

STUDENT DUE PROCESS RIGHTS

In disciplinary situations, students shall have the opportunity to present their version of the facts and circumstances, and students will not be suspended unless their rights to due process, as identified in Education Law Section 3214 and the Regulations of the Commissioner of Education), have been observed. Building Principals may suspend a student for a period of up to five days. Prior to a suspension, a Building Principal must:

1. Give the student notice of the charged misconduct;
2. Provide the student an explanation of the basis for the suspension, if the student denies the misconduct;
3. Give parents immediate written notice of the proposed suspension, a description of the incident underlying the proposed suspension, and their right to request an informal conference (such notice must be delivered by personal messenger, express mail, or an equivalent means reasonably calculated to assure receipt within 24 hours of the decision to propose a suspension); and
4. Provide the opportunity for parents and the student to participate in such informal conference. When requested, the Principal conducts an informal disciplinary conference with the student and other available individuals who may have information concerning the situation. At the conference, the Building Principal shall inform the student of the charges against him/her and the evidence supporting the charges. The student and/or the student's parents are entitled to question the complaining witnesses against the student in the presence of the Principal. The student may present any information or any available person they wish in their defense. The Principal shall attempt to reach an equitable solution to the problem and shall announce a decision. When a suspension is imposed, the student and parent(s) must be notified and a written record of the case made.

When the presence of the student in school is a continuing danger to persons or property or an ongoing threat of disruption to the academic process, the Principal may suspend the student immediately and provide the requisite notice and opportunity for an informal conference as soon after the suspension as is reasonably practicable. Such notice will indicate that the student's continued presence in the school posed a continuing danger or ongoing threat of disruption to the academic process.

If a suspension of more than five days is being considered, the Building Principal will recommend that a hearing be held. The student and his/her parents will be notified of the time and place of the hearing. At the hearing, conducted by the Superintendent of Schools or his/her designee, the student will have the following rights: to examine evidence and question witnesses; to present evidence and witnesses; and to be represented by counsel. A record of the hearing is made by stenographic transcript or by tape recording. The Superintendent will make a decision regarding suspension based on the information presented at the hearing. An appeal of the Superintendent's decision can be made by the student to the Board of Education.

5311.1

Generally, school personnel will identify problems and pursue appropriate, reasonable measures to affect student behavior. Parents, students and school personnel must work together to ensure the maintenance of the proper atmosphere for learning. The Board's objective is to provide all students an equal opportunity to grow intelligently, ethically, socially, emotionally and physically.

The options are designed to be fundamentally fair without imposing unreasonable burdens upon school authorities or students. General requirements in all instances include:

1. oral or written notice of nature of the rules, violation of which will result in disciplinary action;
2. an opportunity for the accused student to "tell his side of the story" to the person whose responsibility it is to assign discipline; and
3. explanation of the evidence of violation upon which action is being taken, should the student deny the infraction has occurred.

When a student is referred to an administrator for appropriate action, the administrator investigates the incident by meeting with the student and/or staff member, and additional students/staff as deemed necessary.

Parental involvement ranges from written notification of the offense and disciplinary reaction to parent conferences with staff, student, and, if need be, outside agencies/authorities.

A proper and accurate record of the offense and response is maintained for all incidents.

Cross-ref: 5311, Student Rights and Responsibilities
5311.3, Student Complaints and Grievances
5313.3, Student Suspension

Ref.: Education Law § 3214, 8NYCRR § 100.2(1)(4)

Approved: July 1, 2001

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