

**KNOW YOUR RIGHTS**

**PUBLIC  
SCHOOL  
DISCIPLINE  
IN WISCONSIN**

**SUSPENSIONS  
EXPULSIONS  
SPECIAL EDUCATION**

**ACLU**

Wisconsin

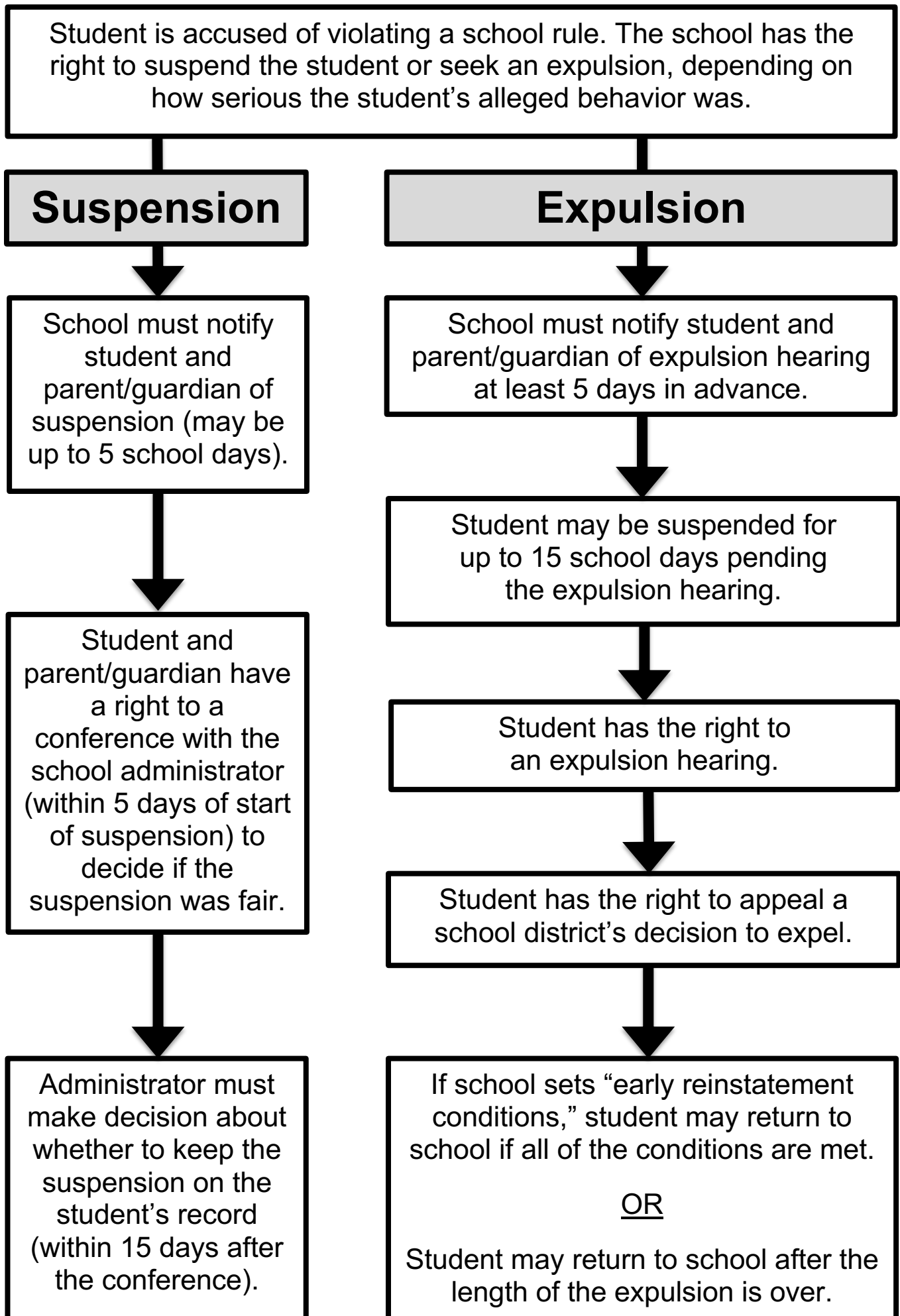
# TABLE OF CONTENTS

## KNOW YOUR RIGHTS:

### SCHOOL DISCIPLINE IN WISCONSIN

Overview of the Suspension/Expulsion Process (Public Schools).....	3
Know Your Rights: School Suspensions.....	4
Know Your Rights: School Expulsions.....	6
Know Your Rights: Special Rules for Students Who Receive Special Education Services (Public & Charter Schools).....	8
Suspensions/Expulsions in Private “Choice” Schools.....	10
Preparing for a Suspension or Expulsion Hearing.....	11

