


# School Discipline Advocacy Toolbox – Part 1



# Why are current discipline practices in WA schools a problem?

- ▶ School districts with higher exclusionary discipline rates consistently yield lower graduation rates than schools with fewer incidents of exclusion.
  - Schools with  $> 100$  discipline incidents per 1000 students
    - Average graduation rates 24%  lower
- VS
- Schools with  $< 25$  discipline incidents per 1000 students

\* See *“Reclaiming Students: The Educational and Economic Costs of Exclusionary Discipline in WA State,”* a Report by TeamChild and WA Appleseed, November 2012.

# What happens if we continue with current approaches to Discipline in Schools?

- ▶ 2010–2011 Washington State graduation rate:
  - ▶ 76% statewide

(Data from US DOE)

- ▶ What happens if you overlay statistics for exclusionary discipline onto these figures?

- ▶ Rates\* significantly lower for the following students:
  - ▶ 66.2% Pacific Island
  - ▶ 65.4% Black
  - ▶ 64.5% Hispanic
  - ▶ 56.5% Native American

\* See: “*Graduation and Dropout Statistics, Annual Report 2010–11*”, OSPI Report to Legislature, March 2012

# What are other impacts on students from exclusionary discipline?

- ▶ Once student has 20 consecutive days of non-attendance, they are disenrolled.
  - There is no mechanism for tracking what happens to these students or requirement to re-engage them.
- ▶ Students can apply for Reentry, but not guaranteed.
- ▶ If readmitted, most students experience difficulty reengaging with school.

# Relevant Laws & Regulations

## State & Local

- ▶ WA State Constitution (Article IX)– *“...paramount duty of the state to make ample provision for the education of all children residing within its borders...”*
- ▶ Revised Code of Washington (RCWs) – see RCW 28A.600
- ▶ Washington Administrative Code (WACs) – see 392.400 and 392.172A
- ▶ New law ESSB 5946 – passed 2013

<http://leg.wa.gov/LawsAndAgencyRules/Pages/default.aspx>

Local School Board Policies – See district’s Student Handbook

## Federal

- ▶ IDEA – Individuals with Disabilities Education Act
- ▶ Section 504, Americans with Disabilities Act

# Basic Principles

- ▶ **All students**, nondisabled and disabled, are entitled to **due process** before they can be excluded from public school for any period of time for disciplinary reasons. (Education is a Constitutional Right in WA)
- ▶ **Student with a disability** may only be removed from a current placement for violating the code of conduct for a maximum of **10 school days** per school year. (Individuals with Disabilities Education Act)

# Due process includes the right to:

**NOTICE** = Basis for dispute?

- ▶ Students must receive notice of discipline policies in the “Student Handbook.”
- ▶ Students and Parents must be informed prior to student being removed from school for misconduct.

**APPEAL** = Right To Challenge

- ▶ Notice must state what the alleged misconduct was and what kind of disciplinary action is being proposed.
- ▶ Students have a right to challenge punishments that result in school removal.

# What interests are being balanced in the regulations and procedures?

- ▶ Interests of the individual Student?
  - Right to learn
  - Right to due process
  - Right to be free of discrimination
    - When there is a disability
    - Based on race, gender, sexual orientation
  
- ▶ Interests of the School Community?
  - Right to safe school environment
  - Freedom to learn free of disruption from others
  
- ▶ Other interests?



# Forms of Corrective Action

## In-school Discipline:

- ▶ All forms of corrective action or punishment other than suspension and expulsion.
  - ▶ In-school suspension, detention, missing recess/lunch or field trips, referral to principal's office, being sent home early, restrictions on transportation or sports.

## Short term suspension:

- ▶ 10 days or less

## Long-term suspension:

- ▶ a fixed period of exclusion for > 10 days

## Expulsion

- ▶ exclusion for an indefinite period of time

## Emergency Expulsion:

- ▶ Immediate removal from school property

# Due Process for Short-term suspension

- ▶ WAC 392–400–250: “Prior to the short-term suspension of a student...”:
  - Oral or written notice to include:
    - Alleged misconduct;
    - Explanation of evidence
    - Explanation of corrective action
    - Notice to parents if suspension to exceed one day – including right to informal conference.
  - Informal conference with School staff – should include Opportunity for student to explain his/her story
  - Parents may grieve action up to school board level – suspension may be imposed during grievance procedure.
  - Requirements are less stringent for short-term (up to 10 days) removals

