff handbook. The behavior support policies include:

- 1. Methods of preventing student violence:** Students are monitored continuously through a high staff to student ratio. Student conversations are monitored to ensure that staff is aware of any comments which may indicate concern. The parents and school counselor are kept informed of these concerns, which are addressed immediately through one on one conversation with students, and through a programmatic social skills group.
- 2. Methods of preventing self-injurious behavior and suicide:** Staff monitors students throughout the school day. The staff is also sensitive to conversations and notes from home that may indicate a possibility of self-injurious behavior and/or suicide. Students will be monitored for changes in behavior with no obvious reasons for a change. Notification will be made to parents/guardians and/or outside agencies of any concerns.
- 3. A description and explanation of the program's alternatives to physical restraint:** Twain School deals with most student behaviors by using standard techniques of behavior management including liberal use of positive feedback and reward, providing sufficient structure to ensure work completion (check systems, reward contingencies, etc.), arranging tasks to ensure high rates of success, teacher observation of pragmatic skills, and their grades to assess progress. Staff also receives formal annual training in the use of strategies and procedures designed to de-escalate conflict situations to avoid the need for physical intervention. Whenever inappropriate behavior occurs, our first goal is to help the child or children involved develop better methods of responding. These "teaching moments" often involve helping the child learn more appropriate responses, teaching how to take the perspective of another or other interventions designed to prevent the behavior from recurring.
- 4. A description of the program's training requirements for staff:** All new staff, prior to working with students, will go through an initial 12 hours of training and are retrained annually at the beginning of the academic year during in-service days prior to students returning for the school year, through a refresher course of 6 hours. Follow-up trainings occur throughout the year as needed. Twain School follows the LPVEC requirement of training for Nonviolent Crisis Intervention through Crisis Prevention Institute

(CPI). A staff member from the schools is trained as a certified trainer through CPI. The focus of CPI is an introduction to crisis prevention that emphasizes early intervention and nonphysical methods for preventing or managing disruptive behavior. The program is designed to provide Care, Welfare, Safety and Security for staff and students through the techniques and skills taught during the in-service training.

- a. Identify the behavior levels that contribute to the development of a crisis and choose an appropriate staff intervention for each level.
- b. Identify useful nonverbal techniques which can help to prevent acting-out behavior.
- c. Use of verbal techniques to de-escalate behavior.
- d. Demonstrate CPI's Principles of Personal Safety to avoid injury.
- e. Provide for the Care, Welfare, Safety and Security of all those who are involved in a crisis situation.
- f. Understand and develop team intervention strategies and techniques.
- g. Recognize the importance of staff attitudes and professionalism in responding effectively to those in your charge.

5. **A description of the program's reporting requirements and follow-up procedures:** The program makes immediate notification to the parent, the public school district special education administrator, and any state agency involved in the student's care or placement (by telephone and letter), and the Department of Elementary and Secondary Education (DESE). If an emergency situation does occur where minimum physical restraint is needed, selected staff will utilize passive physical restraint or the minimum amount of force necessary to prevent a student from harming himself/herself or others or to prevent a student from leaving school (should this, in the opinion of the staff supervising the student) present a risk to the student or others. The State of Massachusetts utilizes a data collection system to monitor restraints with specific information provided in an Excel document and downloaded each July through DESE's Security Portal. Notification of parents when a restraint is used, is part of the data collection documentation. The state also has the right to review data around restraints anytime during the school year. If a restraint lasts longer than twenty minutes or an injury occurs to a staff or student then a report must be filed with DESE. Staff discusses behavior of concern daily and discusses possible ways to avoid a repeat of the incident.
6. **A description including timelines of the program's procedure for receiving and investigating complaints regarding behavior support policies:** Complaints can be received in writing or via a phone call to the building administrator. Complaints are handled within a 48 hour time period. The building administrator will investigate the complaint and contact the parent via a phone call. If the parent requests the response in writing the building administrator can provide a written report regarding what was found and any changes as a result of the complaint. Any concerns/complaints regarding the implementation of physical restraint should be reported to the schools Special Education department at (413)735-2211, and the information will be provided to the Director of Special Education or designee. If that is not satisfactory, contact should be made with the Executive Director for LPVEC at (413)739-5626 Ext. 129. All parents/guardians also have the right to register any concerns/complaints with DESE, 75 Pleasant Street, Malden, MA 02148, (781)338-3000. The schools complete policy on restraint can be found in the Handbook.
7. **A description of the procedures to be followed for implementing the behavior support reporting requirements:** Twain School will be able to access the reporting form provided by DESE at the school. The school will input into the reporting document (Excel) provided by DESE. Each teacher will be provided with a copy of the form to be completed during in-service activities.

8. **A description of the program's procedure for making both oral and written notification to the parent:** The reporting form will provide information regarding parent notification including the time and method of providing notification. Parents will be notified the same day via phone and within 3 business days in writing as needed.
9. **A procedure for use of time-out:** Twain School may use time-outs as part of its behavior management. If the program's behavior management policy and procedures result in a student being separated in a room apart from the group or program activities, it shall include the following:
 - a. While a student's free time may be restructured as previously outlined as time out, a student is never denied or restricted from school services. In the event, a student requires an extended period of separation to re-regulate his/her behavior, the Educational Administrator, the School Adjustment Counselor, or other educational staff will monitor the student until he/she can return to class.
 - b. Additionally, meals are never withheld as a form of punishment or behavior management. The student is never denied or unreasonably delayed a meal for any reasons other than medical prescriptions.
 - c. A student's separation, resulting from behavior, shall cease when the student is calm and ready to return to routines.
10. Behavior support training is provided to all staff within the first month of school. LPVEC uses CPI training. For employees hired after the school year begins, behavior support training is provided and completed within one month of the date of hire of the employee.
11. When applicable, if a student's pattern of behavior requires an Individual Student Behavior Plan (support plan, safety plan, Behavior Intervention Plan, etc.), the clinical team, consisting of administrators, counselors (SAC, Guidance, LMHC), and BCBA, will determine necessary supports and conduct staff meetings with all necessary staff to assure the plan is implemented appropriately, and discuss rationale for such implementation

Approved Public Day Programs: Twain
DISCIPLINARY AND BEHAVIOR MANAGEMENT PROCEDURES

Goal:

The goal of the behavior program is to assist students in making appropriate choices behaviorally. It is our intention to help students control their behaviors so that they can successfully access all areas of the curriculum and school-based activities appropriately and safely. These goals can be achieved by reaching the following benchmarks:

- Developing positive relationships with peers and staff;
- Being responsible for one's behaviors and choices;
- Being respectful of the rights and property of others;
- Use of appropriate language
- Through the successful accomplishment of the above, Twain School can create a feeling of safety, structure, and belonging.

Introduction:

Twain School behavior program is based on the percentage of time meeting the criteria below. The students can collect points each block during each academic class and during lunch. During each block a student can earn points for each of the following accomplishments:

1. **Work Completion to include:**
 - a. Task initiation

- b. Work through the duration of the class time
- c. Degree of work completion based on teacher expectations
- d. Alertness in class (sleep log)

2. Following all Classroom Routines to include:

- a. Arriving to class on time
- b. Following classroom expectations (based on necessary prompts)
- c. Accepts decisions of authority without argument
- d. Follows the electronic policy (appropriate cell phone use)
- e. Alertness in class (sleep log)
- f. Appropriate language

3. Safe Behaviors to include:

- a. Safe words (refrain from threats, intimidation, sexualized language)
- b. Appropriate attire
- c. Safe boundaries (refrain from touching or invading personal space)
- d. Safe electronic use (refrain from unsafe photos, unsafe social media use)
- e. Physical safety (refrain from self-harm, physical aggression, property damage)
- f. Location is known at all times
- g. Safe Environment (refrain from excessive swearing and/or disruption)

Students have the opportunity to meet up to 100% compliance throughout the day:

- Level 1 = 75-100%
- Level 2 = 0-74%

POSITIVE REINFORCEMENT

- Weekly:
 - Weekly incentives are determined based on student preferences and for those that maintain a 90% compliance or higher.
- Daily:
 - Students on Level 2 will eat lunch in the alternative lunch room for the following day. The students are not ever punished with food and eat the same lunch as the remainder of the students in the cafeteria. We do not offer food as a reward for good behavior. Students eating lunch in the in-house room will have the food delivered and monitored by staff. When lunch is over the students will attend the next class.
 - Students on Level 2 will have to turn in their phone to an administrator the following day.
 - There are two breaks integrated into the schedule throughout the day to go over the students' current percentage. If by the second break the student is on Level 1, they will participate in the daily incentive activity (arts-n-crafts, gym activity, other student preferred activity). For students on Level 2 by the second break, they will not have access to electronics, work on incomplete work, and/or complete a Social/Emotional Learning activity connecting decision making to consequences, and work to develop skills to use alternative behaviors and how to access supports.

BEHAVIOR CONSEQUENCES

1. Fighting, which is determined by a school administration, can lead to an internal and/or external suspension.
2. Leaving the building may result in time spent in the alternative therapeutic separation room. While in there, the student will process to return to class. Administration and counseling staff will determine when the student is ready to return to class.
3. Cheating of any kind can result in suspension.
4. Theft, the taking and/or the destruction of another's property, can result in suspension.
5. Sleeping during class will result in no points earned that period.
6. If a student is sent to the in-house room for any behaviors that warrant it during class time, the teachers will provide all academic assignments. Administration and counseling staff will determine when the student is ready to return to routines.
7. Any physical or verbal threats towards staff, students, or the school will result in an in-house, possible suspension and police notification.
8. Smoking or having any smoking material in possession, may lead to 1 day of in-house. Smoking material will not be returned to students.
9. A student inappropriately using a cell phone and/or electronic devices during the school day will be requested to turn over the device immediately. If the student refuses it may result in a contract for long-term loss of electronic privileges.
10. Possession, use or sale of any weapons or drugs will result in an automatic suspension and police involvement. A weapon is defined as a gun of any kind, a knife, a screwdriver or any instrument which can be used or is used as a weapon.
11. In order to ensure the safety of our students, staff and school, LPVEC has the right to search everyone daily. If a student refuses to be searched, it will be an automatic in-house, possible suspension, parent notification, and police involvement.
12. Any student who has in-house will be provided all their academic work and academic support to ensure that they do not fall behind.

IN-HOUSE SEPARATION (TIME-OUT)

1. In-House is a separate room away from the classroom where a student can go to regroup to re-enter the classroom, and is used as a therapeutic separation.
2. The In-House room is continuously monitored by staff and is never locked.
3. Students who have elected to take a time-out are encouraged to re-enter their appropriate classroom within a five-ten minute period and no longer than 50 minutes.
4. Staff who request a student to take a time-out, will be required to process with the student when the student has indicated that (s)he is calm and ready to return.
5. Staff directed time-outs are used when a student is unable to control themselves in the classroom (inappropriate language, interrupting, taunting or bullying other students, and refusal to participate in the class).
6. Students are not forced to return to a classroom if they are upset and unable to successfully re-enter.
7. While in Time-Out work will be provided by the teacher and the student will be provided assistance to complete the classwork.
8. When a student is unable or unsafe to return to class after 30 minutes, an administration must be notified and the administrator's approval given before a student can remain in time-out for longer than thirty (30) minutes.

9. When a student refuses to return to class after thirty (30) minutes in time-out, an administrator must be notified. Interventions will be used to enable the student to return to class. If interventions fail, the administrator must approve the student's continuation in time-out beyond thirty (30) minutes.
10. Documentation is maintained for each student's length of time in time-out; reasons for the intervention; who approved the procedure; and who monitored the student during the time out.
11. Any room or space used for the practice of separation is physically safe and appropriate to the population served by the facility.
12. A student's separation, resulting from behavior, shall cease when the student is calm and ready to return to routines.
13. Staff responsible for implementing such procedures can include but are not limited to, administrators, teachers, classroom assistants, and/or counselors.

ALCOHOL, DRUGS AND CONTROLLED SUBSTANCES

The possession, use, manufacture, cultivation, sale or intent to sell, dispense, or the distribution, or intent to distribute controlled substance or illegal drugs as defined in the General Laws of Massachusetts, Chapter 94C, Section 31, is prohibited. A student may not be in school while under the influence of a drug or controlled substance as defined above. This applies even where the student is using/carrying marijuana which has been dispensed by a licensed dispensary pursuant to physician's prescription. This applies in the school building, on grounds, or locations under school control or at school sponsored activities. Possession of these substances may be actual or constructive and "possession" does not necessarily mean "ownership." The possession of drug paraphernalia is also illegal as defined in Section 1 of Chapter 94C or the General Laws of the Commonwealth. A student is in possession of alcohol, drugs and/or controlled substances if the student is using alcohol, drugs or controlled substances.

Immediate suspension will result from the following offenses:

1. Alcohol

a. Use, possession, under the influence of:

- i. **First offense:** 5 days suspension
- ii. **Subsequent offenses:** 10 days suspension and letter recommending expulsion to the LPVEC Board of Governors

b. Selling and/or distribution of alcohol:

- i. **First offense:** 10 days suspension
- ii. **Subsequent offenses:** 10 days suspension and letter recommending expulsion to the LPVEC Board of Governors

2. Illegal Drugs and controlled substances

a. Use, possession, selling, distribution:

- i. Long term suspension up to and recommendation for expulsion from school in accordance with Massachusetts General Law Chapter 71, Section 37H. A copy of that statute is on page 38.

b. Under the influence of drugs or controlled substances or possession of paraphernalia:

- i. Suspension up to 10 days unless it is the second or more offense, in which case there may be another suspension of ten or more days or expulsion.

Police Investigation and Interrogations

In the event that a request is made by law enforcement official to interrogate a student during the school day or on school property or during the school supervised activity, such requests shall be granted subject to the following conditions:

- Permission to interrogate shall be obtained first from the Director of Special Education, or if not available within a reasonable amount of time, the Special Education Supervisor.
- The Special Education Director or Supervisor will contact the parent/guardian of any student under 18 years of age and request their presence before the interrogation may take place. Permission to interrogate will be denied upon objection by the parent or guardian of a student under 18 years of age.
- The Special Education Director or Supervisor will be present during any interrogation of an LPVEC student on school or LPVEC property.
- A student may not be released to the custody of any person other than his/her parents/legal guardian, unless placed under arrest by legal authority.

Prohibition Against Smoking

Massachusetts General Laws, Chapter 71, clearly states (effective June 18, 1993) that school policies "shall prohibit the use of any tobacco products on school grounds, the school facilities or on school buses by any individual, including school personnel." Furthermore, student possession, as well as the use of tobacco products (i.e. cigarettes, chewing tobacco, cigars, electronic or vapor cigarettes) is prohibited within the school building, on school grounds, at school sponsored activities off school grounds, and on school buses at any time. Smoking rooms (for teachers and/or students) smoking areas, etc. are not permitted, and the prohibition is intended to apply to any activity held on school property.

