

TO: Interested Persons
FROM: Tom Mela
Date: August 7, 2012
RE: New school discipline/dropout reform law

On August 6, 2012, Governor Patrick signed into law amendments to the Massachusetts General Laws that address the subject of school discipline and school dropout. It is Chapter 222 of the Acts of 2012.

Chapter 222 shall take effect on **July 1, 2014.**

Summary of the Provisions of Chapter 222: An Act Relative to Students' Access to Educational Services and Exclusion from School

I. Access to Education - All Disciplinary Exclusions

- Students excluded for **more than 10 consecutive school days**, whether in or out of school, are entitled to educational services so they have an **opportunity to make academic progress** during the period of exclusion, to make up assignments and earn credits missed, including but not limited to homework, quizzes, exams, papers and projects missed.
- Principals shall develop a school-wide education service plan for all such students excluded more than 10 days. Such plans **may include**, but are not limited to:
 - **tutoring,**
 - **alternative placement,**
 - **Saturday school, and**
 - **online or distance learning.**
- Schools shall provide the student and the parent or guardian with a list of alternative educational services. Upon selection of an alternative educational service by the student and parent or guardian, the school shall facilitate and verify enrollment in the service.
- If the **student moves to another school district** during the period of exclusion, the new district shall either admit the student or provide educational services in an education service plan.
- Students suspended for **10 or fewer consecutive days**, whether in or out of school, shall have an **opportunity to:**
 - **make academic progress** during the period of suspension,
 - make up assignments and earn credits missed, including but not limited to:
 - homework,
 - quizzes,
 - exams,
 - papers and projects.

II. State Oversight and Responsibility for School Exclusion

- Instructional costs of alternative educational services may be eligible for **state reimbursement**. DESE shall submit an annual report to the Legislature on the alternative education instructional costs
- School districts shall report to DESE the specific reasons for all exclusions, **regardless of duration or type**. On an annual basis, DESE shall make district level de-identified data and analysis, including the **total number of days each student is excluded** during the school year, available to the public. This report shall include district level data disaggregated by student status and categories established by the commissioner.
- Under regulations promulgated by the commissioner, for each school that excludes a significant number of students for more than 10 cumulative days in a school year, the **commissioner shall**:
 - **investigate** and,
 - as appropriate, shall recommend models that incorporate intermediary steps prior to the use of exclusion.
 - The results of the analysis shall be publicly reported.
- DESE shall issue a report to the Legislature on the **costs of implementation of Chapter 222** (including the school dropout prevention provisions summarized below in Section IV) not later than **November 30, 2013**.

III. Due Process Rights and Protections: Exclusions for Non-serious Offenses

- **Non-serious offenses** are those that **do not involve drugs, weapons , and assaults on school staff, and those that do not involve felony charges filed in court**.
- School officials, when deciding the disciplinary consequences for a student, shall:
 - exercise **discretion**,
 - consider ways to re-engage the student in the learning process, and
 - avoid using expulsion as a consequence until **other remedies and consequences have been employed**.
- No student shall be excluded for a time period that exceeds 90 school days.
- Principals shall provide to the student and parent or guardian **notice** of the charges and the reason for exclusion in English and in the primary language spoken in the home.
- Students shall receive the written notification and have the **opportunity to meet** with the principal or designee to discuss the charges and reasons prior to the exclusion taking effect.
- The principal or designee shall ensure that the **parent or guardian is included** in the meeting, unless the principal or designee can document reasonable efforts to include the parent or guardian.
- DESE shall promulgate regulations regarding the principal's duties and the procedures for including parents.

- The principal or designee shall update the notification for an exclusion. If the student is excluded 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 parent or guardian shall also receive written notification of a **right to appeal** and the process for appealing in English and the primary language spoken in the home.
- The principal or designee shall notify the superintendent of an exclusion imposed on a student enrolled in **kindergarten through grade 3** prior to such exclusion taking effect, describing the alleged misconduct and reason for exclusion.
- A student who has been excluded 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** to the superintendent.
- The student or parent or guardian shall **request the appeal** within 5 calendar days of the effective date of the exclusion, but can request and shall be granted an extension of up to 7 calendar days.
- The superintendent or designee shall **hold a hearing** with the student or parent or guardian within 3 school days of the request, but the student or parent or guardian can request and shall be granted an extension of up to 7 calendar days.
- **At the hearing**, the student shall have the right to present oral and written testimony and cross-examine witnesses, and the right to counsel.
- The superintendent shall **render a decision** in writing with 5 calendar days of the hearing.

IV. School Dropouts

- Students between the **ages of 14 and 16** who hold a permit for employment are no longer exempt from the requirement to attend school.
- Schools shall have a **pupil absence notification program**, designed to notify a parent or guardian if the school has not received notification of an absence from the parent or guardian within 3 days of the absence. Schools shall have a policy of notifying the parent or guardian if the student has at least 5 days in which the student has missed 2 or more periods unexcused in a school year or has missed 5 or more school days unexcused in a school year. The principal or designee shall make a reasonable effort to meet with the parent or guardian OF A STUDENT who has 5 or more unexcused absences to develop action steps for student attendance.
- No student who has not graduated from high school shall be considered to have permanently left public school unless the school administrator has sent notice within a period of 5 days from the student's 10th consecutive absence to the student and parent or guardian in the primary language of the parent or guardian and English, initially offering at least 2 dates and times for an **exit interview** between the superintendent or designee and the student and parent or guardian.
- The exit interview shall be for the purpose of discussing the reasons for the student permanently leaving school and to consider alternative education or other placements. During the exit interview, the student shall be given information about:
 - the detrimental effects of early withdrawal from school;

- the benefits of earning a high school diploma; and
 - the alternative education programs and services available to the student.
- DESE shall publish a model protocol for conducting exit interviews, and compile and maintain a list of alternative education resources and programs available to the student in addition to those the district may provide.