# Limits to Short-Term Suspensions

## SHORT-TERM (ST) SUSPENSIONS

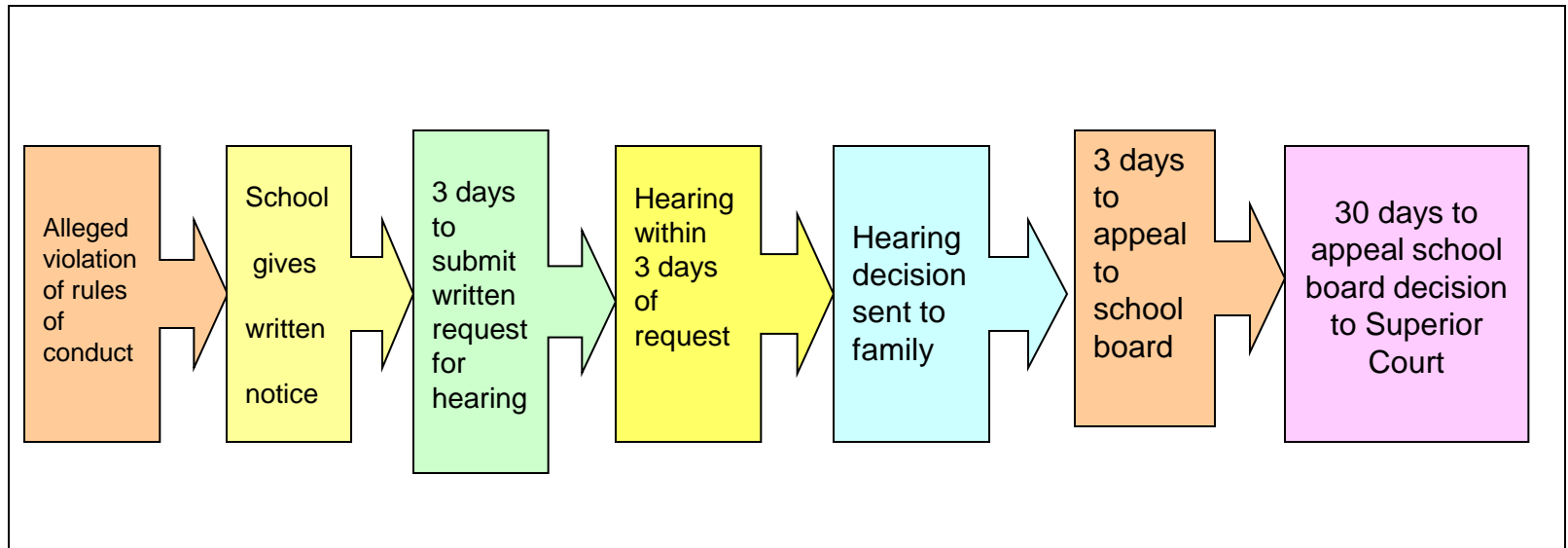
- ▶ Students K–4<sup>th</sup> grade cannot be ST suspended for more than 10 days per term.
- ▶ Students 5<sup>th</sup> grade and above cannot be given ST suspended more than 15 days per semester.

**Consider**: Under Truancy Law, 10 unexcused absences in a year, requires the school to pursue court action.

# Due Process for Long-term suspension

- ▶ WAC 392-400-265: “Prior to the long-term suspension of a student...”:
  - Written notice delivered by certified mail in parents’ predominant language to include:
    - Notice of opportunity for hearing
    - Must specify alleged misconduct
    - Explanation of corrective action proposed
    - Right of student to appeal and timelines
  - If hearing not requested within 3 days, deemed to be waived and LT suspension may be imposed.