No individual will be allowed to use any form of tobacco products while on school property or on a school bus.

Parent's And Student's Rights Under Section 504, Titles Vi, Ix And The Americans With Disabilities Act:

It is the policy of the LPVEC to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as well as those contained in Title II, Title IV, Title VI, Title IX, and the Americans with Disabilities Act (ADA). These Acts prohibit discrimination against persons with a disability in any program, which receives federal funding.

Section 504 of the Rehabilitation Act of 1973 and the ADA prohibit discrimination against a person with a disability. A person with a disability is defined as one whom:

- has a mental or physical impairment which substantially limits one or more major life activities;
- has a record of such impairment; or
- is regarded as having such impairment.

The School recognizes its responsibility to avoid discrimination in policies and practices involving both students and staff. No discrimination against anyone who falls under the provisions of Section 504 will knowingly be permitted in any program or practice of the LPVEC. Accordingly, the Collaborative acknowledges that it has

specific responsibilities if an individual is a qualified, disabled individual under Section 504, such as providing reasonable accommodations in access to services, programs and the activities of the Collaborative.

Any student, parent or legal guardian who believes that he or she has been discriminated against on the basis of a disability should immediately file a written complaint with the Director who will then investigate the complaint.

No student, parent or guardian who has filed such a complaint will be subject to coercion, intimidation, interference or retaliation for registering a complaint or assisting in the investigation of the complaint.

PARENT(S)/GUARDIAN(S) NOTICE OF RIGHTS UNDER SECTION 504:

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination based on his/her disabling conditions(s).
2. Have the School District advise you of your rights under the Federal law;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free, appropriate public education. This includes the right to be educated with non-handicapped students to the maximum extent appropriate. It also includes the right to have the School District make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
5. Have your child educated in facilities and receive services comparable to those provided to non-disabled students;
6. Have evaluation, educational, and placement decisions based upon a variety of sources by persons who know the student, the evaluation data, and placement options;
7. Have your child be given an equal opportunity to participate in non-academic and extracurricular activities offered by the district;
8. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement;
9. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
10. Receive a response from the School to reasonable requests for explanations and interpretations of your child's records;
11. Request amendment of your child's educational records if there is a reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the School District

refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;

12. File a grievance with the School's Section 504 Coordinator;
13. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program, or placement. You and the student may take part in the hearing and have an attorney represent you. Hearing and mediation requests may be made to: Commonwealth of Massachusetts, Bureau of Special Education Appeals, 14 Summer Street, Malden, MA 02148 Phone (781) 397-4750 or file a complaint with the Office of Civil Rights (OCR), Region 1, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921. Phone (617) 289-0111.

The person in the Collaborative who is responsible for assuring compliance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act is the Executive Director:

Name: Roland Joyal, Executive Director
Address: 174 Brush Hill Ave
West Springfield, MA 01089
Telephone: (413) 735-2200

GRIEVANCES

The Collaborative has established an internal procedure in order to provide for prompt and equitable resolutions of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 and **Title II of the Americans with Disabilities Act**. This procedure is also to be followed when lodging complaints involving alleged violations of Title VI and Title IX (which claim discrimination and retaliation based upon sex, but which do not allege sexual harassment).

Title II of the Americans with Disabilities Act states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in programs or activities" sponsored by a public entity.

Title VI of the 1964 Civil Rights Acts provides that no person shall on the ground of race, color, or national origin be excluded from participating in any program receiving federal financial assistance.

Title IX prohibits discrimination on the basis of sex in all educational programs. Gender identity and sexual orientation are also included in Title IX's prohibition on the basis of sex.

Section 504 of the Rehabilitation Act of 1973 protects the rights of individuals with disabilities within the work and school setting. Section 504 is a federal civil rights statute.

(Note: complaints that do not allege discriminatory conduct should be directed to the Supervisor.)

GRIEVANCE PROCEDURE:

1. DEFINITIONS

- a. A "Grievance" is a complaint made pursuant to, and arising out of, the Lower Pioneer Valley Educational Collaborative obligations under Section 504 of the Rehabilitation Act, Title II, Title IV, VI, Title IX, and the ADA. An "Aggrieved Party" is a person or persons making the complaint.

2. PURPOSE

- a. The purpose of this grievance procedure is to secure prompt and equitable solutions to grievances, which may, from time to time, arise pursuant to Section 504, Title II, Title IV, Title IX, and the ADA.

3. GENERAL

- a. No aggrieved party will be subject to coercion, intimidation, interference, or discrimination for registering a complaint or for assisting in the investigation of any alleged complaint within the context of this grievance procedure.

All documents, communications, and records dealing with the filing of a grievance will be kept confidential to the full extent provided by law.

Forms for filing grievances will be provided upon request by The Schools' Section 504, Title II, Title IV, Title IX and ADA LPVEC Coordinator whose address appears above.

4. PROCEDURE

When the aggrieved party is a student or student's parent/guardian:

- a. The aggrieved party should complete the Grievance Form and return it to the Section 504 School Coordinator. The complaint should be filed within fifteen (15) days after the complainant becomes aware of the alleged violation. (Allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis). Assistance will be provided, upon request, to enable an individual to complete the Grievance Form and pursue the grievance process.
- b. Within ten (10) school days after receiving the grievance, the Section 504 School Coordinator shall meet with the aggrieved party in an effort to resolve the grievance. This investigation into the complaint is contemplated to be thorough, but informal, in nature. All interested persons and their representatives, if any, shall be afforded an opportunity to be heard and to submit evidence relevant to the complaint. If the grievance is not resolved, it will be forwarded to the LPVEC Board of Governors.
- c. Within thirty (30) school days of receipt of an unresolved grievance, the Board of Governors will conduct a hearing to determine what, if any, action shall be taken in response to the grievance. The hearing shall be held at a time and place mutually convenient to all parties. The hearing procedure will follow appropriate due process procedures, including:
 - i. the opportunity for the aggrieved party to present the grievance in any suitable manner;
 - ii. the right of the aggrieved party to an impartial hearing officer;

- iii. the right of the aggrieved party to be represented by counsel or an advocate at the aggrieved party's expense (the aggrieved party should notify the Board if he/she will be represented by counsel);
 - iv. the right of the aggrieved party to a prompt decision.
- d. A written determination of the validity of the complaint and a description of the resolution, if any, shall be issued by the Board forwarded to the complainant no later than fifteen (15) working days after its filing. The determination of the validity of the complaint and the description of the resolution will be provided in an alternate format, upon request, if needed for effective communication.
- e. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within fifteen (15) working days following receipt of the written determination to the Director.
- f. The right of a person to a prompt and equitable resolution for the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- g. These rules shall be construed to protect the substantive rights of the interested persons to meet appropriate due process standards and to assure that The School complies with the ADA and Section 504 implementing regulations.
- h. Copies of all resolutions and findings made under this procedure shall be filed with the Director.

HAZING

Massachusetts Hazing Law

269:17 HAZING; ORGANIZING OR PARTICIPATING; HAZING DEFINED.

Section 17. Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one, [sic] year, or both such fine and imprisonment.

The term hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment forced physical activity which is likely to adversely affect the physical health of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

269:18 FAILURE TO REPORT HAZING.

Section 18. Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than one thousand dollars.

269:19 Copy of secs. 17-19; issuance to students and student groups, teams and organizations; report

Section 19. Each institution of secondary education and each public and private institution of post secondary education shall issue to every student group, student team or student organization which is part of such institution or is recognized by the institution or permitted by the institution to use its name or facilities or is known by the institution to exist as an unaffiliated student group, student team, or student organization, a copy of this section and sections seventeen and eighteen; provided, however, that an institution's compliance with this section's requirements that an institution issue copies of this section and sections seventeen and eighteen to unaffiliated student groups, teams, or organizations shall not constitute evidence of the institution's recognition or endorsement of said unaffiliated student groups, teams or organizations.

Each such group, team or organization shall distribute a copy of this section and sections seventeen and eighteen to each of its members, plebes, pledges or applicants for membership. It shall be the duty of each such group, team or organization, acting through its designated officer, to deliver annually, to the institution an attested acknowledgement stating that such group, team or organization has received a copy of this section and said sections seventeen and eighteen, that each of its member, plebes, pledges, or applicants has received a copy of sections seventeen and eighteen, and that such group, team or organization understands and agrees to comply with the provisions of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post secondary education shall, at least annually, before or at the start of enrollment, deliver to each person who enrolls as a full time student in such institution a copy of this section and sections seventeen and eighteen.

Each institution of secondary education and each public or private institution of post secondary education shall file, at least annually, a report with the regents of higher education and in the case of secondary institutions, the board of education, certifying that such institution has complied with its responsibility to inform student groups, teams or organizations and to notify each full time student enrolled by it of the provisions of this section and sections seventeen and eighteen and also certifying that said institution has adopted a disciplinary policy with regard to the organizers and participants of hazing, and that such policy has been set forth with appropriate emphasis in the student handbook or similar means of communication the institution's policies to its students. The board of regents and, in the case of secondary institutions, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

Harassment Policy and Procedures – PLEASE NOTE THAT THE SEXUAL HARASSMENT POLICY AND PROCEDURE IS A SEPARATE POLICY/PROCEDURE BELOW

Harassment of students based upon their race, national origin, religion, or disability is an abuse of power that is demeaning and interferes with the ability of a student to learn and participate in an educational setting. Harassment based upon race or national origin is a violation of Title VI. Harassment based upon a disability is a violation of section 504 of the Rehabilitation Act of 1973 and Title II of the ADA. One of the goals of the Lower Pioneer Valley Educational Collaborative is to maintain learning and working environment that is free from harassment. The Lower Pioneer Valley Educational Collaborative Grievance Procedure which appears above contains the investigation and decision-making procedure for all forms of discrimination and harassment prohibited by federal law with the exception of sexual harassment.

General Student Information

A student who experiences harassment by another student is encouraged to tell the harasser to stop his/her behavior but is not required to do so. If the behavior continues, the student should report the alleged harassment within five (5) days to a teacher, administrator or other responsible adult. The Collaborative Title IX/622 Coordinator will assist the student with this procedure. The staff member will make the allegation known to the Director of Occupational Education or Special Education, who will investigate the situation.

Each student, faculty member, administrator, or staff member has an obligation to make every effort to resolve problems informally as they arise. All members of the Collaborative and school communities are urged to resolve problems fairly and informally. If a suitable solution can not be reached informally through independent means, a formal investigation may be initiated and appropriate disciplinary action taken.

Confidentiality

It is mandatory that the confidentiality of individuals and information relating to sexual harassment issues will be protected.

Sexual Harassment Policies and Procedures – Please note that sexual harassment under Title IX applies to harassment based upon a student's gender identity as well as sexual orientation.

LPVEC has a commitment to maintaining an educational environment where bigotry and intolerance, including discrimination such as harassment on the basis of sex, are not tolerated. Discrimination, including harassment, is contrary to the mission of LPVEC and its commitment to equal opportunity in education.

Definitions

Under state law, sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's advancement (quid pro quo harassment);
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions;
- Such conduct interferes with an individual's job duties; or
- The conduct creates an intimidating, hostile or offensive work environment.

Under Federal law, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct ("quid pro quo harassment");
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity ("hostile environment harassment"); or
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30)

If an allegation potentially fits under the Federal law definition, it will be examined under Federal and state law concurrently using the below procedures

The Collaborative will promptly investigate all allegations of sexual harassment of which it has actual knowledge and which are alleged to occur in the school's programs and activities, including locations, events, and/or circumstances in which the Collaborative exercises substantial control, in a way that is not deliberately indifferent.

The following additional definitions apply:

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to any employee of the Collaborative, except that this standard is not met when the only official of the Collaborative with actual knowledge is the respondent (where the respondent is an employee). Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. Complaints will be addressed whenever the Collaborative has actual knowledge of the allegation.

"Administrative leave" means placing an employee on leave pursuant to state law. Nothing in the Title IX regulations precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process, provided that Massachusetts laws are followed.

"Consent" means cooperation in act or attitude pursuant to an exercise of free will of a conscious person with informed knowledge of the nature of the act or actions. A current or previous relationship shall not be sufficient to constitute consent. Consent will not be found when submission to the act or actions is undertaken due the influence of fear, fraud, forcible compulsion, threats, and/ or the complainant possessed any legal incapacity to consent at the time of the act or actions. Consent is a defense to all types of sexual harassment.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

"Deliberate indifference" means a response to sexual harassment that is clearly unreasonable in light of the known circumstances.

"Emergency removal" means the suspension or expulsion of a student on an emergency basis, consistent with state law. Nothing in the Title IX regulations precludes a Collaborative from removing a respondent from the Collaborative's education program or activity on an emergency basis, provided that the Collaborative follows all procedures under Massachusetts law, undertakes an individualized safety and risk analysis, determines that

an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Formal complaint means a document filed in writing by a complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that the Collaborative investigate the allegation of sexual harassment.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The Collaborative must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures

Complaints and Reports of Sexual Harassment

Upon receiving actual notice of alleged sexual harassment without a formal complaint, staff members must notify the Title IX Coordinator. The Title IX Coordinator must then contact the complainant within five school days of receiving the complaint and do the following:

- Discuss and offer supportive measures;
- Consider the complainant’s wishes with respect to supportive measures;
- Explain that supportive measures may be received with or without filing a formal complaint;
- Determine whether the complainant wishes to file a formal complaint; and
- Explain to the complainant the purpose of filing a formal complaint.

The Title IX Coordinator must document in writing the supportive measures offered/provided or why no supportive measures were offered/provided. Complainant and respondents must be offered supportive measures even if they do not file a formal complaint

If the complainant declines to file a formal complaint, the Title IX Coordinator must consider whether to sign a formal complaint and start an investigation despite the complainant’s preferences. This decision may be appropriate when safety or similar concerns lead the Collaborative to conclude that a non-deliberately indifferent response to actual knowledge of Title IX sexual harassment could reasonably require the Collaborative to investigate and potentially sanction a respondent. A Title IX Coordinator’s decision to override the complainant’s decision not to file a formal complaint must be documented in writing along with an explanation of why this decision was necessary in order to avoid deliberate indifference.

Formal complaints may also be filed directly with the Title IX Coordinator by a complainant in person, by mail, by email, or by telephone at any time, including during non-business hours.

The contact information for the Title IX Coordinator is:

Name: Christine Brassil, Director of Human Resources
Address: 174 Brush Hill Ave
West Springfield, MA 01089
Telephone: (413) 735-2200

The complaint may be written by the complainant, or it will be reduced to writing by either the school employee who receives the complaint, the Program Supervisor, or the Title IX Coordinator. Whether the complaint is reduced to writing by a student, parent, or staff member, the written complaint should include the name of the complainant, the name of the alleged victim (if different), the name of the respondent, the location where the alleged discriminatory action occurred, the basis for the complaint, witnesses (if any), and the corrective action the complainant is seeking. This information will be made on or transferred to a Title IX complaint form maintained by the Collaborative.