# OVERVIEW OF THE SUSPENSION / EXPULSION PROCESS (PUBLIC SCHOOLS)



# KNOW YOUR RIGHTS: SCHOOL SUSPENSIONS

## WHAT IS SUSPENSION?

*Suspension is a form of school discipline that temporarily removes you from a class or from school for **up to 5 school days**. Your school may not allow you on school grounds or may place you in a supervised (“in-school”) suspension classroom separate from other students.*

## 1. WHEN CAN MY SCHOOL SUSPEND ME?

- A principal, assistant-principal, teacher, or other school official may suspend you for **up to 5 school days** for any of the following behaviors:
  - Not following a rule listed in your school’s “Code of Conduct” or “Student Handbook.” Check with your school office to get a copy.
  - Knowingly making a threat to destroy school property with explosives (even a false threat).
  - Engaging in conduct (at school or outside of school) that endangers the property, health, or safety of others at school.
  - Engaging in conduct (at school or outside of school) that endangers the property, health, or safety of a school employee.
  - Threatening to damage someone else’s property.
  - Threatening the health or safety of another person.

Wis. STAT. §§ 120.13(1)(b)(2)-(2m)

## 2. WHAT MUST MY SCHOOL DO BEFORE IT SUSPENDS ME?

- You and your parent/guardian must be given notice of the suspension and the reason for the suspension.

Wis. STAT. § 120.13(1)(b)(3)

### 3. CAN I APPEAL THE SUSPENSION?

- Yes. Within 5 school days following the start of the suspension, you can request a conference to ask that the suspension be shortened or removed from your record.

Wis. STAT. § 120.13(1)(b)(4)

### 4. WHAT WILL HAPPEN AT THE CONFERENCE?

- The conference must be held with a school district official who is different than a principal, vice-principal, or teacher at your school.
- You can explain why you think the suspension should be shortened or removed from your record.
- Within 15 days of the conference, the school district official will make a decision based on whether he or she agrees with any of the following:
  - You were suspended unfairly or unjustly.
  - The suspension was inappropriate given the seriousness of the alleged offense.
  - You suffered undue consequences or penalties as a result of the suspension.

Wis. STAT. § 120.13(1)(b)(4)

### 5. DO I HAVE A RIGHT TO MAKE UP ANY WORK THAT I MISSED WHILE I WAS SUSPENDED?

- You have a right to take any tests or exams you missed during a suspension.
- You have a right to complete any class work missed during a suspension.

Wis. STAT. § 120.13(1)(b)(5)

# KNOW YOUR RIGHTS: SCHOOL EXPULSIONS

## WHAT IS EXPULSION?

*Expulsion is a form of school discipline that can remove you from school for a set number of days or “permanently” removes you from a school at any time in the future. No public or charter school is required to enroll a student during the time period when he/she is expelled.*

## 1. WHEN CAN MY SCHOOL EXPEL ME?

- Your school “**must**” expel you for at least one year for the following behavior:
    - Possessing a firearm at school or while being supervised by the school. (However, a school board can make exceptions on a case-by-case basis.)
- WIS. STAT. § 120.13(1)(c)(2m)
- Your school “**may**” expel you for the following behaviors if it is also shown that the “interests of the school demands” your expulsion:
    - Repeated refusal or neglect to obey the rules.
    - Knowingly making a threat to destroy school property with explosives (even a false threat).
    - Engaging in conduct (at school or outside of school) that endangers the property, health, or safety of others at school.
    - Engaging in conduct (at school or outside of school) that endangers the property, health, or safety of a school employee.
    - Making a threat to the health or safety of another.
    - Making a threat to damage property.
    - Repeatedly engaging in conduct (at school) that disrupts the ability of school authorities to maintain order or maintain an educational atmosphere at school or a school-sponsored activity (**only** if you are at least 16 years old).

WIS. STAT. §§ 120.13(1)(c)(1)-(2)

## 2. CAN I RETURN TO SCHOOL WHILE MY EXPULSION IS PENDING?

- The school may suspend you for up to 15 consecutive school days while you are waiting for the school to decide whether you will be expelled.
- But, you have a right to take any tests and complete any classwork that you might miss while you are suspended.

WIS. STAT. § 120.13(1)(b)(2)

WIS. STAT. § 120.13(1)(b)(5)

### 3. WHAT ARE MY RIGHTS AT AN EXPULSION HEARING?

- You have the right to an expulsion hearing led by an impartial hearing officer.
- You must be given written notice of the hearing at least 5 days in advance, and it must state the reason why you are facing expulsion.
- If you or your parent/guardian do not speak English, the school must provide a translator during the hearing and for all communications with the school.
- You have the right for the hearing to be “closed.”
- You have the right to any evidence the school has against you.
- You have the right to give a statement and present evidence and witnesses.
- You have the right to cross-examine any of the school’s witnesses.
- You have the right to have a lawyer or advocate help you throughout the hearing process.
- You have the right to be given a transcript or recording of everything that was said during the hearing.