# Timelines for Challenging Long-term Suspensions and Expulsions from School



# Limits to Long-Term Suspensions

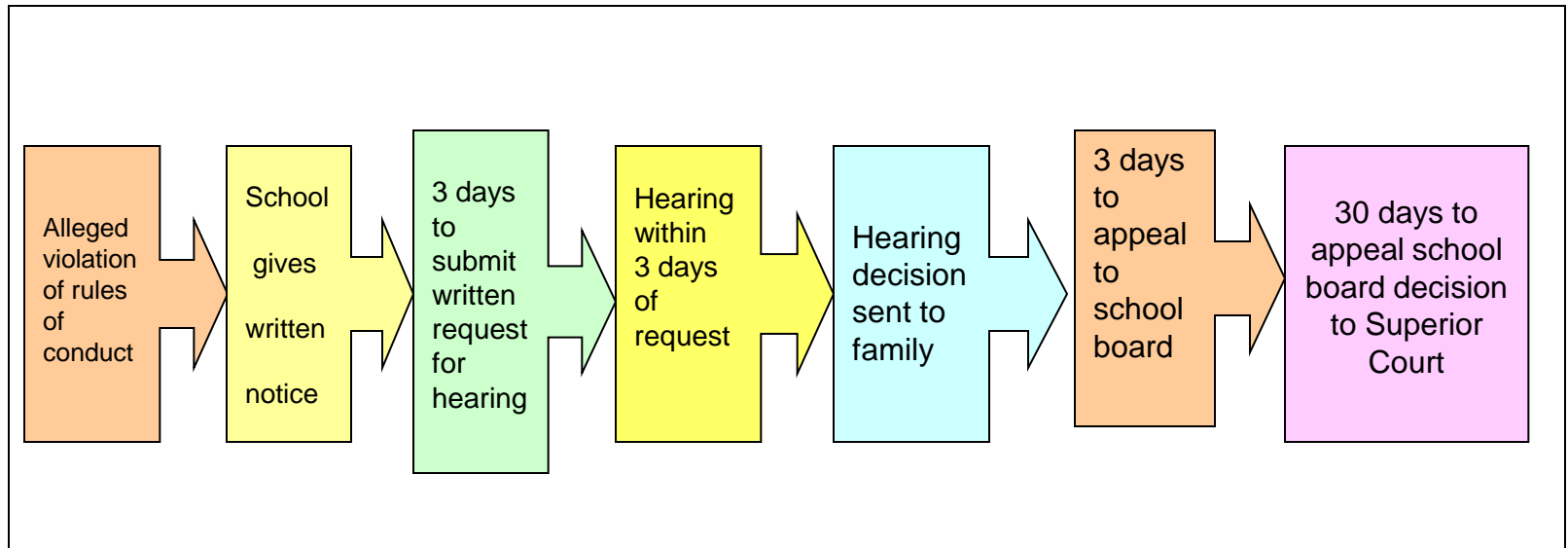
## LONG-TERM (LT) SUSPENSIONS

- ▶ Students K-4<sup>th</sup> grade cannot be given LT expulsions.
  - ▶ Reality = K-4<sup>th</sup> grade students are regularly LT suspended.
- ▶ Students 5<sup>th</sup> grade and above cannot be given LT suspensions if it will cause loss of academic grades or credit for more than one semester in school year.
  - Reality = Students regularly experience these impacts.

# Due Process for Expulsion

- ▶ WAC 392–400–280: “Prior to the Expulsion of a student...”:
  - Written notice delivered by certified mail in parents’ predominant language to include:
    - Notice of opportunity for hearing
    - Must specify alleged misconduct
    - Explanation of corrective action proposed
    - Right of student to appeal and timelines
  - If hearing not requested within **3 days**, deemed to be waived and expulsion may be imposed.

# Timelines for Challenging Long-term Suspensions and Expulsions from School





# Updates to the Law (ESSB 5946 – passed 2013) regarding Long-term suspensions and Expulsions

As of September 30, 2013 – districts cannot exclude student from school for indefinite period of time.

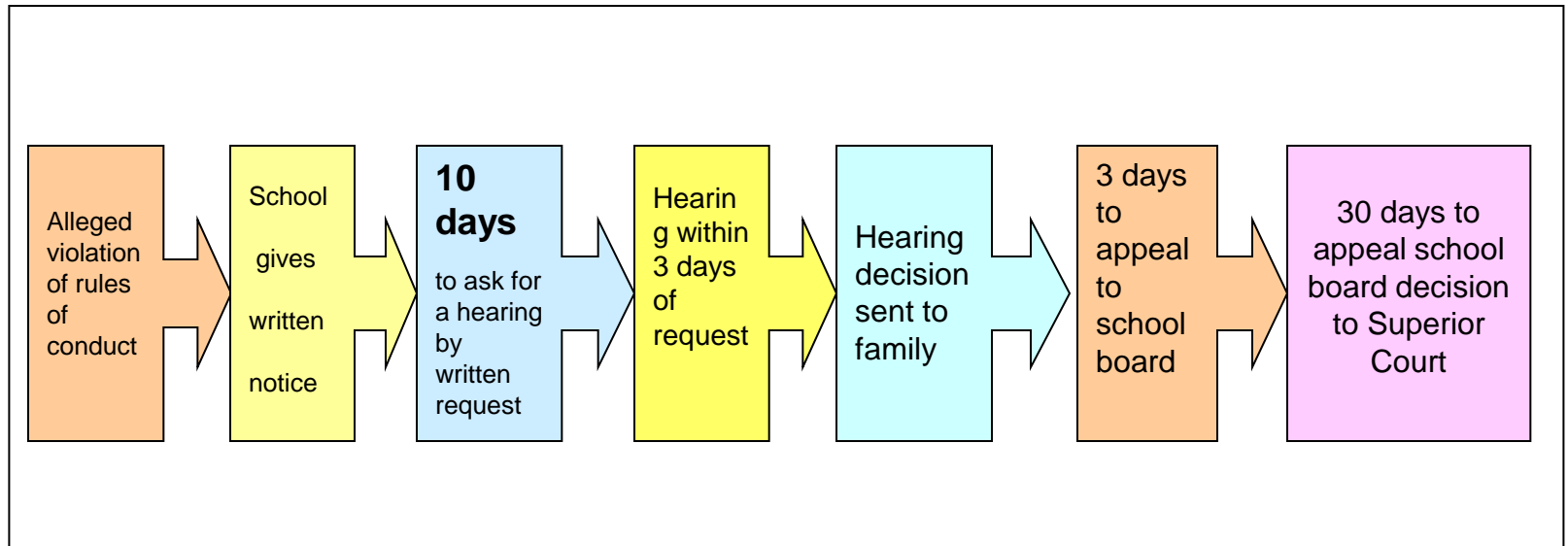
- ▶ When a student is suspended or expelled, the school needs to tell you in writing the **END DATE** of the suspension or expulsion.
- ▶ Suspensions and expulsions can **NOT** last longer than **one year**.