There is no time limit or statute of limitation on timing to file a formal complaint. However, at the time of filing a formal complaint, an alleged victim must be participating or attempting to participate in a program or activity of the Collaborative. Additionally, the Collaborative has discretion to dismiss a formal complaint where the passage of time would result in the Collaborative's inability to gather evidence sufficient to reach a determination regarding responsibility, or when the Collaborative loses responsibility for the respondent (e.g., the respondent no longer attends or is employed by the Collaborative).

If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in the Collaborative's education program or activity, or did not occur against a person in the United States, then the Collaborative must dismiss the formal complaint under these procedures but could investigate it under other policies and procedures. The Collaborative must send written notice of any dismissal.

Investigations to allegations of sexual harassment will be prompt and the formal process will be completed within a sixty school day timeframe where feasible. There may be a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

Written Notice

Before any investigation can begin, the Collaborative must send written notice to both parties including sufficient details. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice must inform the parties

that the Collaborative's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If additional allegations are added during the course of the investigation, additional written notice must be provided.

Informal Resolution

Where appropriate, after notice has been issued, the Title IX Coordinator should also consider offering the parties an option for informal resolution (e.g., mediation). Informal resolution may only be offered after a formal complaint is filed, and the parties must give written consent to engage in this process. Informal resolution may not be used if the allegation is against an employee respondent. Facilitators of informal resolution will be designated by the Title IX Coordinator and must not be biased against any of the parties.

Informal resolution is entirely voluntary. Complainants may elect to pursue formal procedures at any step in the process of making their complaint, even if informal resolution has already begun. Similarly, respondents may elect to follow formal procedures and decline informal resolution.

If the complainant and the respondent feel that their grievances have been sufficiently addressed via informal resolution, then no further action needs to be taken. This voluntary conversation must occur within five (5) school days after receiving the complaint of discrimination or harassment, unless both parties agree otherwise. The results of an informal resolution shall be maintained by the facilitator, in writing.

If the complainant is not satisfied with the resolution from the informal process, or if he/she does not choose informal resolution, then he/she can begin the formal complaint procedure described below.

Investigation

If informal resolution is not offered to or accepted by the parties, the Title IX Coordinator will designate an investigator and a decision maker, who will not be the same person. The Title IX Coordinator is free to cast himself/ herself as the investigator.

The investigator must not be biased against any of the parties at the outset of the investigation. The investigator will be responsible for interviewing parties and witnesses, finding facts, and making determinations related to credibility, all of which will go into a written report. The investigator must avoid all questions that are protected by legal privilege, unless the privilege has been waived, and should avoid asking about the complainant's sexual history unless it is directly relevant to prove consent to the conduct at issue or to prove that the conduct was committed by someone other than the respondent.

Prior to completion of the investigative report, the Collaborative will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

The investigator must avoid making any final determinations of responsibility for sexual harassment.

Findings should be written in a factual way in an investigative report. Credibility determinations may not be based on an individual's status as complainant, witness, or respondent. The parties have 10 days to submit a response to the investigative report.

During the investigative process and any further hearings, complainants and respondents have a right to have advisors of their choice participate in all aspects of the proceedings. The Collaborative will provide both parties with written notice of investigative interviews, meetings, and hearings, with sufficient time to prepare.

The investigation will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Findings of Responsibility

After the investigator has completed the investigation, the designated decision-maker will be assigned to determine final responsibility or lack thereof for violating Title IX. The decision-maker must not be biased against any of the parties at the outset of this process.

Before the Collaborative can determine responsibility, an investigative report will be sent to the parties and the decision-maker will offer both the complainant and respondent the opportunity to submit proposed relevant, written questions to ask of any party or witness, to respond to questions posed by another party, and to offer additional limited follow-up. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

After this process is complete, the decision-maker will create a written determination regarding whether sexual harassment has occurred using a preponderance of the evidence standard.

A "preponderance of the evidence" means that it is more likely than not that the alleged conduct occurred. The decision-maker shall further recommend what action, if any, is required. If it is determined that sexual harassment occurred, the Collaborative will take steps to prevent the recurrence of the harassment and correct its discriminatory effect on the complainant and others if appropriate.

The written determination must be issued to both parties simultaneously and must include:

- (A) Identification of the allegations potentially constituting sexual harassment;
- (B) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (C) Findings of fact supporting the determination;
- (D) Conclusions regarding the application of the recipient's code of conduct to the facts;
- (E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies

designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and

(F) The Collaborative's procedures and permissible bases for the complainant and respondent to appeal (a copy of, or direct reference to, this policy will suffice).

If there is a finding that sexual harassment occurred, the Collaborative will provide remedies to the complainant designed to restore or preserve equal access to the Collaborative's education program or activity. Such remedies may include supportive measures.

Formal disciplinary actions may be imposed in the event that the preponderance of the evidence indicates a violation of this policy, up to and including expulsion or termination. Any disciplinary action will be in accordance with due process rights under State law and any applicable collective bargaining agreement.

As indicated above, these procedures do not limit the Collaborative from removing a student or employee from a program or activity on an emergency basis based on immediate threats to people's physical health or safety or placing an employee on administrative leave during the pendency of the investigation.

Records

A record will be maintained for a period of seven years of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment and Collaborative staff will document the basis for the Collaborative's conclusion that its response was not deliberately indifferent.

Training

The Collaborative will ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

The Collaborative will ensure that decision-makers receive training on any technology to be used in interviews and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

The Collaborative also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section.

Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

These training materials will be posted on the Collaborative's website.

Appeals

Any party may appeal the decision in writing to the Executive Director within five school days of receipt of the findings of the formal procedure or a dismissal on the following bases:

(A) Procedural irregularity that affected the outcome of the matter;

(B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

(C) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Collaborative will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The Executive Director or designee, as a further impartial decision-maker, will review the comprehensiveness and accuracy of the investigation and the conclusions, and issue written findings to both the complainant and respondent within thirty (30) school days of the appeal.

Contact information for the Executive Director:

Executive Director. Roland Joyal, Jr., 174 Brush Hill Avenue, West Springfield, MA, 01089 or 413-735-2200.

HARASSMENT, BULLYING, DISCRIMINATION, AND HATE CRIMES

(Adapted from the Attorney General's Safe Schools initiative)

This section of the Handbook has been adapted from the LPVEC's Comprehensive Civil Rights Policy for promoting civil rights and prohibiting harassment, bullying, discrimination, retaliation, and hate crimes. Copies of the LPVEC's Comprehensive Civil Rights Policy are available upon request, and may be viewed at the main office of the LPVEC.

Disciplinary Policy Regarding Civil Rights Issues

The LPVEC prohibits all forms of harassment, discrimination, and hate crimes based on the following protected categories: race, color, religion, national origin, ethnicity, sex, sexual orientation, age, or disability.

The LPVEC also prohibits bullying, as defined below. The LPVEC will also not tolerate retaliation against persons who take action consistent with this Policy.

The prohibition against harassment, discrimination, hate crimes, bullying, and retaliation applies to all students on all sites and activities the LPVEC supervises, controls, or where it has jurisdiction under the law, including on school premises and at school-sponsored functions, events or activities, including field trips, athletic activities and school-related transportation, including designated bus stops.

Bullying Prevention and Intervention Plan

LPVEC expects that all members of the school treat each other in a civil manner and with respect for differences. Our schools are committed to providing students with a safe learning environment that is free from bullying and cyberbullying. This commitment is an integral part of our comprehensive efforts to promote learning and to prevent and eliminate all forms of bullying and other harmful and disruptive behavior that can

impede the learning process and undermine our therapeutic special education programs. We will not tolerate any unlawful or disruptive behavior, including any form of bullying, cyber bullying, or retaliation in our school building, on school grounds or in school related activities. We will promptly investigate all reports and complaints of bullying, cyber bullying, and retaliation, and take prompt action to end that behavior and restore the target's sense of safety. We will support this commitment in all aspects of our school community, including curricula, instructional programs, staff development, extracurricular activities and parent or guardian involvement.

The Bullying Prevention and Intervention Plan is printed with appropriate reporting forms in the Parent/Student Handbook which is updated each year and sent to families, a signature is required after the parent and student have reviewed. The Staff Handbook also contains a copy of the Bullying Intervention and Prevention Plan with related reporting forms and is updated each year prior to the start of school. Staff also signs a receipt of the document. Staff meets informally daily. During these meetings discussion occurs around any reports or observations of bullying. Staff is informed so that everyone can be on high alert to ensure that bullying is not occurring.

The Bullying Prevention and Intervention Plan is a comprehensive approach to addressing bullying and cyberbullying and the Collaborative is committed to working with students, staff, families, law enforcement agencies and the community to prevent issues of violence. In consultation with these constituencies, we have established this plan for preventing, intervening and responding to incidents of bullying, cyber bullying and retaliation.

LPVEC has developed the following plan in response to Massachusetts General Law Chapter 71, Section 37O. Our plan emphasizes a proactive and sustained approach to ensuring that our therapeutic program continues to provide a safe environment for our special needs students and complies with the training and reporting requirement of this new legislation.

The primary contact person for this plan is Roland Joyal, Executive Director, and Amy Drake, Director of Special and Alternative Education.

I. Policies and Procedures for Reporting and Responding to Bullying and Retaliation

Reporting Bullying or Retaliation:

1. The existing Positive Behavioral Intervention System addresses appropriate behavior between student, peers, and towards staff), including internet safety between students as well.
2. All school and Collaborative Staff members are required to report immediately to their direct supervisor or designee any instance of bullying or retaliation the staff member becomes aware of or witnesses. Reports of bullying or retaliation may be made by staff, students, parents/guardians or others and may be oral or written. Oral reports made by or to a staff member will be recorded in writing using the school bullying Prevention/Intervention Incident Reporting Form. The requirement to report to the direct supervisor or designee does not limit the authority of staff to respond to behavioral or disciplinary incidents consistent with school or Collaborative procedures for behavior management and discipline.

Reports made by students, parent/guardians or other individuals who are not school or Collaborative staff members may be made anonymously; however, no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report. A copy of the reporting form will be included in

student/parent handbooks distributed at the beginning of the school year; copies of the reporting form are available on the school's website, the counseling office and administrative offices.

Annual written notice of policies, procedures, and the plan will be provided to students, parents, and staff in student and staff handbooks.

Responding to Bullying/Retaliation Report:

Before fully investigating the allegations of bullying or retaliation, the principal, Special Education Director, or designee will take steps to assess the need to restore a sense of safety to the alleged target and/or to protect the alleged target from possible further incidents. The Special Education Director or his/her designee will take additional steps to promote safety during the course of and after the investigation, as necessary. The Special Education Director or designee will implement appropriate strategies for protection from bullying or retaliation for a student who has reported bullying or retaliation, a student who has witnessed bullying or retaliation, a student who provides information during an investigation or a student who has reliable information about a reported act of bullying or retaliation.

The Investigation Steps Are as Follows:

1. Bully/retaliation report is made to the Special Education Director or designee.
2. Incident Report completed by staff, student, parent/guardian or others and forwarded to Special Education Director or designee.
3. Upon receipt of a viable report, the principal, the Special Education Director or designee will promptly contact the parent/guardians of the alleged target or the alleged aggressor.
4. The Special Education Director or designee will conduct an internal investigation, to include interviews with the target(s) and alleged aggressor(s), students, staff, witnesses, parents/guardians and others as necessary.
5. The Special Education Director or designee will remind the target(s), alleged aggressor(s), and witnesses that retaliation is strictly prohibited and will result in disciplinary action.
6. To the extent practicable, the Special Education Director or designee will maintain confidentiality during the investigation process.

School Determination Procedures Are as Follows:

1. The Special Education Director or designee will make a determination based upon all of the facts and circumstances.
2. If bullying or retaliation is substantiated, the Special Education Director or designee will determine what remedial, responsive or disciplinary action is necessary.
3. The Special Education Director or designee will promptly notify the parents/guardians of the target(s) and aggressor(s) about the results of the investigation and, if bullying or retaliation is found, what actions are in place to prevent further acts of bullying or retaliation and the procedures for responding to bullying.
4. All notice to parents must comply with applicable state and federal privacy laws and regulations.
5. If the bullying or retaliation involves students from other schools, the Special Education Director or designee will promptly notify by telephone the principal or designee of the other schools so that appropriate action may be taken, in accordance with state and federal privacy laws and regulations.
6. At any point after receiving a report of bullying or retaliation, including after the investigation, if the Special Education Director or designee has a reasonable basis to believe that criminal charges may be pursued against the aggressor(s), the Special Education Director or designee will notify the School Resource Officer, consistent with requirements and locally established agreements.

School Responses to Bullying Include the Following:

1. The schools will use a range of responses that balance the need for accountability with the need to teach appropriate behavior including skill building and other relevant educational activities and positive behavior supports and plans.
2. Consequences for substantiated bullying include, but are not limited to:
 - a written warning
 - parent conferences
 - classroom transfer
 - limiting or denying student access to a part or area of the LPVEC facility
 - adult supervision on the LPVEC premises, including in-house alternative program sites
 - exclusion from participation in school-sponsored functions, after school programs, and/or extracurricular activities & short-term or long-term suspension
 - exclusion, expulsion, or discharge from school
 - an apology to the victim
 - awareness training to help students understand the impact of their behavior
 - participation in cultural diversity, anti-harassment, anti-bullying, or intergroup relations programs
 - mandatory counseling (in or outside of school)
 - police contact
 - any action consistent with the Student Handbook
3. Because of the unique nature of each instance of bullying, the appropriate disciplinary action will be determined by the Special Education Director or his/her designee. Factors that influence his/her decision include the age of the students involved, past record of the aggressor, the severity, and the frequency of the bullying. Discipline will be consistent with the Collaborative and school codes of conduct. As part of therapeutically addressing the aggressor, an appropriate skill building activity will be assigned to the aggressor as well as his/her consequence. They include, but are not limited to:
 - One on one lunch with a staff member discussing anti-bullying strategies
 - Completion of a written assignment regarding the incident/feelings of the target and the effect on the school
 - Completion of an anti-bullying assessment
 - Viewing an anti-bullying video
 - Completion of an activity from SEL/ counseling curriculum regarding respect, diversity, or anti-bullying
4. The Special Education Director or designee will consider what adjustments, if any, are needed in the school environment to enhance that target's sense of safety and that of others.
5. Within a reasonable period of time, the Special Education Director or designee will contact the target(s) to determine whether there has been a recurrence of the prohibited conduct and whether additional supportive measures are needed.
6. Strategies for protecting targets, witnesses, interviewees, and reporters include:
 - Separation from the aggressor
 - Contact with the counselor
 - Parent contact
 - Mediation
 - Heightened staff awareness of incidents
 - Increased staff supervision at identified bullying sites

7. A student making a false accusation of bullying or retaliation will be subject to the same disciplinary action as a bully. The Special Education Director or his designee will weigh the damage caused by the false accusation and prescribe the appropriate disciplinary action.

