

## Suspension Q&A

1. **What are the legal grounds for suspending a student?** According to Education Law section 3214 a student can be suspended for any behavior that is “insubordinate or disorderly” or is a “danger to the health and welfare of others”. Behavior that could support a suspension according to some disciplinary codes are: a) unacceptable behavior towards a teacher b) disobeying a reasonable order given by a school official c) fighting d) destroying or damaging school property e) swearing or other unacceptable behavior towards a teacher.
2. **What type of discipline can be imposed by the school if my child is found guilty of violating school rules?** Schools are required to have a written disciplinary code that sets forth the range of discipline imposed for violations of school rules. The school is required to provide you with a written copy of this code on an annual basis.
3. **Who in the school is allowed to suspend a child?** A suspension can be imposed by the board of education, superintendent or by a school principal. An assistant principal may not suspend a child from school.
4. **If my child is suspended from school is he/she entitled to receive instruction?** All children of compulsory school age are entitled to home instruction during suspension. Special education students are entitled to all of the services on their IEP regardless of age.
5. **What rules do the school have to follow for a short term suspension of five days or less?** Any student suspended for 5 days or less must be given oral and written notice of charges, the opportunity to have an informal conference with the principal and the opportunity to ask questions of complaining witnesses. If the student is of compulsory school age, home instruction must be provided.
6. **Does the school have to notify me about this short term suspension?** The school is required to notify you promptly (usually by phone). Written notice must be provided within 24 hours of this suspension. Parents have a right to an informal conference with the principal. Parents have the right to question witnesses who made the complaint. The written notice must contain notice of charges and your right to the informal conference with the principal and your right to question the witnesses who made the complaint.
7. **If the school does not give me the notices about the suspension, what can I do?** If the school does not give you proper notice you can appeal to the superintendent and then to the board of education and ask for this suspension to be expunged from your child's record. You may appeal their decision to the New York State Commissioner of Education (310 appeal)
8. **What are my rights if I disagree with the decision of the principal?** If you disagree with the principal you may appeal to the superintendent, board of education and New York State Commissioner of Education, in that order.
9. **What are my rights if the school wants to suspend my child for more than 5 days?** If the school wants to suspend your child for more than five days, you must be notified in writing, in the Native Language of the Parent, by the superintendent of schools. You must be given the opportunity for a superintendent's hearing by the 5th day of suspension.
10. **What notification should I receive about the superintendent's hearing?** Notice must be in writing and indicate precisely what a student is accused of doing. It may not say simply “misconduct”. Notice must be received prior to the 5th day of suspension. The notice should give you the date, time and location of the hearing as well as a full statement of your rights.
11. **May I have an attorney for this hearing?** If you choose you may be represented by a parent, friend, teacher, counselor, lay advocate or attorney.
12. **What are my rights if I disagree with the decision of the superintendent to suspend my child for more than 5 days?** You may appeal the superintendent's decision to the board of education in writing within a reasonable period of time.
13. **What do I do if I disagree with the decision of the board of education?** You may appeal to the New York State Commissioner of Education in the form of a notice and petition (310 appeal). You must file your notice and petition with the New York State Commissioner of Education within 30 days of the decision by the board of education. The appeal is heard by the Office of Counsel, NYS education department. The NYS Commissioner of Education will provide you with a booklet with the procedures you must follow.
14. **How can I contact the New York State Commissioner of Education?** You can contact the New York State Commissioner by calling (518)474-5807.
15. **Can a school suspend a student with a disability?** Yes. A school may suspend a child with a disability as long as the school follows the correct procedure for suspending students with disabilities.
16. **Are there any special rules that a school must follow to suspend a child who has a disability?** Yes, there are special rules a school must follow to suspend a child with a disability for more than 10 days.