

H.178: An Act Relative to Students' Access to Educational Services and Exclusion from School

FOR MORE INFORMATION

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ORGANIZATIONS IN SUPPORT:

American Civil Liberties Union of Mass.; Center for Collaborative Education; Center for Teen Empowerment; Children's Defense Fund; Citizens for Juvenile Justice; Citizens for Public Schools; Civil Rights Project at UCLA; Children's Law Center of Mass.; Coalition for Social Justice; Coalition to Keep Kids in School; College Behind Bars; Community Legal Services & Counseling Center; Disability Law Center; East Boston Ecumenical Community Council; Family Continuity Services; Freedom House; Home for Little Wanderers; Jewish Alliance for Law and Social Action; Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association; Mass. Appleseed Center for Law & Justice; Mass. Advocates for Children; Mass. Association for Mental Health; Mass. Bar Association; Mass. Federation for Children with Special Needs; Mass. Task Force on Youth Aging Out of DCF Care; Mental Health Legal Advisors Committee; MetroWest Legal Services; NAACP New England Area Conference; Parent Professional Advocacy League; Prisoners' Legal Services; The Public Policy Institute; The School Therapy Group; The EdLaw Project

Suspensions and expulsions result in the denial of public school education to many students.

- In Massachusetts, a general education student of any age will lose the right to an education if permanently expelled from a public school, and then **no school district** has to enroll the student.
- In Massachusetts, suspended or expelled general education students do not have a right to receive any **educational services** while removed from school.

An increase in harsh disciplinary policies has led to substantial increases in school suspension and expulsion rates.

- Although the courts and the Department of Elementary and Secondary Education (DESE) have emphasized the need for schools to exercise discretion in their discipline decisions, many Massachusetts school districts continue to implement harsh disciplinary policies.
- In Massachusetts, during the 2009-2010 school year, of the 60,610 incidents resulting in school exclusion, more than one-half (52%, or more than 31,000) were for non-violent, non-serious "unassigned" offenses. Students missed a total of 199,056 days of school, the equivalent of 1,105 years of school.
- Testimony at three public hearings of the Dropout Commission suggested that excessive disciplinary action for non-violent offenses leads to loss of credits and an inability to catch up, exacerbating the dropout problem
- Repeated exclusion has been linked to a variety of negative outcomes for students, including academic failure, negative school attitudes, grade retention, and increased school dropout rates.

Persistent disparities exist in school exclusions, even though there is no evidence that these groups have higher rates of misbehavior.

- During the 2009-2010 school year:
 - Special education students accounted for 37% of disciplinary removals but comprised only 17% of the total student population.
 - Black students accounted for 15% of disciplinary removals but comprised only 8% of the total student population.
 - Hispanic students accounted for 28% of disciplinary removals but comprised only 15% of the total student population.

KEY PROVISIONS OF THE ACT:

Students who are excluded for more than 10 consecutive school days must be provided education services such as tutoring, alternative placement, Saturday school, or online or distance learning.

- Before excluding a student for more than 10 school days the decision-maker must:
 - Determine that (1) the preponderance of the evidence shows that the student committed the infraction, (2) there is a substantial likelihood misconduct will recur, and (3) the student's continued presence in school would have a "substantial detrimental effect" on the general welfare of the school
 - Provide a written explanation addressing the above
- Student exclusions may last no longer than one year.

The legislative hearing is scheduled for 10:00 on September 27th at the State House.