II. Collaboration with Families

Parent education and resources:

The school counselor will be available for parents and students who are involved in a bullying incident, regardless of their involvement. The Special Education Director may assign appropriate staff when needed to work with students and families. If outside counseling is needed, the clinical team will make arrangements with outside agencies.

Notification requirements:

1. Each year the school will inform parents/guardians about the bullying prevention/intervention framework used, including information about the dynamics of bullying, cyberbullying and online safety.
2. The school will send parents written notice each year about the student-related sections of the plan and the school internet safety policy.

III. Prohibition Against Bullying and Retaliation

Acts of bullying, which include cyber bullying, are prohibited:

- A. On school grounds and property immediately adjacent to school grounds, at a school-sponsored or school related activity, function, or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school agency or school; or through the use of technology or an electronic device owned, leased by the Collaborative or school, and
- B. At a location, activity, function or program that is not school-related through the use of technology or an electronic device that is not owned, leased or used by the Collaborative or school, if the acts create a hostile environment at school for the target or witnesses, infringe on their rights of school, or materially and substantially disrupt the education process or the orderly operation of a school.

Retaliation against a person who reports bullying, provides information during an investigation of bullying, or witnesses or has reliable information about bullying is also prohibited.

As stated in M.G.L. c.71, § 370, nothing in this Plan requires the Collaborative or school to staff any non-school related activities, functions or programs.

IV. Definitions

- **Aggressor:** is a student or staff member who engages in bullying, cyber bullying or retaliation.
- **Bullying:** as defined in M.G.L. c.71, § 370, is the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a target that:
 - Causes physical or emotional harm to the target or damage to the target's property;
 - Places the target in reasonable fear of harm to himself or herself or of damage to his or her property;
 - Creates a hostile environment at school for the target;
 - Infringes on the rights of the target at school; or
 - Materially and substantially disrupts the education process or the orderly operation of a school.

- **Cyber bullying:** is bullying through the use of technology or electronic devices such as telephones, cell phones, computers and the Internet. It includes, but is not limited to, email, instant messages, text messages, and Internet posting. See M.G.L. c.71, § 370 for the legal definition of cyber bullying.
- **Hostile environment:** as defined in M.G.L. c.71, § 370 is a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of a student's education.
- **Retaliation:** is any form of intimidation, reprisal or harassment directed against a student who reports bullying provides information during an investigation of bullying or witnesses or has reliable information about bullying. Staff includes, but is not limited to, educators, administrators, counselors, school nurses, cafeteria workers, custodians, bus drivers, athletic coaches, advisors to extracurricular activities, support staff or paraprofessionals.
- **Target:** is a student against whom bullying, cyberbullying or retaliation has been perpetrated.

IX. Relationship to Other Laws

Consistent with state and federal laws, and the policies of the schools and Collaborative, no person shall be discriminated against in admission to a public school or any town or in obtaining the advantages, privilege and courses of student such public school on account of race, color, sex, religion, national origin, sexual orientation, disability, or homelessness. Nothing in the Plan prevents the school or Collaborative from taking action to remediate discrimination or harassment based on a person's membership in a legally protected category under local, state, or federal law or school or Collaborative policies. Students will be afforded equal protection regardless of their legal status.

In addition, nothing in the Plan is designed or intended to limit the authority of the school or Collaborative to take disciplinary action or other action under M.G.L. c.71, § 370 or 37H 1/2 , other applicable laws, or local school or Collaborative policies in response to violent, harmful or disruptive behavior, regardless of whether the Plan covers the behavior.

STUDENTS RIDING A SCHOOL BUS

School buses are provided by the Lower Pioneer Valley Educational Collaborative for transporting some students to and from school. Students transported by LPVEC are the responsibility of LPVEC from the time they board the bus to come to school until they arrive at their respective destination after school. Students not transported by LPVEC are the responsibility of LPVEC from the time they arrive at school until they board buses after school. Every student is expected to board the bus and leave the bus at his/her designated stop. Students should be at the bus stop at least five minutes before the scheduled pick up time. Missing a bus is not an acceptable reason for being tardy. Riding the bus is a privilege that can be denied temporarily or permanently if the pupil's behavior warrants it. Students are expected to be well behaved and courteous at all times. If an individual is reported as being unruly or endangering the safety of others, that person's riding privilege may be suspended or permanently revoked.

Any offense committed by a student on a Lower Pioneer Valley Educational Collaborative owned or contracted bus shall be punishable in the same manner as if the offense has been committed at the student's home school and/or LPVEC.

Students riding the school buses may be disciplined for:

- Refusal to comply with the safety and behavior rules.

- Refusal to comply with the authority of the bus driver.
- Any action endangering the safety of the driver or another passenger.
- Repeated minor offenses which tend to distract the bus driver's attention.

In the event of transportation difficulties involving students transported by carriers other than LPVEC, the student or parent should contact the transportation officer or Superintendent of the home school system.

Safety and Behavior Rules

The bus driver is in charge of the bus and the passengers. He/she is responsible for the safety of the pupils and for their conduct on the bus. The bus driver reports to the Transportation Manager all violations of rules. A pupil may become ineligible for transportation if their behavior creates a significant problem on the school bus. Students are to follow these rules:

1. Be at the bus stop five minutes prior to the designated pick-up time and ready to get into the bus.
2. Do not stand in the roadway while waiting for the bus.
3. Do not light any materials on fire (twigs, leaves, etc.) for any reason while waiting for the bus.
4. Students having to cross the road when boarding and discharging are to cross in front of the bus, not behind it, upon the driver's signal. All pupils are advised to use extreme caution by looking at traffic both ways before crossing the street.
5. When boarding the bus, properly secure all supplies.
6. Remain at least five feet from the bus when it stops to pick up, and move toward the bus only when the door is open.
7. After boarding the bus, take a seat as quickly as possible.
8. Ride only on the bus to which you are assigned.
9. Do not bring animals, pets, reptiles, firearms, or explosives on the bus.
10. Obey the bus driver and bus monitor at all times while under their supervision.
11. Do not engage in smoking, vulgarity and boisterous behavior.
12. Remain seated while the bus is in motion.
13. Do not extend arms, head, or feet out of the bus windows at any time.
14. Keep aisles clear of lunch boxes, musical instruments, books, tools, etc.
15. Do not eat or drink while on the bus.
16. Do not damage or deface any part of the bus.
17. Remain absolutely quiet when approaching a railroad crossing
18. Do not play a radio on the bus.
19. Do not tamper with any operating mechanism of the bus, including the emergency door.
20. Do not operate the service door; this is the responsibility of the bus driver.
21. Students are liable for the cost of damages they cause and will be billed accordingly by the transportation office.

Field Trips and School Activities

Since student conduct both on and off the school property reflects directly on the reputation of the Lower Pioneer Valley Educational Collaborative, only those who abide by the following regulations will qualify for travel on vehicles used for school sponsored activities:

1. Students must make the return journey in the same bus or vehicle to which they were assigned at the start of the trip.
2. Students must refrain from smoking.

3. Students must refrain from loud group or individual singing or cheering or attracting the attention of pedestrians or motorists en route. Undue noise or other distractions place everyone in jeopardy by making it impossible for the driver to operate.
4. Students must remain seated for the duration of the trip.
5. Students must avoid crowding or engaging the driver in conversation. Return to the bus or vehicle immediately upon the conclusion of the activity.
6. Students are not allowed to drive their cars to any activity sponsored by LPVEC and held away from school during the school day.
7. A student will be allowed to board a vehicle for field trip or other school activity only upon receipt of written parent permission slip.

MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION DIVISION OF
SPECIAL EDUCATION

PARENT'S NOTICE OF PROCEDURAL SAFEGUARDS

Dear Parents:

You are receiving this Notice of Procedural Safeguards (Notice) because your son or daughter (student) has been referred for an evaluation or is currently receiving special education services. If your student is eligible for special education, the school district must provide a free appropriate public education commonly referred to by the acronym FAPE. In order to provide a FAPE the school district must work in partnership with you. You will be a member of the IEP team that will consider your student's unique needs and develop an individualized education program or IEP, for your student.¹ The IEP must provide instruction that is tailored to your student's unique needs and includes sufficient support services to enable your student to make meaningful educational progress and to assist your student in acquisition of knowledge and skills, including those necessary for social and emotional development according to appropriate chronological and developmental expectations. Any special education services identified for your student must be provided at public expense with no cost to you. All students in the Commonwealth's public education system, including students with disabilities, are entitled to the opportunity to learn the material that is covered by the academic standards in the Massachusetts curriculum frameworks. Massachusetts also provides an individual right to FAPE for its resident students with disabilities who attend private schools at private expense, and who seek public special education services.

Both State and federal laws contain rules that school district's must follow when deciding if a student is eligible for special education and, if so, what services the student will receive. These laws also provide detailed procedures for ensuring that the student receives a FAPE during the entire time he or she is eligible for special education. Special education is a highly complex and regulated area of education law. The detail in the law is intended to protect your student and to help ensure that he or she receives appropriate educational services. You can get additional help in understanding the special education process from your school guidance office, the Massachusetts Department of Elementary and Secondary Education (ESE), organizations for parents of students with disabilities, and private special education organizations. Information from these sources will help you work in partnership with your school district to make sure that your student receives appropriate educational services. The ESE publishes extensive information for parents and school districts on its internet Websites. A Table of the ESE Websites is included at the end of this Notice.

This Notice provides you with important information on your right to be involved in planning your student's special education. Procedural safeguards are the specific rules that make sure that you know what the school district is proposing to do ("receive notice"), agree with the school district's plan ("give parental consent") and have a range of opportunities for resolving disagreements with the school district ("due process"). Procedural Safeguards in the law also provide additional protections outlined in this document.

We hope this Notice will be of assistance to you as you take an active role in your student's educational experience.

This document, the Parent's Notice of Procedural Safeguards, answers the following questions:

1. What is "prior written notice" and when do you receive it?
2. What is "parental consent" and when must the school district ask for your consent?
3. Is the school district required to evaluate upon request by a parent?
4. What is an "independent educational evaluation?"
5. When can you see your student's student record?
6. How can parents and schools resolve disputes?
7. What are your responsibilities if you place your student in a private school?
8. What must be done to plan for your student's transition from school?

¹ See the IEP Process Guide for information on how a student's IEP is developed and implemented.

9. How may a school discipline a student with a disability?
10. Where can the laws and regulations and other useful information be found?

You will receive this Notice at least once each year if your student is identified as eligible for special education. You can also request a copy from your school district at anytime or from the ESE. This document is available on the ESE Web site at <http://www.doe.mass.edu/sped/prb>.

1. What is prior written notice and when do you receive it?

34 CFR §300.503

The school district must provide you with a written notice when it proposes, or refuses, to take steps to identify your student, to evaluate your student, to provide special services to your student, or to change your student's program. Federal regulations call this a "prior written notice." The written notice must:

- Describe **what** the school district proposes or refuses to do;
- Explain **why** the school district is proposing or refusing to take the action;
- Describe **how** the school district decided to propose or refuse to take the action, including telling you about each evaluation procedure, assessment, record, or report that your school LPVEC used to make its decision; and
- Describe any other options that your student's individualized education program (IEP) Team considered and the reasons why those options were rejected.

School districts will provide this information to you using forms developed by the ESE and available on the ESE Web site or their own forms containing the same information.

You will receive prior written notice when the school district: proposes to conduct an initial evaluation or reevaluation; proposes a new or amended IEP; proposes a change in placement, including a proposed change in placement for disciplinary reasons; or proposes to end special education services.

You will also receive a notice if the school district makes a finding of no eligibility for special education services or refuses a request you have made related to evaluations or provision of special education to your student. Notices from the school district must be provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so. If your native language or other mode of communication is not a written language, your school district must ensure that the school's notice is translated for you orally or by other means (e.g., by sign language), and that you understand the content of the notice.

When you are given prior written notice, you will also be given a copy of this Notice of Procedural Safeguards, or if you have already received this Notice during the current school year, you will be told how you can obtain another copy. You will also be given information about whom you can contact for help in understanding federal and state special education laws.

2. What is parental consent?

34 CFR §300.9 and 603 CMR 28.07(1)

The school district may not give your student a special test or special service unless you agree and give your written "parental consent." The school district must contact you and clearly explain what it is proposing to do for your student. The school district will then ask you to sign your name on the consent form to show that you agree to the school's proposal. This is giving "parental consent."

Giving your consent is voluntary. You may take back, or revoke, your consent at any time. If you wish to revoke consent you must do so in writing. The withdrawal of consent will only apply to future action by the school district not to something that has already happened. Your school district may not use your refusal to consent to one service or activity as a reason to deny you or your student any other service, benefit, or activity.

Your consent is not required before your school district may review existing data as part of your student's evaluation or reevaluation, give your student a test or other evaluation that is given to all students without consent such as the MCAS or classroom tests that are part of the general education program, or share information with federal or state educational officials.

2.1 When will a school district ask for your consent? 34 CFR § 300.00 and 603 CMR 28.07(1)

A school district will ask for your parental consent in the following circumstances:

To authorize the initial evaluation to determine if the student is eligible for special education

The school district cannot conduct an initial evaluation of your student to determine whether your student is eligible to receive special education and/or related services without first obtaining your consent. If your student is referred for an evaluation, the school district must ask for your consent to the evaluation within five school days.

To approve initial services

If, after the initial evaluation has been completed, the Individualized Education Program (IEP) Team has decided that your student is eligible for special education, the IEP Team will propose special education and related services and a placement for your student. You are a member of the IEP Team and must give your consent before your school district can provide special education and related services to your student for the first time. If you do not consent, the school district cannot provide special education and related services to your student. You can accept or reject the whole proposal or part of it. The IEP or any part that you accept must begin as soon as you accept it.

To make a change in services, placement or reevaluation

Once you have agreed to an IEP for your student, the school district must obtain your consent before the school district may change the services or the placement of your student, or conduct a reevaluation.² If you refuse to give your consent, you have an obligation to engage with the district in active discussion to resolve your disagreement. If you have given consent to services in the past and now want to revoke consent and withdraw your student from services, you must do so in writing. The school district may not request a hearing at the Bureau of Special Education Appeals (BSEA) to obtain authority to provide educational services or to reevaluate your student without your consent.

To excuse members of the IEP Team from attending a Team meeting

Members of the IEP Team may be excused from attending a Team meeting if you agree in writing in advance of the meeting. If the Team will be discussing the excused Team member's area, then the excused member must provide his or her input in writing before the Team meeting. If you do not agree to excuse the Team member he or she must attend the IEP Team meeting.

