

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.

The school-to-prison pipeline refers to education and public safety policies that push students into the criminal legal system. Schools send students into the pipeline through zero-tolerance disciplinary policies, which involve the police in minor misbehavior and often lead to arrests and juvenile detention referrals. There are on average 766 students suspended every day in New York State. Suspensions are one way in which students are pushed into the school-to-prison pipeline, which disproportionately impacts youth of color, youth with disabilities, and LGBTQ students.

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 office” 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 OUT-OF-SCHOOL 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.

1

YOUR RIGHT TO RECEIVE NOTICE OF YOUR SUSPENSION

The “notice” is a letter explaining why you are facing suspension. It must be express 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.**

Ask your principal for your code of conduct or discipline code, or search your school’s website.

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

When possible, the school should call your parent or guardian too, but a phone call alone isn’t enough.

A SUSPENSION NOTICE MUST INCLUDE:

1. A description of your alleged 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 for a short-term suspension, or the date of your automatic hearing for a long-term suspension.
3. An explanation of your right to question complaining witnesses (people who accused you of misbehavior) at the conference or hearing.

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

The notice should be in the dominant language of the parent or guardian.

If the school does not include these requirements in the notice you receive, you might be able to appeal. See Common Grounds for Appeal below.

2

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 can ask your principal for a different consequence instead of a suspension.

However, they do not have to give it to you.

If you were also arrested in school, speak to your criminal attorney before you ask for a conference or attend a hearing.

SHORT-TERM SUSPENSIONS

You Have the Right to Request a Conference with Your Principal

You must ask your principal for this conference--It is not automatic. If your principal rejects this request for a conference, you may be able to appeal. See Common Grounds for Appeal below.

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.

LONG-TERM SUSPENSIONS

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.
- Request another date for your hearing if you can’t make the proposed date or need more time to get an attorney.
- Bring an attorney or trusted adult to your hearing.
- Question people who claim they saw what happened.

- 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 decision about the suspension. The principal may dismiss the suspension or suspend you for one to five school days.

- Bring people to support your side of the story.
- Remain silent—you don't have to answer any questions. You can ask a witness to tell your side for you.

After the Hearing:

The hearing officer will decide if the school has proven the charges against you and issue a decision.

When the hearing is over, you can ask for a record of the hearing that you may use later if you want to appeal the decision.

***The school does not need to provide you an attorney.**

3

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.

You must file your appeal within 30 days.

Check your school's handbook or code of conduct to make sure there is not a shorter deadline.

The decision should tell you how to appeal and who to send it to.

If not, read your code of conduct or school's handbook or contact the school board.

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.
- 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).

If you are 17 years old or younger, while you are suspended, your school must provide you with "alternative instruction" so you can stay on track.

NYCLU

ACLU of New York

www.nyclu.org

Questions? Contact schools@nyclu.org