

## **School Discipline: Know Your Rights**



### **What does school discipline include?**

Schools have the right (and responsibility) to impose a set of rules to maintain order and safety. When students break these rules, schools have a right to discipline students. Common forms of school discipline include taking away privileges, detentions, suspensions, and expulsions.



### **What are my rights?**

All children between the ages of 5 and 18 have a right to a free public education. This right cannot be taken away without good cause. Before any disciplinary action that would interfere with a child's right to receive an education can be taken (like a suspension or expulsion), the child has a due process right to notice and a hearing. On the other hand, students do not have a similar right to dispute disciplinary actions that do not interfere with the right to receive an education (like a detention or a letter home).

Further, criminal law protections such as the right to remain silent do not apply in the school context and the right to privacy is seriously curtailed for students. Expulsion cannot constitute cruel and unusual punishment even if it is determined to be too severe under the circumstances.

Corporal punishment was banned in public schools in Ohio in 2009.



### **Loss of privileges and detentions**

Schools often use informal disciplinary methods such as a loss of privileges (things like recess for younger children or unsupervised study hall for older students) or after school or weekend detentions to deal with small infractions. Because such methods are generally short term and do not take away a child's right to a public education, students have very limited rights to dispute them. If the duration of such punishments seems excessive, parents might consider speaking with the school.



### **Suspensions**

In Ohio, a suspension is a removal from school for ten days or fewer. A suspension can only be imposed by the superintendent of the school district or the school principal. Before a student can be suspended, he or she must be given a written notice of the reasons for the suspension, including the date, time, and location of the action giving rise to the suspension. The student then has the right to an informal hearing where he or she has the opportunity to challenge the allegation and/or explain his actions. However, as this is an informal hearing, the student is not entitled to representation and may not cross examine witnesses against him or present his own witnesses. If the hearing results in the student being suspended, the student's parents must be notified in writing of the suspension and a right to appeal within one school day.

In-school suspensions are excluded from the notice and hearing requirements.



## Expulsions

In Ohio, an expulsion is a removal from school for ten to eighty days. It can only be imposed by the school district's superintendent. Students are entitled to a hearing before an expulsion is imposed. Both the student and his or her parents must get written notice of the intention to expel, the reasons for the expulsion, and, if applicable, notice that the school might seek permanent exclusion. The notice should have the date of the hearing and tell the student of the right to legal representation. At the hearing, the student can cross examine witnesses and present his or her own witnesses.

If an expulsion is granted, the school must notify the student's parents and the treasurer of the Board of Education in writing. This notice should include the reason for the expulsion and the right to appeal to the Board of Education. If the expulsion is for more than twenty school days, the notice should have information on services or programs that work toward improving attitudes and behavior.

If a student is expelled for more days than remain in the school year, he or she must have a chance to work off the remainder of the expulsion over the summer through community service.



## Emergency Removal

A student can be removed from school before a hearing if the student's presence is a continuing danger to persons or property or an ongoing threat of disrupting academic process. If the removal is by a teacher, it must be confined to the activities under his or her control. The teacher must give the reasons to the principal in writing. A hearing must be scheduled within three school days after the removal. The notice and hearing rules that apply to suspensions and expulsions should be followed.



## Appeal to the Board of Education

If a student or parent disagrees with the hearing decision, he or she has the right to make an appeal to the Board of Education. This appeal must be filed within a time limit set by school rules. The appeal is an open meeting. The student and the school have the chance to give their arguments.



## How can a lawyer help?

You have a right to seek legal assistance. An attorney can explain your rights and walk you through the discipline process step by step. Further, you have a right to representation in an expulsion hearing or in an appeal, either to the Board of Education or to the Court of Common Pleas.

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**The information on this flyer is not legal advice.**

**If you are seeking representation or legal advice, please contact SEOLS.**

**An attorney-client relationship does not exist between you and SEOLS.**

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