2.2 When will the student be asked for consent? 34 CFR §300.520 and 603 CMR 28.07(5)

Under Massachusetts' law a student has reached adulthood upon his or her eighteenth (18th) birthday. **When a student turns age 18**, therefore, all of the decision-making rights that you have as a parent transfer to your adult student, unless a court has appointed a legal guardian for your student or your student indicates in writing

² You also have the right to observe your student in his or her current program and observe a proposed program prior to your student's placement. For further information see the ESE document "Observation of Education Programs by Parents".

that he or she wants to share decision-making with you or wants you to continue to have authority to make decisions about his or her educational program. The school district must discuss with you and your student the impact of this transfer of rights at least a year before the student's eighteenth birthday. As the parent of an adult student with a disability, you will continue to receive all the required notices from the school, and you will continue to be able to inspect your student's educational records, even if your student makes his or her own educational decisions.

2.3 When will a special education surrogate parent give consent? 34 CFR §300.520 and 603 CMR 28.07(5)

If a student is in the custody of the Department of Children and Families, or the student's parents or guardian cannot be identified or located or have had their parental rights terminated, the ESE has a responsibility to ensure there is an adult with no conflicting interests to make special education decisions on behalf of the student. This person is called a special education surrogate parent. The ESE determines if it is necessary to appoint a special education surrogate parent for the student. If appointed, a special education surrogate parent has the same rights and responsibilities as a parent in special educational matters for the student.

2.4 How do I withdraw consent? 34 CFR §300.300(b)(4) and 300.0

If you have given consent to special education and related services and now wish to revoke your consent, you must do so in writing. You may withdraw your consent to all special education and related services, to a specific service or to placement. Once the school district receives your letter, the district will send you a notice stating the change in educational placement and services that result from your revocation of consent. Once you withdraw your consent to all special education and related services, the school district is no longer required to make FAPE available or to have an IEP meeting or develop an IEP for your student. School districts are not required to amend your student's record to remove references to special education services as a result of your revocation of consent.

3. Is the school district required to evaluate a student upon request by a parent? 34 CFR §300.301 and 603 CMR 28.04

A student must receive a complete and comprehensive evaluation to determine if the student has a disability and is eligible for special education and, if eligible, to assist in determining appropriate special education and related services that may be necessary. Parents who have a concern about their child's development or have a suspicion about a possible disability may refer their child for an initial evaluation. Special words need not be used in making a referral for an initial evaluation. Upon receipt of such a request for an initial evaluation, the school district must send notice to the parent and must seek the parent's consent to conduct an evaluation. (A school district will rarely have occasion to refuse to conduct an initial evaluation and may do so only if the parent or other individual making the referral has no suspicion of disability or is not concerned about the student's development).

Where appropriate, the school district may also provide the parent with information concerning other supportive services that may better suit a particular student's needs. However, a school district may not refuse to evaluate a student who has been referred for an evaluation as described above, on the basis of a pre-referral program or in order to try other instructional support activities or for any other reason. Additionally, the law provides for periodic reevaluations to ensure that the student is benefiting from and continues to require special education. The parent's consent will always be required prior to these reevaluations.

4. What is an independent educational evaluation? 34 CFR § 300.502 and 603 CMR 28.04(5)

An Independent Educational Evaluation (IEE) is an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your student.

You have the right to request an IEE of your student at public expense if you disagree with the school district's evaluation. If you request an IEE, the school district must provide you with information about where you may obtain an IEE and about the state requirements that apply to IEEs.

4.1 When is an independent educational evaluation conducted at public expense?

In Massachusetts, under state law, you will receive an IEE at full or shared public expense if you meet income eligibility requirements. Students who are eligible for free or reduced cost meals are entitled to an IEE at public expense. Other students are eligible for a shared cost IEE according to a sliding fee scale. Sharing your financial information with the school district is completely voluntary on your part. If you choose to share such information, the school district must immediately notify you in writing whether or not you are eligible for full or partial funding of an IEE and proceed to fund the IEE based on eligibility. Your right to a publicly funded IEE through income eligibility will extend for 16 months from the date of the school district's evaluation with which you disagree.

If you do not meet income eligibility requirements or choose not to disclose financial information, the district must consider your request for a publicly funded IEE under federal law. Within 5 days, the district may either agree to provide an IEE at public expense or request a hearing at the Bureau of Special Education Appeals (BSEA) to demonstrate that the evaluation conducted by the district was comprehensive and appropriate. More details regarding IEEs are available in the ESE Administrative Advisories 2004-1 and 2001-3 available from your local school district and on the ESE Web site: <http://www.doe.mass.edu/sped/advisories/?section=admin>.

You are entitled to only one IEE of your student at public expense each time your school district conducts an evaluation. You may have independent evaluations conducted at your own expense at any time.

4.2 the results of IEEs must be considered within 10 days by the school district

If you obtain an IEE of your student at public expense or you share with the school district an evaluation of your student that you obtained at private expense, your school district must convene a Team meeting within ten school working days after receiving the evaluation information. The Team will consider the evaluation results and determine what, if any, changes should be made to your student's IEP.

5. When can you see your student's student records? 34 CFR 300.611 and 603 CMR 23.00

The student record consists of your student's transcript and temporary school record and includes health records, tests, evaluations, discipline records and other records pertaining to your student's special education eligibility or program.³ Personally identifiable information about your student is confidential and may not be disclosed to anyone other than teachers and educational officials without your consent.

You and your student (if your student is 14 or older) have a right to look at any and all of the student's records within 10 days of your request and before any IEP meeting or due process hearing.⁴ You may also have copies of the information upon request for a reasonable charge limited to the cost of reproduction. You may not be charged for costs associated with the search for and retrieval of your student's records.

³ If a student's parents revoke their consent for special education services after such services have been initially provided, school districts are not required to amend the student's records to remove references to special education services.

⁴ The school district can only limit access to the student record if it has received a legal document such as a restraining order or a divorce or custody decree that restricts access to information about the student's.

In addition, you can meet with professionally qualified school personnel to have the records explained. You may also have your representative (advocate, consultant, or attorney) inspect, review, and interpret your student's record if you give your specific, written informed consent. All of the rights associated with the student record are contained in the Massachusetts Student Record Regulations 603 CMR 23.00. Those regulations can be found at <http://www.doe.mass.edu/lawsregs/603cmr23.html> or by requesting a copy of the regulations from the school LPVEC or ESE.

Generally only the parent, eligible student, authorized school personnel, and state and federal education officials are allowed to see the student record without the specific, informed, written consent of the parent or adult student. The school district may be required to provide some information to state and federal officials as the result of a court order or in response to a health and safety or law enforcement issue. Helpful information about these and other student records issues can be found at <http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html>.

6. How can parents and schools resolve disputes? 34 CFR 300.151 300.506-300.518 and 603 CMR 28.08

State and federal special education laws provide many opportunities for parents to be involved in educational planning for their student who has a disability. If parents and school districts disagree about changes relating to the identification, evaluation, or educational placement of a student with a disability, or the FAPE services provided to a student with a disability, the laws provide a menu of ways to resolve the disagreement. Your student shall remain in his or her current education program and placement during any dispute regarding placement or services, unless you and the school district agree otherwise or your student's placement is changed as a result of discipline.

Following are alternative ways that you and your school district can resolve disagreements.

6.1 Bring the dispute to the attention of local public school officials

As a first step to resolve your dispute, you may contact your school Principal, the Administrator of Special Education or your Superintendent to ask for help. It is a good practice to write a letter explaining the situation about which you are concerned.

6.2 Use the ESE problem resolution system

If you feel that you need help from outside of your school district, you may contact the ESE, Office of Program Quality Assurance Services (PQA) at 781-338-3700 to use the state "Problem Resolution System" described at <http://www.doe.mass.edu/pqa/prs/>. You can file a complaint with PQA about any violation of state or federal education law or obtain help from PQA staff to resolve the problem informally. If you want a formal investigation by PQA, you will have to submit your complaint in writing. PQA staff will assist you in preparing and submitting the complaint. Your written complaint should include: a statement of your concerns, your attempts to resolve your concerns, the actions by the school you believe would resolve your concerns and your signature and contact information. If your complaint is about a specific student, you should provide the student's name and residential address and the name of the school. The issues that you are complaining about, however, must have occurred no more than one year before PQA receives your complaint. If you choose to file a formal complaint with the PQA Problem Resolution System, you must also send a copy of your written complaint to the school district that is the subject of the complaint. PQA will resolve your complaint within 60 days and send you a copy of the findings and decision.

Filing a formal complaint with PQA will not prevent you from using other methods, such as conversations with your local school district, mediation, or a due process hearing at the Bureau of Special Education Appeals (discussed below) to resolve your complaint.⁵ If you request a due process hearing, however, a complaint that you file through the problem resolution system will be set aside until the due process hearing is completed.

6.3 Ask for a neutral mediator to be appointed

⁵ For a comparison of how the problem resolution system resolves a complaint with how a complaint is resolved through a due process hearing see: <http://www.doe.mass.edu/sped/docs.html>

Mediation⁶ is a service provided by a neutral individual who is trained in special education law and in methods of negotiation. Mediation can be scheduled whenever the parents and schools have a disagreement about special education matters, even if a complaint was made through the PQA Problem Resolution System. The mediator helps the parent and school district talk about their disagreement and reach a settlement that both sides can accept. Discussions during mediations are confidential and nothing that is said by either party can be used later if the dispute becomes the subject of a formal hearing or court proceeding. Once an agreement is reached, it will be put in writing, both sides will sign it, and it may be enforced by a court.

Mediation can be set up by contacting the BSEA at 781-338-6443. The mediator will schedule a meeting with you and the school district within 30 days of the request for mediation. Meetings will be held at a convenient time and place. Participation is voluntary; therefore, both the school district and the parents must agree to participate in mediation. There is no fee for the service.

Additional information about how mediation works is available from the BSEA 781-338- 6400 and can be found in their publications "[Frequently Asked Questions about Mediation](#)"⁷ and the "Explanation of Mediation."⁸

6.4 Request a due process hearing and participate in a resolution meeting

If you and the school district have been unable to work out your disagreement, then you are entitled to have a neutral and impartial hearing officer listen to both sides of the dispute, hear testimony, examine evidence, and make a decision. This hearing is convened by the BSEA and is called a due process hearing. The BSEA hearing officer is trained in special education law and must not have any personal or professional connection to you or anyone else who is involved in the disagreement.

The due process hearing will consider disputes about eligibility; evaluation; IEPs; educational placement decisions, including those resulting from discipline; FAPE; provision of special education; or procedural protections of state and federal law for students with disabilities. You must file for a hearing within two years of when you knew, or should have known⁹ about the events that form the basis for your complaint. This time period can be extended if you can show that you were prevented from filing for a hearing because the school district misrepresented that it had resolved the issue in your complaint or if the district withheld certain required information from you.

Either you or your school district can file a written due process hearing request¹⁰ with the other party and send a copy to the BSEA to obtain a due process hearing. The BSEA has developed a hearing request form¹¹ that you may use, or you can write your own letter instead of using the form, but you must be sure to include your student's name and residential address (or contact information if the student is homeless); the name of your student's school; a description of the problem you are concerned about, including specific facts relating to the problem; and a proposed solution to the problem. Note that the hearing will be limited to the issues that are identified in the complaint.

You must send your due process hearing request to the school district (or other party to the complaint) and a copy to the BSEA. If the due process complaint does not provide enough information, the opposing party may challenge its *sufficiency* within 15 days. The BSEA will decide whether the complaint is sufficient within 5 days of the challenge. Additional information may be added to the complaint if the opposing party agrees or if the hearing officer gives permission. If additional issues are added to the complaint at a later time, however, the hearing timetable begins all over again.

If there is no challenge to the sufficiency of the complaint, then the hearing process continues. If the school

⁶ A description of the mediation process can be found on the ESE Web site at <http://www.doe.mass.edu/bsea/mediation.html>

⁷ <http://www.doe.mass.edu/bsea/mediation.html?section=faq>

⁸ http://www.doe.mass.edu/bsea/forms/m_brochure.doc

⁹ The phrase "or should have known" reminds you that you have a responsibility to be aware of your student's program.

¹⁰ Information on the due process hearing request can be found at: <http://www.doe.mass.edu/bsea/process.html?section=1>

¹¹ <http://www.doe.mass.edu/bsea/forms/hearing.doc>

district has not already sent a prior written notice to you about the issue that you are complaining about, then within 10 calendar days of receiving your due process hearing request, the school district must send you a written response to the complaint.

Note: If *the school district* has filed the due process hearing request, *the parent must respond* within 10 calendar days of receiving the hearing request, and specifically address the issues that the school district raised.

After you file a due process hearing request, the school district has 30 days to work with you to resolve the disagreement before the due process hearing may occur.¹²

The school district is required to set up a resolution meeting within 15 calendar days of receiving your due process complaint.¹³ The school district will determine with you which members of the IEP Team must attend the meeting. Someone from the school district who can make decisions about your student's program must attend the meeting. The school district's lawyer *may not* attend unless you have a lawyer who is attending the meeting.

You must participate in the resolution meeting unless you *and* the school district agree, in writing, not to have the meeting or if you and the school district decide to use the mediation process. If the school district cannot get you to participate in the resolution meeting, it can ask the hearing officer to dismiss your complaint.

If you are willing to meet, but the school district refuses or delays the resolution meeting more than 15 days after receiving notice of your hearing request, then you can ask the hearing officer to proceed with the hearing process. If you meet, but the school district has not resolved the due process complaint to your satisfaction within 30 days of your filing the complaint, then the due process hearing may go forward.

The resolution process ends when one of the following events occurs:

- When you and the school district agree, in writing, to end the resolution period;
- At the end of the 30 day resolution period;
- At the end of mediation; or
- When you and an official of the school district sign a document that spells out your agreement that resolves your dispute. This is a "settlement agreement" and can be enforced by a state or federal court. Note that if you and the school district enter into an agreement as a result of a resolution meeting, either you or the school district may void the agreement within 3 business days of the time that both you and the school district signed the agreement.

6.5 Present your evidence to an impartial hearing officer during a due process hearing

When you file a due process complaint, the BSEA will set a hearing date, assign a hearing officer, and send you detailed information about the hearing process and a list of free or low-cost attorneys and advocates whom you may contact for help.

During the due process hearing you and the school district will each present evidence and provide the testimony of witnesses to an impartial hearing officer from the BSEA. At any due process hearing, including a hearing relating to disciplinary procedures, you may:

- be accompanied, advised and represented by a lawyer and/or advocate;
- have your student present at the hearing;

¹² If you and the school district agree to mediation, you may agree to continue the mediation after the 30 day period.

¹³ No resolution session is required if the school district has requested the due process hearing.

- have the hearing open to the public;
- present evidence such as documents and reports;
- request, or require through subpoena, witnesses to come to the hearing and answer questions;
- see any evidence that is to be used at the hearing at least five business days ahead of time and ask the hearing officer to keep out any evidence that you have not seen; and
- obtain a written or, at your option, electronic, word-for-word record of the hearing findings of fact and decision at no cost to you. To obtain a written record of the hearing, you must make your request in writing.