Wis. STAT. §§ 120.13(1)(c)(3)-(4)

### 4. CAN I APPEAL AN EXPULSION DECISION?

- Yes. The school must mail you a copy of the final “order of expulsion” that states the length of time for the expulsion and information about the appeals process.
- You have the right to appeal the decision to the State Superintendent and the right to receive a decision within 60 days.
- If the State Superintendent upholds the expulsion, you have the right to appeal his/her decision within 30 days to the circuit court of the county in which your school is located.

Wis. STAT. § 120.13(1)(c)(3)

### 5. CAN I ATTEND ANOTHER SCHOOL IF I’M EXPELLED?

- No public/charter school is required to enroll you while you are expelled, but some schools may be willing to take you while you are expelled.

Wis. STAT. § 120.13(1)(f)

### 6. CAN I GO BACK TO SCHOOL BEFORE MY EXPULSION IS OVER?

- Your school may allow you to come back before your expulsion is over if the school sets “early reinstatement conditions,” and if you meet those conditions. Conditions must related to the reason why you were expelled.
- An early reinstatement condition may be:
  - A condition you must meet before you are can return to school.
  - A condition you must meet after you are allowed to return to school but before your official expulsion is over.

Wis. STAT. § 120.13(1)(h)

# SPECIAL RULES FOR STUDENTS WITH DISABILITIES (PUBLIC & CHARTER SCHOOLS)

*Students receiving special education services are guaranteed additional protections when facing discipline in public and charter schools. Descriptions of the disability and the accommodations, modifications, and services your school must provide should be listed in an Individualized Education Plan (IEP) or a 504 Plan.*

## 1. WHAT IS AN IEP?

- IEP stands for “individualized education program.” It sets specific academic or behavioral goals for a student with a disability. It also describes the services that the school must provide to that student in order to accommodate his/her disability at school.

## 2. WHAT IS A 504 PLAN?

- A 504 plan describes a student’s disability and requires the school to provide services or changes to the learning environment to help the student access learning opportunities at school.

## 3. CAN I BE SUSPENDED OR EXPELLED IF I HAVE AN IEP OR A 504 PLAN?

- A school cannot expel you or suspend you for more than 10 total days throughout the school year for behavior that is related to your disability.
- Also, if the conduct that violated a school rule occurred because your school did not properly follow your IEP or 504 Plan, you may not be suspended or expelled for more than 10 total days throughout the school year.
- If you are facing suspension for more than 10 days (total throughout the school year), your school **must** hold a **Manifestation Determination Review (MDR)** meeting before any suspension/expulsion hearing may take place.