# Emergency Expulsions

- ▶ Immediate removal from school.
- ▶ When administrator determines that student's presence creates an **“immediate and continuing threat of substantial disruption to the educational process.”**
- ▶ There have been updates to this area of the law.

See ESSB 5946, passed 2013

# Timelines for Challenging Emergency Expulsions from School



Good and sufficient reason that the student's presence poses an immediate and continuing danger to the student, other students, staff, or the educational process.

# Updates to the Law (ESSB 5946 – passed 2013) regarding Emergency Expulsions

As of September 30, 2013 – districts must follow new procedures:

- ▶ Emergency Expulsions (EEs) cannot last longer than 10 days (you should receive letter of explanation).
- ▶ After 10 days, EE either ends OR is converted to a suspension or regular expulsion
- ▶ You should receive letter that includes:
  - Behavior that took place
  - Rule that was broken
  - End date of disciplinary action.
  - Explain student's right to hearing.

# Updates to the Law (ESSB 5946 – passed 2013) regarding Reengagement Meetings

As of September 30, 2013 – districts must follow new procedures:

- ▶ If student is suspended or expelled longer than 10 school days, school must convene a meeting with student and parents to develop a reengagement plan tailored to their individual needs/circumstances.
- ▶ The reengagement meeting should cover:
  - How student can stay connected to school
  - Getting student back into classroom as soon as possible
  - Ways to remedy the situation that led to the discipline.

# Student's side of the story is important...

- ▶ Students have the right to tell their side of the story – when?
  - When school is conducting investigation into the incident
  - At any meetings between the student, parents, and school staff.
  - During any formal discipline hearings
- ▶ Rights to Appeal must be exercised quickly – usually within 3 days
  - .

# School Discipline Hearings

## ▶ What are a student's rights at a hearing?

- To look at the district's evidence before the hearing;
- May bring a lawyer;
- To ask questions of witnesses;
- To explain what happened; and
- To have witnesses testify or introduce evidence.

## ▶ Who will make decisions at the hearing?

- School discipline hearing officers are appointed by the school district.
- Hearing officers can be employees of the district but cannot be someone who witnessed what happened or was part of punishing the student.

# Reentry: Getting back into school

- ▶ New law (ESSB 5946) did not change or take away rights of student to petition/request to be readmitted (submit to Superintendent's office).
- ▶ “*Petition for Readmission*” should include:
  - Why the student feels they are ready to return
    - What have they been doing to prepare?
  - Can include letters/notes from family members, counselors, employers and others who can support the student's return.



# Student's Right to Education while Long-term suspended or Expelled?

## GENERAL EDUCATION STUDENT:

- ▶ Unsettled issue.
- ▶ Will likely see proposed legislation this session (again) seeking requirement for ongoing education services for all students.
- ▶ Whether student receives homework and can make up assignments – is usually at the discretion of individual teachers.

## SPECIAL EDUCATION STUDENT:

- ▶ District must continue to educate student with disability, regardless of disciplinary status, if removal is for more than 10 days.
- ▶ In most cases, current placement must be maintained.
- ▶ School may seek a 'Change of placement' in some circumstances.

# How often are educational services provided during exclusions\*?

- ▶ Statewide, school confirmed that services were provided in:
  - 8.47% of LT suspensions
  - 5.79% Emergency Expulsions
  - 4.14% of Expulsions.
- ▶ Pattern of Homework being provided in only 1–2% of cases.
- ▶ Schools could provide no data on what they provided, if anything, in over 80% of discipline incidents.
- ▶ Students of color and living in poverty were less likely to receive educational services while excluded.

*\* See "Reclaiming Students: The Educational and Economic Costs of Exclusionary Discipline in WA State," a Report by TeamChild and WA Appleseed, November 2012.*

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