Additional information about due process hearings can be obtained from the BSEA at 781-338-6400 and from the BSEA Web site: <http://www.doe.mass.edu/bsea/process>

Hearings are conducted according to the Massachusetts Administrative Procedure Act¹⁴ and the BSEA Hearing Rules.¹⁵ The hearing officer must issue a final decision within 45 days of the end of the resolution period described above unless the hearing officer has granted extensions of time at the request of either party. The hearing officer will send a copy of the decision to you and to the school district. Both the parents and the school district must abide by the decision of the hearing officer.

A hearing officer's decision on whether your student is being offered a FAPE must be based on a finding that your student's special education rights were violated or a determination that the school district failed to fulfill its other obligations to your student under the special education laws and regulations. If you have complained about a violation of the special education procedures (such as failure to hold a proper team meeting, poor record keeping, or failure to follow timelines) a hearing officer may find that your student did not receive FAPE *only if* the failure to follow the procedures:

- Interfered with your student's right to a FAPE;
- Significantly interfered with your ability to be involved in decisions about your student's education; or
- Deprived your student of an educational benefit.

The decision of the hearing officer is a final agency decision and cannot be reconsidered by the BSEA or changed by the ESE. Hearing decisions are public¹⁶ and are available on the BSEA Web site at <http://www.doe.mass.edu/bsea/decisions.html>.

6.6 Appeal a hearing decision to a state or federal court

If either the parent or the school district disagrees with the decision of the hearing officer, they can seek review of that decision in state or federal court. Any such request for review must be filed within 90 days of the decision.

6.7 Attorney's Fees **34 CFR §300.517**

Each party is responsible for paying its own attorney's fees unless the court decides otherwise. If you obtain a favorable result in a written hearing decision or court proceeding, the court¹⁷ may decide that the school district should pay your reasonable attorneys' fees. Note, however, that you will not be able to obtain these fees for the time spent litigating your case after the district made a settlement offer if

¹⁴ M.G.L. c.30A

¹⁵ http://www.doe.mass.edu/bsea/forms/hearing_rules.doc

¹⁶ Hearing decisions are published after redacting information that would allow the student to be readily identified.

¹⁷ A BSEA Hearing Officer may not award attorney's fees.

- the district made a written offer of settlement 10 or more days before the hearing,
- you did not accept the offer within 10 days, and
- the outcome of the hearing was no better than the settlement offer.

If the school district obtains a favorable decision, a court could order your attorney to pay the school district's legal expenses if the court finds that your attorney filed a complaint or continued to litigate after learning that the complaint had no basis in fact, was unreasonable, was frivolous, or was pursued for an improper purpose. A court may also order you or your attorney to pay legal expenses if your request for a due process hearing or subsequent cause of action was presented for an improper purpose, such as to harass, to cause unnecessary delay or to needlessly increase the cost of litigation.

7. What are your responsibilities if you place your student in a private school and you believe your school district should reimburse you for the tuition?

34 CFR§300.148

There are some occasions when a parent believes that the public school is not providing a FAPE to the student and the parent decides to place the student in a private school. A parent may enroll his or her student in private school at private expense at any time. If, however, the parent believes that the public school should be responsible for the costs of the student's education in the private school, the parent must tell the school district of objections to the student's IEP and program, reject the IEP, inform the school district of his or her intent to remove the student and enroll the student in a private school, and request a hearing by the BSEA. A parent must inform the school district before removing the student from the public school either orally at the last Team meeting before the removal or in writing at least 10 business days before removing the student from school.

The school district is not required to pay for a student to attend a private school if the school district has made a FAPE available to the student. Disagreements between parents and the school district about whether the student's program provides a district and requests for financial reimbursement for the cost of a private program may be resolved through due process procedures discussed earlier in this document. The hearing officer will determine whether the school district made a FAPE available to your student. If the hearing officer finds that the school district did *not* provide your student with a FAPE, that you followed the above steps, and that the private school placement was appropriate, the hearing officer, after considering all of the circumstances surrounding the removal of the student, may require the school district to reimburse you for all or part of the cost of the private school placement.

8. What must be done to plan for your student's transition from high school?

34 CFR §300.43

Planning for your student's transition from school to postschool opportunities will facilitate your student's ability to successfully participate in activities such as post-secondary education, work, and community and adult life. Planning for transition must be based on your student's strengths, preferences, interests, and needs, must begin when your student is 14, and must be discussed each year at a Team meeting. The school LPVEC must discuss your student's transition needs with you and your student¹⁸ and must consider the goals for your student after he or she completes school by graduating with a regular high school diploma or reaching the age of 22. School districts must use the Transition Planning Form¹⁹ to record the results of this annual discussion.

¹⁸ The student should be invited to attend the Team meeting to discuss postsecondary goals and transition.

¹⁹ <http://www.doe.mass.edu/sped/28MR/28m9.doc>

The student's IEP must include measurable post-secondary transition goals, objectives and services based upon an appropriate assessment of his or her disability and transition needs.

Graduation with a regular high school diploma is a change of placement and ends the student's eligibility for special education. The school LPVEC must inform you if and when the district expects your student to graduate with a regular high school diploma. This discussion should take place during the Team meeting no less than 1 year in advance of the student's graduation.

9. How may a school discipline a student with a disability?

34 CFR §300.530

Public schools must have procedures and standards in place to assure a safe learning environment for students. Schools are expected, and high schools are required, to publish their rules of conduct so that students know how they are expected to behave. If a student misbehaves and violates the school Handbook, the school may discipline the student. Discipline must be fair and even-handed.

In general, any student may be suspended or removed from school for disciplinary reasons for a short time, which is no more than 10 days. Before any removal or suspension the student must be told what he or she is accused of having done and must be given a chance to tell his or her side of the story. During a short disciplinary removal, the school is not required to provide instruction to a disabled student unless it does so for non-disabled students. Once a student with a disability has been removed from the school placement for more than 10 cumulative days during the school year the student must receive educational services that will allow the student to continue to participate in the general education curriculum and to progress toward the goals set out in his or her IEP. School officials must consult with at least one of the student's teachers to determine what services are necessary. These services must begin on the 11th school day of a student's disciplinary removal during the school year and continue during the disciplinary removal.

Schools must follow special disciplinary rules for students with disabilities who have been found eligible for special education.²⁰ A chart depicting the operation of these disciplinary rules can be found on the ESE Web site.²¹ These special disciplinary rules apply as soon as a student is removed from his or her current education placement²² for more than 10 days in a row, or if a student is removed for disciplinary reasons for more than a total of 10 days in any school year and there is a pattern of removal for comparable behaviors. The school must notify you as soon as the decision is made to remove your student from his or her education placement for more than 10 days and provide you with a copy of this Notice.

The student's IEP Team must meet within 10 days of the school's decision to impose the discipline. At this meeting, called a "*manifestation determination*," you and other members of the IEP Team will determine if the misbehavior was caused by or had a direct relationship to the student's disability, or was the direct result of the school's failure to provide the services required by the student's IEP. In making the manifestation

²⁰ The special education disciplinary rules also apply to some students who have not yet been found eligible for special education. If, prior to the conduct in question, the parent has put his or her concern that the student's has a possible disability in writing to supervisory or administrative personnel or the student's teacher; if the teacher or other staff has expressed concerns about the student's pattern of behavior directly to the director of special education or other supervisory personnel, or if the student has been referred for an evaluation that has not yet been completed these special rules apply. The special education disciplinary rules *do not* apply if the parent has refused to consent to the evaluation, if the student has previously been found to be not eligible for special education, or if the parent has revoked consent to special education and related services.

²¹ http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc

²² Placement is determined by the IEP Team and is the location where IEP services are provided.

determination, you and other members of the IEP team must consider relevant information from your student's file, including your student's IEP, your and the teachers' observations of your student's behavior, and any relevant information you provide.

If the team determines that the student's behavior *was not* caused by or directly related to the student's disability or the failure to properly implement the IEP, then a student with a disability can be disciplined in the same manner and for the same length of time as other students are disciplined for the same offense.

The IEP Team, however, must determine the interim alternative educational setting (IAES) where the student will be placed and the educational services that will be provided. An IAES is a setting other than the student's current placement that enables the student to continue to receive educational services according to his or her IEP. School personnel may consider the student's unique circumstances in determining whether a change in placement is appropriate for a student with a disability.

If the Team determines that the student's behavior *was* caused by or directly related to the student's disability or the failure to properly implement the IEP, then the student must be returned to the last approved IEP placement unless you and the IEP Team decide on a different placement. The student must also be provided a functional behavioral assessment. A functional behavioral assessment or FBA is a comprehensive assessment of behavior that provides the IEP Team with information about the student's behavior and identifies behavioral intervention services and program modifications that are designed to address the behavioral violation so it does not recur. If the student has already had a functional behavioral assessment and has a behavioral intervention plan, then the IEP Team should determine if any changes should be made to the behavioral intervention plan. If the behavior was caused by the failure to properly implement the IEP, the school must take immediate steps to remedy the deficiencies.

Note that if your student possessed or used a weapon or drugs, or caused serious bodily injury to another person on school property or at a school event your student may be placed by the principal in an IAES for up to 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability. The IEP Team will determine the IAES and the appropriate educational services that will be provided to the student while he or she is in the IAES.

9.1 Appeal of a disciplinary decision

If a parent disagrees with any decision regarding placement of his or her student under the disciplinary provisions or disagrees with the manifestation determination, or if the school district believes that maintaining the current placement of the student is substantially likely to result in an injury to the student or to others, either the parent or the school district may appeal the decision by requesting a hearing with the BSEA, as described earlier in this document.

The BSEA will convene a hearing on a disciplinary placement or manifestation determination on an expedited schedule.²³ During the appeal of a disciplinary placement or manifestation determination, the student must remain in the IAES until the hearing officer makes a decision or the disciplinary period is completed, unless the parent and the school district agree to a different placement.

10. Where can the laws and regulations and other useful information be found?

²³ See BSEA Hearing Rule II.C. Expedited Hearing. http://www.doe.mass.edu/bsea/forms/hearing_rules.doc p.6.

10.1 Laws and regulations

You can find the full text of the state Special Education law in Massachusetts General Law Chapter 71B. The state law is popularly known as “Chapter 766.” The state special education regulations are found in the Code of Massachusetts Regulations (CMR) at 603 CMR 28.00. The law and the regulations and other helpful resources are on the ESE Web site.²⁴

The federal special education law is the Individuals with Disabilities Education Act, known as “IDEA.” The federal statute is located in the United States Code at 20 U.S.C. § 1400. The implementing regulations for IDEA may be found in the Code of Federal Regulations (CFR) at Chapter 34, Section 300. A copy of the federal statute and regulations and explanatory information can be found on the U.S. Department of Education Web site at <http://idea.ed.gov/>.

10.2 Individualized education program process guide and forms

A general overview of how the special education process works (taken from the IEP guide prepared by the USDOE) can be found at <http://www.doe.mass.edu/sped/iep>.

For the ESE explanation of how an IEP is developed, consult the IEP Process Guide and the standard IEP forms available on the ESE Web site: <http://www.doe.mass.edu/sped/iep>.

10.3 Table of abbreviations

Many common special educational phrases are abbreviated by acronyms composed of the initial letters of the phrase. For your convenience the acronyms and phrases used in this document are listed below:

BSEA:	Bureau of Special Education Appeals
CFR:	Code of Federal Regulations
CMR:	Code of Massachusetts Regulations
ESE:	Massachusetts Department of Elementary and Secondary Education
FAPE:	Free Appropriate Public Education
FBA:	Functional Behavioral Assessment
IAES:	Interim Alternative Educational Setting
IDEA:	Individuals with Disabilities Education Act
IEE:	Independent Educational Evaluation
IEP:	Individualized Education Program
PQA:	Program Quality Assurance Services

10.4 Table of web sites

The ESE publishes extensive information for parents and school LPVECs on its internet Websites. These Websites include pertinent laws, agency policies and useful documents that explain the special education process.

Autism Spectrum Disorder:

http://www.doe.mass.edu/sped/advisories/07_1ta.html

Bureau of Special Education Appeals

<http://www.doe.mass.edu/bsea/decisions.html>

http://www.doe.mass.edu/bsea/forms/hearing_rules.doc

<http://www.doe.mass.edu/bsea/forms/hearing.doc>

<http://www.doe.mass.edu/bsea/mediation.html>

http://www.doe.mass.edu/bsea/forms/m_brochure.doc

<http://www.doe.mass.edu/bsea/mediation.html?section=faq>

<http://www.doe.mass.edu/bsea/process.html>

Discipline:

²⁴ <http://www.doe.mass.edu/sped/laws.html>

http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.doc
Individuals with Disabilities Education Act:
<http://idea.ed.gov/>.
The Basic Special Education Process under IDEA:
<http://www.doe.mass.edu/sped/iep/process.doc>
Individualized Education Program:
<http://www.doe.mass.edu/sped/iep>
Individual Education Program Process Guide.
<http://www.doe.mass.edu/sped/iep/proguide.pdf>
Independent Educational Evaluation:
<http://www.doe.mass.edu/sped/advisories/?section=admin>
Observation of Education Programs by Parents and Their Designees for Evaluation Purposes:
http://www.doe.mass.edu/sped/advisories/09_2.html
Parent's Notice of Procedural Safeguards:
<http://www.doe.mass.edu/sped/prb>.
PQA Problem Resolutions System compared to BSEA Due Process Complaint:
<http://www.doe.mass.edu/sped/complaintchart.doc>
Program Quality Assurance Services Problem Resolution System:
<http://www.doe.mass.edu/pqa/prs>
Special Education Laws and Regulations:
<http://www.doe.mass.edu/sped/laws.html>
Special Education Surrogate Parent:
<http://www.doe.mass.edu/sped/2002/news/1104memo.html>
Special Education Transition Planning Form:
<http://www.doe.mass.edu/sped/28MR/28m9.doc>
Student Records Regulations:
<http://www.doe.mass.edu/lawsregs/603cmr23.html>
Student Records Questions and Answers
<http://www.doe.mass.edu/lawsregs/advisory/cmr23qanda.html?section>.
Transition Planning:
<http://www.doe.mass.edu/sped/cspd/mod4.html#>

APPENDIX A- ANTI-BULLYING LAW

No Name Calling Day

The governor shall annually issue a proclamation setting apart the fourth Wednesday in January as No Name Calling Day to increase public awareness of the devastating effects of verbal bullying, encourage students to use positive dialogue and pledge not to use hurtful names on this designated day, to promote tolerance and respect for differences and to reaffirm the commitment of the citizens of the commonwealth to basic human rights and dignity.

M.G.L. Chapter 71, Section 370

As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:

Bullying: the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the victim in reasonable fear or harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purpose of this section, bullying shall include cyber-bullying.

