

YOUR RIGHTS WHEN FACING A SUSPENSION

KNOW YOUR RIGHTS



In New York State, everyone younger than 21 who does not have a high school diploma has the right to attend a public school. This right is protected by our state constitution. When your school wants to suspend you, it is taking away that right for a period of time. But there are rules that the school must follow where your rights are concerned.

This guide will help you understand the rules, and protect your right to an education.

SUSPENSIONS DURING A PANDEMIC:

As part of [NYSED's reopening guidance](#), schools are encouraged to approach student discipline through restorative, rather than punitive, practices. This means schools are urged to create policies and practices that keep students connected to their learning environment, which is critical to maintaining academic growth and supporting students' social and emotional learning. Restorative approaches are designed to help students understand their behavior and how it impacts others, in order to build and maintain meaningful relationships. Not all schools are following this guidance, however. We recommend you share it with your school if you are facing exclusionary punishments.

If you are suspended during the pandemic, some procedures might be different. First, you should check that the behavior you are being accused of is actually something that is described in your code of conduct. Many schools have not updated their discipline codes to reflect the realities of online learning, but they cannot suspend you for something if you didn't have notice that it was against the rules.

Second, if you are suspended, your conference with the principal or your suspension hearing might take place virtually, so be sure you are in good communication with your school to find out when and how to attend. If you miss your hearing, you do not have the automatic right to have a new one scheduled so it's important to attend. Third, if you are suspended and you are learning remotely, you may lose your login privileges, or be

given a new password and login for a different remote class. In some districts, you may be given paper homework packets instead of virtual assignments. In most cases, your school must provide you with access to education while you are suspended, but it is not required that it be your regular classes or your regular work.

If you are not provided any access, email us at schools@nyclu.org immediately. We recommend that you ask your school to maintain regular access to your online learning platforms while suspended, since you won't be in a classroom anyway.

If you are suspended from in-person learning, we recommend you ask your school to maintain regular access to your online learning platforms, so your education is not interrupted while you are out of class. Your school might assign you in-person classes at a suspension site or alternative school for the duration of your suspension. If you are concerned about contracting COVID-19 at this alternative site, you should ask for accommodations or to move to remote learning.

FOR STUDENTS WITH DISABILITIES:

You have additional protections under federal law if you are suspended. Contact your school board to find the "special education regional supervisor" for your area, who can help you with the process. There should also be a section in your school's Discipline Code that explains suspension procedures for students with disabilities. If you are in New York City, the information can be found in Chancellor's Regulation A-443.

THERE ARE TWO TYPES OF SUSPENSIONS

SHORT-TERM SUSPENSIONS

“Principal’s Suspension” = One to five school days

Your principal can suspend you for five days or less for certain behaviors.

LONG-TERM SUSPENSIONS

“Superintendent’s Suspension” =
Six to 180 school days

Before you can be suspended for longer than five days, you have the right to tell your side of the story at a hearing.

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YOUR RIGHT TO RECEIVE AN EXPLANATION OF YOUR SUSPENSION

The “notice” is a letter explaining why you are facing suspension. It must be mailed or hand-delivered to your parent or guardian right away. **You can only be suspended for breaking a rule that is explained in your school’s code of conduct or discipline code.**

The notice must be sent within 24 hours of the decision to suspend you.

You must receive the notice at least one day before your hearing.

A SHORT-TERM SUSPENSION NOTICE MUST INCLUDE:

1. A description of your misbehavior and the date that it took place, with *enough detail for you to understand what event they’re talking about.*
2. An explanation of your right to request a conference with the principal, or the date of your automatic hearing.
3. An explanation of your right to question complaining witnesses (people who accused you of misbehavior) at the conference.

*** If you were also arrested in school, be sure to share the notice with your attorney.**

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YOUR RIGHT TO A CONFERENCE OR HEARING

Your suspension hearing or conference is your only opportunity to tell your side of the story and you **MUST attend if you want the chance to change the school’s decision.**

You Have the Right to Request a Conference with Your Principal

You must ask for this conference—it is not automatic.

You Have the Right to a Hearing

This is an automatic hearing and will occur even if you don’t go.

You Have the Right to:

- Ask for your suspension to be canceled or shortened.
- Bring a parent or guardian to the conference. You may also be permitted to bring a lawyer or other representative with your principal's permission.
- Question school staff who accused you of misbehavior. You can question student witnesses with your principal's permission.

After the Conference:

The principal will issue a written decision about the suspension. The principal may dismiss the suspension or suspend you for one to five school days.

You Have the Right to:

- Ask for your suspension to be canceled or shortened.
- Request another date for your hearing if you can't make the proposed date.
- Bring an attorney or trusted adult to your hearing.
- Question people who claim they saw what happened.
- Bring people to support your side of the story.
- Remain silent—you don't have to answer any questions. You can ask a witness tell your side for you.

After the Hearing:

The hearing officer will decide if the school has proven the charges against you. You must receive a written decision that the charges were either thrown out or found to be true (and if so, how long the suspension will last).

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YOUR RIGHT TO APPEAL YOUR SUSPENSION

If you lose at your suspension hearing or conference, you have the right to appeal your suspension. Appealing means asking a higher level authority (usually your school board) to reconsider your case.

REASONS TO APPEAL:

1. Overturn a wrongful suspension.
2. Shorten the amount of time you spend out of school.
3. Get the suspension off your academic record.

WHEN CAN YOU APPEAL A SUSPENSION?

Anyone can appeal a suspension. Many suspensions are overturned on appeal because the school didn't follow the rules when suspending a student.

Common Grounds for Appeal:

- You did not receive notice about your suspension at home.
- The notice you received did not contain enough information.
- You were never given a chance to tell your side of the story at a hearing or conference.
- You were suspended for a rule that is not in your school's code of conduct or discipline code.
- You were denied your rights during the suspension hearing (for example, if you were forced to answer questions or were not permitted to bring a representative).

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