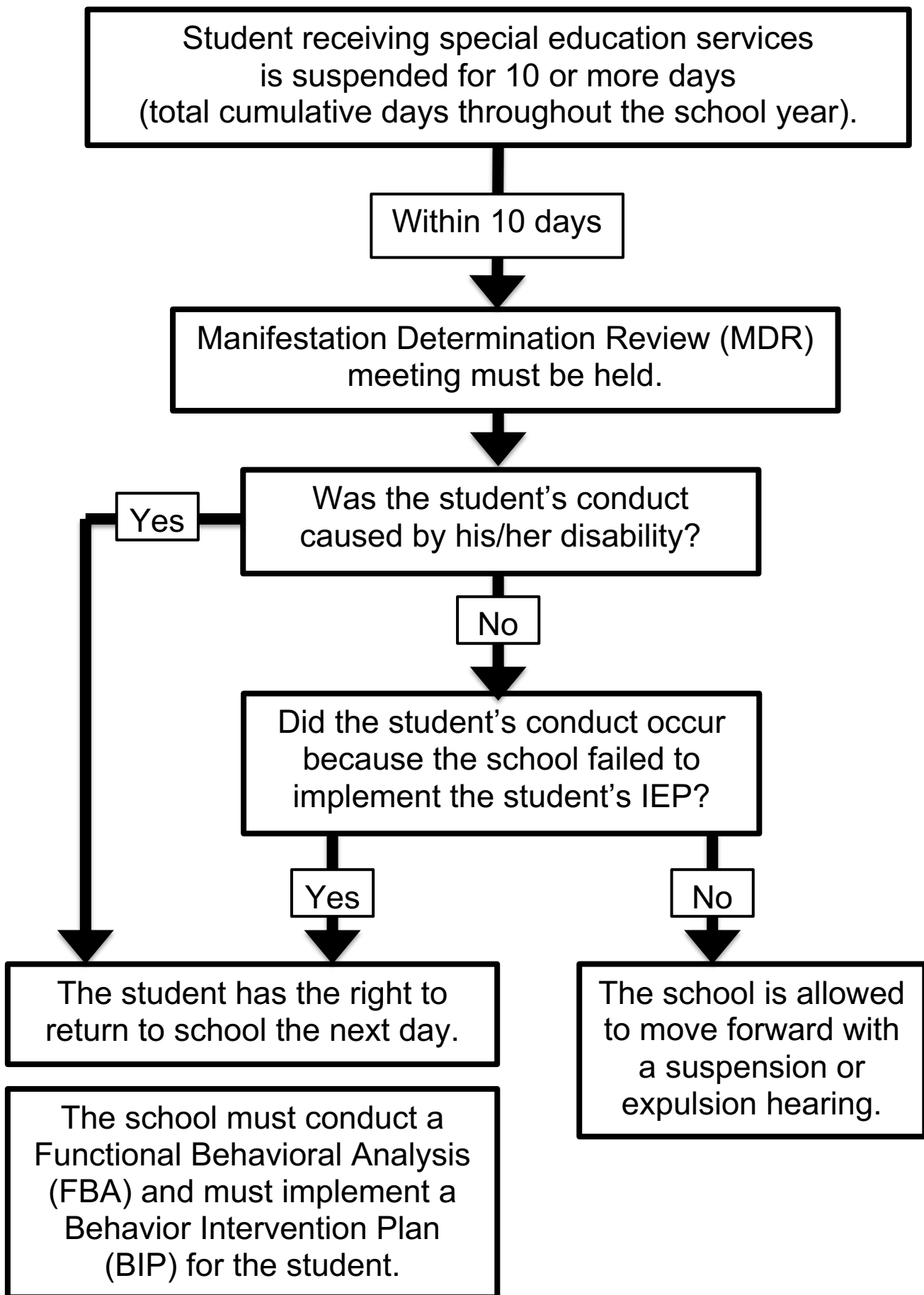
## 4. WHAT HAPPENS AT AN MDR MEETING?

- A special education teacher, a principal or vice-principal, the student’s parent/caretaker, and other IEP team members must answer two questions:
  - 1) Was the student’s behavior that violated a school rule **caused by or related to his/her disability?**
  - 2) Is the reason why the student violated a school rule because the **school failed to provide services to the student required by his/her IEP?**
- If the answer is **YES** to one or both of those questions:
  - You cannot be suspended or expelled, and you must be allowed to return to school the following day.
  - The school must conduct a Functional Behavioral Analysis (FBA).
  - The school must implement a Behavior Intervention Plan (BIP) to prevent misbehaviors in the future.

See 20 U.S.C. § 1415(k); 34 C.F.R. §§ 300.530-300.536



# THE MDR PROCESS (PUBLIC & CHARTER SCHOOLS)



# PREPARING FOR A SUSPENSION OR EXPULSION HEARING

## HEARING PREPARATION CHECKLIST:

- ✓ Get a copy of your school's Student Code of Conduct.
- ✓ Ask the school for a copy of any documents, photos, or video evidence they will use at the hearing.
- ✓ You can contact a lawyer or advocate to represent you during the hearing process (see back cover of this pamphlet for lawyer contact information).
- ✓ Get letters of support from people in the community (such as coaches, counselors, therapists, mentors, or pastors) to share with school board members or administrators at the hearing.
- ✓ Decide if you will make a statement during the hearing. **You can talk to a lawyer about whether you should or shouldn't make a statement, especially if you might face charges for the incident.**
- ✓ If you do make a statement, you could include the following:
  - Student Statement:
    - Share your name, age, interests, activities, hobbies.
    - Explain your understanding of what happened. What was going through your mind? What else was going on in your life at the time?
    - Apologize and take responsibility for what happened (depending on the situation).
    - Explain what you learned from the experience. How would you handle the same situation if it happened again?
    - Share ideas for how you can repair the harm of any mistakes you made.
    - Share why being in school is important to you. What do you want to be when you grow up?
  - Parent/Guardian Statement:
    - Introduce your child.
    - Explain how the incident impacted your child/family.
    - Explain what your child learned from the incident.
    - Describe what you want the school board to do.
    - Describe your hopes and dreams for your child's future.
- ✓ If you receive special education services:
  - Notify the school that a Manifestation Determination Review (MDR) meeting **must** be held before you are suspended or expelled for more than 10 total days throughout the school year.
  - Get a copy of your most recent IEP or 504 Plan, Behavior Intervention Plan, assessments, and/or any other special education documents.