Cyber-bullying: bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications. Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.

Hostile environment: a situation in which bullying causes the school environment to be permeated with intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of the student's education.

Perpetrator: a student who engages in bullying or retaliation.

School grounds: property on which a school building or facility is located or property that is owned, leased or used by a school district, charter school, non-public school, approved private day or residential school, or collaborative school for a school-sponsored activity, function, program, instruction or training.

Victim: a student against whom bullying or retaliation has been perpetrated.

Bullying shall be prohibited: (i) on school grounds, property immediately adjacent to school grounds, at a school-sponsored or school-related activity, function or program whether on or off school grounds, at a school bus stop, on a school bus or other vehicle owned, leased or used by a school district or school, or through the use of technology or an electronic device owned, leased or used by a school district or school and (ii) a location, activity, function or program that is not school-related, or through the use of technology or an electronic device that is not owned, leased or used by a school district or school, if the bullying creates a hostile environment at school for the victim, infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school.

Retaliation against a person who reports bullying, provide information during an investigation of bullying, or witnesses or has reliable information about bullying shall be prohibited.

Each school shall provide age-appropriate instruction on bullying prevention in each grade that is incorporated into the curriculum of the school district or school. The curriculum shall be evidence-based.

Each school shall develop, adhere to and update a plan to address bullying prevention and intervention in consultation with teachers, school staff, professional support personnel, school volunteers, administrators, community representatives, local law enforcement agencies, students, parents and guardians. The consultation shall include notice and a public comment period. The plan shall be updated at least biennially.

Each plan shall include, but not be limited to: (i) description of and statements prohibiting bullying, cyber-bullying and retaliation; (ii) clear procedures for students, staff, parents, guardians and others to report bullying or retaliation; (iii) a provision that reports of bullying or retaliation may be made anonymously; provided, however, that no disciplinary action shall be taken against a student solely on the basis of an anonymous report; (iv) clear procedures for promptly responding to and investigation reports of bullying or retaliation; (v) the range of disciplinary actions that may be taken against a perpetrator for bullying or retaliation; provide, however, that the disciplinary actions shall balance the need for accountability with the need to teach appropriate behavior; (vi) clear procedures for restoring a sense of safety for a victim and assessing that victim's needs for protection; (vii) strategies for protecting from bullying or retaliation a person who reports bullying, provides information during an investigation of bullying or witnesses or has reliable information about an act of bullying; (viii) procedures consistent with state and federal law for promptly notifying the parents or guardians of a victim and a perpetrator; provided, further, that the parents or guardians of a victim shall also be notified of the action taken to prevent any further acts of bullying or retaliation; and provided, further, that the procedures shall provide for immediate notification pursuant to regulations promulgated under this subsection by the principal or person who holds a comparable role to the local law enforcement agency when criminal charges may be pursued against the perpetrator; (ix) a provision that a student who knowingly makes a false accusation of bullying or retaliation shall be subject to disciplinary action; and (x) a strategy for providing counseling or referral to appropriate services for perpetrators and victims and for appropriate family members of said students. The plan shall afford all students the same protection regardless of their status under the law. Nothing in this section shall prevent a school district from remediating any discrimination or harassment on a person's membership in a legally protected category under local, state or federal law.

The plan shall include a provision for ongoing professional development to build the skills of all staff members, including, but not limited to, educators, administrators, school nurses, cafeteria workers, custodians, bus

drivers, athletic coaches, advisors to extracurricular activities and paraprofessionals, to prevent, identify and respond to bullying.

The plan shall include provisions for informing parents and guardians about the bullying prevention curriculum of the school district and shall include how parents and guardians can reinforce the curriculum at home and support the school district or school plan; (ii) the dynamics of bullying; and (iii) online safety and cyber-bullying.

The faculty and staff at each school shall be trained annually on the plan applicable to the school.

The plan shall be posted on the website of each school.

Each school principal or the person who holds a comparable position shall be responsible for the implementation and oversight of the plan at his or her school.

A member of a school staff shall immediately report any instance of bullying or retaliation the staff member has witnessed or become aware of to the principal or to the school official identified in the plan as responsible for receiving such reports or both. Upon receipt, the school principal or a designee shall promptly conduct an investigation. If the school principal or a designee determines that bullying or retaliation has occurred, the school principal or designee shall (i) notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator; (ii) takes appropriate disciplinary action; (iii) notify the parents or guardians of a perpetrator; (iv) notify the parents or guardians of the victim.

Nothing in this section shall create a private right of action.

Every public school providing computer access to students shall have a policy regarding internet safety measures to protect students from inappropriate subject matter and materials that can be accessed via the internet and shall notify the parents or guardians of all students attending the school of the policy.

Whenever the evaluation of the Individualized Education Program Team indicates that the child has a disability that affects social skills development or that the child is vulnerable to bullying, harassment or teasing because of the child's disability, the Individualized Education Program shall address the skills and proficiencies needed to avoid and respond to bullying, harassment, or teasing.

Confidentiality of Records

A principal may not disclose to a parent any student record information regarding an alleged victim or perpetrator who is a student and who is not the parent's child.

A principal may disclose a report of bullying or retaliation to a local law enforcement agency without the consent of a student or his/her parent. The principal shall communicate with law enforcement officials in a manner that protects the privacy of victims, student witnesses, and perpetrators to the extent practicable under the circumstances.

A principal may disclose student record information about a victim or perpetrator to appropriate parties in addition to law enforcement in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This provision is limited to

instances in which the principal has determined there is an immediate and significant threat to the health or safety of the student or other individuals. It is limited to the period of emergency and does not allow for blanket disclosure of students' record information. The principal must document the disclosures and the reasons that the principal determined that a health or safety emergency exists.

APPENDIX B- BULLYING REPORT FORM

1. Name of Reporter/Person Filing the Report: _____

(Note: Reports may be made anonymously, but no disciplinary action will be taken against an alleged aggressor solely on the basis of an anonymous report)

2. Check whether you are the: ☐ **Target of Behavior** ☐ **Reporter (not Target)**

3. Check whether you are a: ☐ **Student** ☐ **Parent**
☐ **Administrator** _____
☐ **Staff Member**(role) _____
☐ **Other (Specify)** _____

4. Name of Target (of behavior): _____

5. Name of Aggressor (Person(s) who engage in behavior, can be student and/or staff member)

6. Date of Incident(s): _____ **Time When Incident Occurred:** _____

7. Location of Incident(s) (Be as specific as possible: _____)

8. Describe the details of the incident (including names of people involved, what occurred, and what each person did and said, including specific words used). Please attach an additional sheet if necessary.

9. Signature of Person Filing this Report: _____ **Date:** _____

(Note: Reports may be made anonymously.)

FOR ADMINISTRATIVE USE ONLY

Form Received by: _____ **Position** _____

Signature: _____ **Date Received:** _____

Conclusions from Internal Investigation *(Internal Investigation notes must be attached)*

Actions taken: (include discipline, skill building, and protection actions taken in order to resolve the issue.)

Signatures:

Principal or Designee: _____ **Date:** _____

Special Education Director: _____ **Date:** _____

APPENDIX C- Title IX Form

Today's Date: _____

Information Regarding the Complainant

Name of the Complainant: _____

Complainant's Phone Number: _____

The Complainant is (please check one): ☐ faculty ☐ student ☐ parent ☐ not affiliated with the school

Information Regarding the Reporter

Name of the alleged victim: _____

The alleged victim is (please check one): ☐ faculty ☐ student ☐ parent ☐ not affiliated with the school

Title IX Coordinator's Initial Conversation with the Complainant

Date of Conversation: _____

Title IX Coordinator discussed supportive measure(s): ☐ Yes ☐ No

Complainant desires supportive measure(s): ☐ Yes ☐ No If yes, what is provided and if no, why not:

Title IX Coordinator discussed formal complaint process: ☐ Yes ☐ No If yes, explain why Title IX Coordinator is filing formal complaint.

Complainant is interested in informal resolution (please check one and only discuss if formal complaint is filed)

☐ Yes ☐ No

Information Regarding the Respondent

Name of the Respondent: _____

Respondent's phone number (if known): _____

The respondent is (please check one): (please check one): ☐ faculty ☐ student ☐ parent ☐ not affiliated with the school

Information Regarding the Alleged Misconduct (sexual harassment, sexual violence, domestic violence, dating violence, sexual assault or stalking)

Time and date of the alleged misconduct: _____

Location of the alleged Misconduct: _____

Witnesses or third parties who may have information regarding the alleged Misconduct, along with phone number, if known:

Please provide a brief description of the alleged Sexual Misconduct (please feel free to use a separate paper to continue your description, if desired):

Please provide the relief that you are seeking:

I would like the school to investigate the above complaint. ☐ Yes ☐ No

I am interested in informal resolution. ☐ Yes ☐ No

Signature

Date

Title IX Coordinator's Initial Conversation with the Respondent (if applicable)

Date of Conversation: _____

Title IX Coordinator discussed supportive measure(s): ☐ Yes ☐ No

Respondent desires supportive measure(s): ☐ Yes ☐ No If yes, what is provided and if no, why not:

Respondent is interested in informal resolution: ☐ Yes ☐ No

If yes, obtain written consent from the respondent for informal resolution

Informal Resolution (if applicable)

Date of Informal Resolution: _____

Result of Informal Resolution:

To be completed by Title IX Coordinator

Designated Investigator: _____

Designated Decision Maker: _____

Title IX Coordinator Name

Title IX Coordinator Signature

APPENDIX D- Asbestos Hazard Emergency Response Act

The Federal government has developed several laws and regulations designed to govern the use of asbestos and better protect the public. Pursuant to Federal Law 40 C.F.R. §763.84 the AHERA management plan for the Lower Pioneer Valley Educational Collaborative is available for review in the school office during normal school hours.

Marc Simons is the Designated Person for the Lower Pioneer Valley Educational Collaborative to assure that the responsibilities of the LEA pursuant to 40 C.F.R. §763.84 have been or will be met.

Please contact the Lower Pioneer Educational Collaborative @ 413 735 2200 with any questions.

APPENDIX E- 603 CMR 53.00

603 CMR 53.00 Student Discipline — Effective July 1, 2014

Section:

- [53.01: Purpose and Scope](#)
- [53.02: Definitions](#)
- [53.03: Policies and Procedures](#)
- [53.04: Investigation of Disciplinary Incidents](#)
- [53.05: Alternatives to Suspension under M.G.L. c. 71, § 37H¾](#)
- [53.06: Notice of Suspension and Hearing under M.G.L. c. 71, § 37H¾](#)
- [53.07: Emergency Removal under M.G.L. c. 71, § 37H¾](#)
- [53.08: Principal's Hearing under M.G.L. c. 71, § 37H¾](#)
- [53.09: Superintendent's Hearing under M.G.L. c. 71, § 37H¾](#)
- [53.10: In-School Suspension under M.G.L. c. 71, § 37H¾](#)
- [53.11: Exclusion from Extracurricular Activities and School-Sponsored Events](#)
- [53.12: Disciplinary Offenses under M.G.L. c. 71, § 37H or 37H½](#)
- [53.13: Education Services and Academic Progress under M.G.L. c. 71, §§ 37H, 37H½, 37H¾](#)
- [53.14: Student Suspension and Expulsion Data Collection and Reporting](#)
- [View All Sections](#)

The Student Discipline Regulations were approved by the Board of Elementary and Secondary Education on April 29, 2014. They are effective July 1, 2014.

53.01: Purpose and Scope

(1) The purpose of 603 CMR 53.00 is:

- (a) for those discipline offenses subject to M.G.L. 71, § 37H¾, as set forth in 603 CMR 53.01(2)(a), to limit the use of long-term suspension as a consequence for student misconduct until other consequences have been considered and tried as appropriate;
- (b) to promote engagement of a student's parent in discussion of the student's misconduct, and options for responding to it;
- (c) to assure that every student who is expelled or suspended, regardless of the reason for suspension or expulsion, has the opportunity to receive education services to make academic progress during the period of suspension or expulsion; and,
- (d) to keep schools safe and supportive for all students while ensuring fair and effective disciplinary practices.

(2) 603 CMR 53.00 sets forth, for all public preschool, elementary, and secondary schools and programs in Massachusetts, including charter and virtual schools:

(a) at 603 CMR 53.03 through 53.11, the minimum procedural requirements applicable to the suspension of a student for a disciplinary offense other than:

1. possession of a dangerous weapon;
2. possession of a controlled substance;
3. assault on a member of the educational staff; or
4. a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H½;

(b) the minimum requirements and procedures necessary to ensure that all students who have been suspended, in-school or out-of-school, or expelled, regardless of the type of offense, have an opportunity to make academic progress during their period of suspension, expulsion, or removal from regular classroom activities; and

(c) requirements pertaining to school discipline data reporting and analysis.

53.02: Definitions

Commissioner means the commissioner of the Department of Elementary and Secondary Education appointed in accordance with M.G.L. c. 15, § 1F, or his or her designee.

Department means the Department of Elementary and Secondary Education.

Disciplinary offense means any alleged or determined disciplinary infraction by a student, except for:

- (a) possession of a dangerous weapon;
- (b) possession of a controlled substance;
- (c) assault on a member of the educational staff; or
- (d) a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H½. A disciplinary offense, as defined, is subject to the provisions of M.G.L. c. 71, § 37H¾ and 603 CMR 53.00.

Disciplinary offense under M.G.L. c. 71, § 37H or 37H½ means one or more of the following alleged or determined disciplinary infractions:

- (a) possession of a dangerous weapon;
- (b) possession of a controlled substance;
- (c) assault on a member of the educational staff; and
- (d) a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H½.

Expulsion means the removal of a student from the school premises, regular classroom activities, and school activities for more than 90 school days, indefinitely, or permanently, as permitted under M.G.L. c. 71, § 37H or 37H½ for:

- (a) possession of a dangerous weapon;
- (b) possession of a controlled substance;
- (c) assault on a member of the educational staff; or
- (d) a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a principal determines that the student's continued presence in school

would have a substantial detrimental effect on the general welfare of the school, as provided in M.G.L. c. 71, § 37H or 37H½.

In-school Suspension means removal of a student from regular classroom activities, but not from the school premises, for no more than ten consecutive school days, or no more than ten school days cumulatively for multiple infractions during the school year. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days. In-school suspension for ten days or less, consecutively or cumulatively during a school year, shall not be considered a short-term suspension under these regulations. If a student is placed in in-school suspension for more than ten days, consecutively or cumulatively during a school year, such suspension shall be deemed a long-term suspension for due process, appeal, and reporting purposes.

