

School Discipline

(What are my student's rights when facing a suspension or expulsion?)

Is suspension the only option for school discipline?

NO! Schools *should* be focused on constructively addressing student misbehavior and preventing future incidents. This can be effectively done through the use of parent/student conferences, peer mediation, behavior contracts, conflict resolution, community service, loss of privileges, and other interventions that do not take away a child's education.

What rights does my student have when facing a suspension?

It depends on the nature of the suspension. Short-term removals like bus suspensions, in-school suspensions, and short-term suspensions trigger fewer rights than long-term suspensions or expulsions.

• Bus Suspension

- Definition: A student can go to school, but cannot ride the bus to get there.
- Rights: There is no formal right to appeal (challenge) a bus suspension.



GOLD STAR TIP: If a student has an Individualized Education Program (IEP), a parent/guardian can request that special transportation be added to the child's IEP if the misbehavior leading to the bus suspension is related to the student's disability.

• In-School Suspension (ISS)

- Definition: A student can go to school, but is sent to a separate classroom in the school.
- Rights: There is no formal right to appeal an ISS.



GOLD STAR TIP: If a student has an IEP, he must continue to receive all services in his IEP while placed in ISS. If these services aren't provided, an ISS may trigger extra protection under the law. (See "Special Education and School Discipline")

• Short-Term Suspension (STS)

- Definition: A student cannot go to school for 10 days or fewer.
- Rights: There is no formal right to appeal an STS. All students facing STS have the right to:
 1. An explanation of why they're being suspended (i.e. what school rule they broke and what evidence the school has);
 2. Tell their side of the story; and
 - *Note:* This can be a very informal conversation between a student and administrator
 3. Take books home, get homework, and make up tests missed during the suspension.
 - *Note:* Someone else must pick up work for the student. Absent explicit permission from an administrator, a student is not allowed on school grounds while suspended.



GOLD STAR TIP: Students with IEPs who have been STSed for more than 10 days *total* in a school year have extra rights, including continued access to educational services and not to be suspended for disability-related conduct (See "Special Education and School Discipline")

Creative advocacy for bus suspensions, ISS, and STS

Even though there is no formal right to appeal these suspensions, parents/guardians can take steps to reduce the harms of suspensions and prevent future issues:

- Request a meeting to ask for a different consequence and/or create a plan to prevent future issues.
- If your child has an IEP, request a functional behavioral assessment (FBA) and behavior intervention plan (BIP) as needed to prevent future issues. (See "Special Education and School Discipline")
- If your child does not have an IEP and the behaviors appear to be disability-related, request an evaluation to determine eligibility (See "Special Education Eligibility")
- If school policies weren't followed or rights weren't afforded, file a formal grievance. (Sample attached)

- **Long-Term Suspension (LTS)**

- **Definition:** Student is not allowed to attend school for a period lasting **more than 10 school days**
 1. If an incident happens in 1st, 2nd, or 3rd quarters, LTS can last until the end of the school year
 2. If incident occurs in the 4th quarter, LTS can last through 1st semester of the *next* school year
- **Rights:** All students facing LTS have the right to:
 1. Take books home, get homework, and make up tests during first 10 days;
 2. Receive written notice of the charges against them;
 3. Review and obtain copies of any evidence the school has pertaining to the incident;
 4. Request and have a hearing before an impartial decision-maker where they can bring an advocate or attorney, present evidence (including character witnesses), question witnesses, evidence, or statements used against them, and receive a decision based on substantial evidence;
 5. Appeal the hearing decision, as needed, to the Board of Education and Superior Court; and
 6. Receive alternative education services while suspended, unless the school provides an important reason for refusing to provide those services.
 - *Note:* a refusal to provide alternative education is an appealable decision

- **Expulsion**

- **Definition:** Student is never allowed to return to school
- **Rights:** All students facing expulsion have the right to:
 1. The same protections given to students facing LTS, with the exception that:
 - the school must *also* demonstrate that allowing the student to attend *any* school or program in the district would threaten the safety of others
 - The Board of Education must hold a hearing to approve the expulsion
 - Expelled students do not have a right to alternative education (though the school may choose to offer those services to expelled students)
 2. Request readmission after 180 days have passed by providing information sufficient to demonstrate that their return to school would not pose a threat to school safety.

Creative Advocacy for LTS and Expulsions

A student should always appeal, either to argue:

1. **Innocence** if she is accused of an offense she didn't commit; OR
 - The *school* has the burden of providing reasonable evidence that proves the student committed the offense he is accused of.
2. That the length of the **suspension is excessive and unnecessarily harmful.**

In a hearing, a student can:

1. Bring up defenses (e.g. self-defense, bullying)
2. Offer positive information that contradicts the school's negative description of her (e.g., good grades, 1st offense, cooperation with investigation)
3. Provide letters of support from family, teachers, and community members.
4. Explain how LTS will harm her (academically, etc)
5. Offer suggestions of more appropriate alternatives (e.g. mediation, community service, etc)

 GOLD STAR TIPS

Submit paperwork to request an appeal as soon as possible. You can still request and should be granted an appeal even if the school's established deadline has passed.

Students with IEPs facing LTS or expulsion have additional protections, including (1) not being suspended for behaviors related to their disability or to the school's failure to implement their IEP, and (2) the opportunity to continue to receive services necessary to make progress on IEP goals and in the general curriculum, even if suspended.

See "Special Education and School Discipline" overview for more information

If criminal charges have been filed by the school district, it is important to coordinate with their attorney about what to present at a suspension hearing.