Long-term Suspension means the removal of a student from the school premises and regular classroom activities for more than ten consecutive school days, or for more than ten school days cumulatively for multiple disciplinary offenses in any school year. A principal may, in his or her discretion, allow a student to serve a long-term suspension in school. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days. Except for students who are charged with a disciplinary offense set forth in M.G.L. c. 71, § 37H(a) or (b), or M.G.L. c. 71, § 37H ½ no student may be placed on long-term suspension for one or more disciplinary offenses for more than 90 school days in a school year beginning with the first day that the student is removed from school. No long-term suspension shall extend beyond the end of the school year in which such suspension is imposed.

Parent means a student's father, mother, or legal guardian, or person or agency legally authorized to act on behalf of the student in place of or in conjunction with the father, mother, or legal guardian.

Principal means the instructional administrative leader or headmaster of a public school or his or her designee for purposes of school disciplinary matters. The board of trustees of a charter school or virtual school shall designate in the school discipline code who will serve as the principal for purposes of 603 CMR 53.00.

School-wide Education Service Plan ; means the document developed by a principal, in accordance with M.G.L. c. 76, §21, that includes a list of education services available to students who are expelled or suspended from school for more than ten consecutive days.

Short-term Suspension means the removal of a student from the school premises and regular classroom activities for ten consecutive school days or less. A principal may, in his or her discretion, allow a student to serve a short-term suspension in school. Removal solely from participation in extracurricular activities or school-sponsored events, or both, shall not count as removal in calculating school days.

Superintendent means the chief executive officer employed by a school committee or board of trustees to administer a school system, charter school, or virtual school pursuant to M.G.L. c. 71, §§ 59, 59A, 89, or 94, or his or her designee appointed for purposes of conducting a student disciplinary hearing. The board of trustees of a charter school or virtual school shall designate in the school's discipline code who will serve as the superintendent for the purposes of 603 CMR 53.00.

Suspension means short-term suspension and long-term suspension unless otherwise stated.

53.03: Policies and Procedures

Each school committee and board of trustees shall ensure that policies and procedures are in place in public preschool, elementary, and secondary schools and programs under its jurisdiction that meet, at a minimum, the requirements of M.G.L. c.71, §37H¾, M.G.L. c. 76, § 21, and 603 CMR 53.00.

53.04: Investigation of Disciplinary Incidents

Nothing in 603 CMR 53.00 shall prevent a school administrator from conducting an investigation, including student interviews, of a school-related disciplinary incident.

53.05: Alternatives to Suspension under M.G.L. c. 71, § 37H¾

In every case of student misconduct for which suspension may be imposed, a principal shall exercise discretion in deciding the consequence for the offense; consider ways to re-engage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive interventions and supports.

53.06: Notice of Suspension and Hearing under M.G.L. c. 71, § 37H¾

(1) Except as provided in 603 CMR 53.07 and 603 CMR 53.10, a principal may not impose a suspension as a consequence for a disciplinary offense without first providing the student and the parent oral and written notice, and providing the student an opportunity for a hearing on the charge and the parent an opportunity to participate in such hearing.

(2) The principal shall provide oral and written notice to the student and the parent in English and in the primary language of the home if other than English, or other means of communication where appropriate. The notice shall set forth in plain language:

- (a) the disciplinary offense;
- (b) the basis for the charge;
- (c) the potential consequences, including the potential length of the student's suspension;
- (d) 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;
- (e) the date, time, and location of the hearing;
- (f) the right of the student and the student's parent to interpreter services at the hearing if needed to participate;
- (g) if the student may be placed on long-term suspension following the hearing with the principal:
 - 1. the rights set forth in 603 CMR 53.08 (3)(b); and
 - 2. the right to appeal the principal's decision to the superintendent.

(3) The principal shall make reasonable efforts to notify the parent orally of the opportunity to attend the hearing. To conduct a hearing without the parent present, the principal must be able to document reasonable efforts to include the parent. The principal is presumed to have made reasonable efforts if the principal has sent written notice and has documented at least two attempts to contact the parent in the manner specified by the parent for emergency notification.

(4) Written notice to the parent may be made by hand delivery, first-class mail, certified mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the principal and parent.

53.07: Emergency Removal under M.G.L. c. 71, § 37H¾

(1) Nothing in 603 CMR 53.00 shall prevent a principal from removing a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school, and, in the principal's judgment, there is no alternative available to alleviate the danger or disruption. The temporary removal shall not exceed two school days following the day of the emergency removal, during which time the principal shall:

- (a) Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters set forth in 603 CMR 53.06(2);

- (b) Provide written notice to the student and parent as provided in 603 CMR 53.06(2);
- (c) Provide the student an opportunity for a hearing with the principal that complies with 603 CMR 53.08(2) or (3), as applicable, and the parent an opportunity to attend the hearing, before the expiration of the two (2) school days, unless an extension of time for hearing is otherwise agreed to by the principal, student, and parent.
- (d) Render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of 603 CMR 53.08(2)(c) and (d) or (3)(c) and (d), as applicable.

(2) A principal may not remove a student from school on an emergency basis for a disciplinary offense until adequate provisions have been made for the student's safety and transportation.

53.08: Principal's Hearing under M.G.L. c. 71, § 37H¾

(1) The principal shall determine the extent of the rights to be afforded the student at a disciplinary hearing based on the anticipated consequences for the disciplinary offense. If the consequence may be long-term suspension from school, the principal shall afford the student, at a minimum, all the rights set forth in 603 CMR 53.08(3) in addition to those rights afforded to students who may face a short-term suspension from school.

(2) Principal Hearing - Short-term Suspension

(a) 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. At a minimum, the principal shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information. The student also shall have an opportunity to present information, including mitigating facts, that the principal should consider in determining whether other remedies and consequences may be appropriate as set forth in 603 CMR 53.05. The principal shall provide the 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.

(b) Based on the available information, including mitigating circumstances, the principal shall determine whether the student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.

(c) The principal shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other school work as needed to make academic progress during the period of removal, as provided in 603 CMR 53.13(1). The determination shall be in writing and may be in the form of an update to the original written notice.

(d) If the student is in a preschool program or in grades K through 3, the principal shall send a copy of the written determination to the superintendent and explain the reasons for imposing an out-of-school suspension, before the short-term suspension takes effect.

(3) Principal Hearing - Long-term Suspension

(a) The purpose of the hearing is the same as the purpose of a short-term suspension hearing.

(b) At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have the following rights:

1. In advance of the hearing, 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;
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 his or her behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; and
4. the right to cross-examine witnesses presented by the school district; and
5. the right to request that the hearing be recorded by the principal, and to receive 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 record will be made and a copy will be provided to the student and parent upon request.

(c) The principal shall provide the 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.

(d) 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 as set forth in 603 CMR 53.05, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. The principal shall send the written determination to the student and parent 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. If the principal decides to suspend the student, the written determination shall:

1. Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing;
2. Set out the key facts and conclusions reached by the principal;
3. Identify the length and effective date of the suspension, as well as a date of return to school;
4. Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as provided in 603 CMR 53.13(4)(a);
5. 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:
 1. 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
 2. the long-term suspension will remain in effect unless and until the superintendent decides to reverse the principal's determination on appeal.

6.

(e) If the student is in a public preschool program or in grades K through 3, the principal shall send a copy of the written determination to the superintendent and explain the reasons for imposing an out-of-school suspension, whether short-term or long-term, before the suspension takes effect.

53.09: Superintendent's Hearing under M.G.L. c. 71, § 37H^{3/4}

(1) A student who is placed on long-term suspension following a hearing with the principal shall have the right to appeal the principal's decision to the superintendent.

- (2) The student or parent shall file a notice of appeal with the superintendent within the time period set forth 603 CMR 53.08 (3) (d) 5.a. If the appeal is not timely filed, the superintendent may deny the appeal, or may allow the appeal in his or her discretion, for good cause.
- (3) The superintendent shall hold the hearing within three school days of the student's request, unless the student or parent requests an extension of up to seven additional calendar days, in which case the superintendent shall grant the extension.
- (4) The superintendent shall make a good faith effort to include the parent in the hearing. The superintendent shall be presumed to have made a good faith effort if he or she has made efforts to find a day and time for the hearing that would allow the parent and superintendent to participate. The superintendent shall send written notice to the parent of the date, time, and location of the hearing.
- (5) The superintendent shall conduct a hearing to determine whether the student committed the disciplinary offense of which the student is accused, and if so, what the consequence shall be. The superintendent shall arrange for an audio recording of the hearing, a copy of which shall be provided to the student or parent upon request. The superintendent shall inform all participants before the hearing that an audio record will be made of the hearing and a copy will be provided to the student and parent upon request.
- (6) The student shall have all the rights afforded the student at the principal's hearing for long-term suspension under 603 CMR 53.08(3)(b).
- (7) The superintendent shall issue a written decision within five calendar days of the hearing which meets the requirements of 603 CMR 53.08(3)(d)1. through 4. If the superintendent determines that the student committed the disciplinary offense, the superintendent may impose the same or a lesser consequence than the principal, but shall not impose a suspension greater than that imposed by the principal's decision.
- (8) The decision of the superintendent shall be the final decision of the school district, charter school, or virtual school, with regard to the suspension.

53.10: In-School Suspension under M.G.L. c. 71, § 37H¾

- (1) The principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.
- (2) The principal may impose an in-school suspension for a disciplinary offense under 603 CMR 53.10, provided that the principal follows the process set forth in 603 CMR 53.10(3) through (5) and the student has the opportunity to make academic progress as set forth in 603 CMR 53.13(1).
- (3) The principal shall inform the student of the disciplinary offense charged and the basis for the charge, and provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident. If the principal determines that the student committed the disciplinary offense, the principal shall inform the student of the length of the student's in-school suspension, which shall not exceed ten days, cumulatively or consecutively, in a school year.
- (4) On the same day as the in-school suspension decision, the principal shall make reasonable efforts to notify the parent orally as soon as possible of the disciplinary offense, the reasons for concluding that the student committed the infraction, and the length of the in-school suspension. The principal shall also invite the parent to a meeting to discuss the student's academic performance and behavior, strategies for student engagement, and possible responses to the behavior. Such meeting shall be scheduled on the day of the suspension if possible, and if not, as soon thereafter as possible. If the principal is unable to reach the parent after making and documenting at least two attempts to do so, such attempts shall constitute reasonable efforts for purposes of orally informing the parent of the in-school suspension.
- (5) The principal shall send written notice to the student and parent about the in-school suspension, including the reason and the length of the in-school suspension, and inviting the parent to a meeting with the principal for the purpose set forth in 603 CMR 53.10(4), if such meeting has not already occurred. The principal shall

deliver such notice on the day of the suspension 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.

53.11: Exclusion from Extracurricular Activities and School-Sponsored Events

The principal may remove a student from privileges, such as extracurricular activities and attendance at school-sponsored events, based on the student's misconduct. Such a removal is not subject to the procedures in M.G.L. c. 71, § 37H³/₄ or 603 CMR 53.00.

53.12: Disciplinary Offenses under M.G.L. c. 71, § 37H or 37H¹/₂

(1) School districts shall adopt disciplinary policies and procedures applicable to a student who is accused of a disciplinary offense under M.G.L. c. 71, § 37H or 37H¹/₂. Such policies and procedures shall be consistent with the applicable statute and provide due process of law.

(2) The principal may remove a student who has committed a disciplinary offense under M.G.L. c. 71, § 37H or 37H¹/₂ from school for more than 90 days in a school year.

(3) Any student who is removed from school for a disciplinary offense under M.G.L. c. 71, § 37H or § 37H¹/₂ shall have an opportunity to receive education services and make academic progress during the period of removal, as provided in 603 CMR 53.13.

53.13: Education Services and Academic Progress under M.G.L. c. 71, §§ 37H, 37H¹/₂, and 37H³/₄

(1) Any student who is serving an in-school suspension, short-term suspension, long-term suspension, or expulsion shall have the opportunity to earn credits, as applicable, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school. The principal shall inform the student and parent of this opportunity in writing when such suspension or expulsion is imposed.

(2) Any student who is expelled or suspended from school for more than ten consecutive days, whether in school or out of school, shall have an opportunity to receive education services and to make academic progress toward meeting state and local requirements, through the school-wide education service plan.

(3) The principal shall develop a school-wide education service plan describing the education services that the school district will make available to students who are expelled or suspended from school for more than ten consecutive days. The plan shall include the process for notifying such students and their parents of the services and arranging such services. Education services shall be based on, and be provided in a manner consistent with, the academic standards and curriculum frameworks established for all students under M.G.L. c. 69, §§ 1D and 1F.

(4) Notice of Education Services for Students in Long-Term Suspension and Expulsion; Enrollment Reporting.

(a) The principal shall notify the parent and student of the opportunity to receive education services at the time the student is expelled or placed on long-term suspension. Notice shall be provided in English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate. The notice shall include a list of the specific education services that are available to the student and contact information for a school district staff member who can provide more detailed information.

(b) For each student expelled or suspended from school for more than ten consecutive days, whether in school or out of school, the school district shall document the student's enrollment in education services. For data reporting purposes, the school shall track and report attendance, academic progress, and such other data as directed by the Department.

53.14: Student Suspension and Expulsion Data Collection and Reporting

(1) Every school district, charter school, and virtual school shall collect and annually report data to the Department regarding in-school suspensions, short- and long-term suspensions, expulsions, emergency removals under 603 CMR 53.07, access to education services under 603 CMR 53.13, and such other information as may be required by the Department. Such data shall be reported in a manner and form directed by the Department.

(2) The principal of each school shall periodically review discipline data by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. In reviewing the data, the principal shall assess the extent of in-school suspensions, short- and long-term suspensions, expulsions, and emergency removals under 603 CMR 53.07, and the impact of such disciplinary action on selected student populations. The principal shall further determine whether it is necessary or appropriate to modify disciplinary practices due to over-reliance on expulsion, or in-school or out-of school suspension, or emergency removals, or the impact of such suspensions, removals, and expulsions on selected student populations compared with other students.

(3) In the fall of each year, the Department shall publish an analysis and report of student discipline data disaggregated by district and school, and by selected student populations, included but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. The data shall be reported in a manner that protects the identity of each student and shall be made available to the public online in a machine readable format.

(4) The Department shall annually determine the schools with the highest percentage of students expelled or placed on long-term suspension for more than ten cumulative days in a school year. After review of the discipline data described in 603 CMR 53.14(3) and other relevant school and district information, including but not limited to student demographics, student performance, promotion, attendance, attrition, graduation, and dropout rates, the Commissioner shall identify schools that need assistance to reduce over-reliance on long-term suspension or expulsion as a consequence for student misconduct. The Department shall identify models that such schools may use to incorporate intermediate steps before long-term suspension and expulsion and to foster positive school climate.

Through use of statistical analysis, the Commissioner shall identify schools and districts with data that reflect significant disparities in the rate of suspension and expulsion by race and ethnicity, or disability. Such schools and districts shall develop and implement a plan approved by the Department to address such significant disparities.

Regulatory Authority:

M.G.L. c.69, s. 1B & c.71, s. 37H & 37H 3/4