

## **A Students Guide to School Discipline: What are my Rights?**

**What is a suspension?** A *suspension* occurs when a student is temporarily removed from school. In most cases a suspension cannot be for more than five days. The only exception is if the student is recommended for expulsion. In that case he or she can be suspended only if it is determined after a meeting with the student's parents that he or she causes an ongoing threat.

**What is an expulsion?** An *expulsion* is when a student is prohibited from attending any school in the district. If a student is expelled, he or she must be allowed to apply to be readmitted no later than the end of the semester after the incident occurred (or one year after, if the incident was one of the five "zero tolerance" offenses: possession of a firearm, brandishing a knife at another person, unlawfully selling a controlled substance, sexual assault or battery, or possession of an explosive).

**Can I be suspended or expelled for just any reason?** No! You must have committed one of the following acts below in order to be suspended:

- Causing, attempting, or threatening physical injury *or* purposefully using force or violence upon another (except in self-defense).
- Possessing, selling, or otherwise furnishing any firearm, knife, explosive, or other dangerous object without written permission of a certificated school employee and concurrence by the principal or principal's designee.
- Possessing, using, selling, or being under the influence of a controlled substance, an alcoholic beverage, or an intoxicant of any kind.
- Offering, arranging, or regulating the sale of any controlled substance, alcoholic beverage, or intoxicant of any kind and then selling or delivering the substance representing it as a controlled substance, alcoholic beverage, or intoxicant of any kind.
- Committing robbery, attempted robbery, or extortion.
- Causing or attempting to cause damage to school property or private property.
- Stealing or attempting to steal school property or private property.
- Possession or use of non-prescribed tobacco or products containing tobacco or nicotine.
- Committing an obscene act, or engaging in habitual profanity or vulgarity.
- Possessing, offering, arranging or negotiating to sell any drug paraphernalia.
- Disrupting school activities or purposefully defying the valid authority of school authorities engaged in the performance of their duties.
- Knowingly receiving stolen school property or private property.
- Possessing an imitation firearm.
- Committing or attempting to commit sexual assault or sexual battery.
- Harassing, threatening, or intimidating a student who is a witness in a school disciplinary proceeding in order to prevent him/her from being a witness or to retaliate against him/her for being a witness.
- Offering, negotiating the sale of, or selling the prescription drug Soma.
- Engaging in or attempting to engage in hazing.
- Committing sexual harassment which is sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment.
- Causing, attempting to cause, or threatening to cause an act of hate violence.
- Intentionally engaging in harassment, threats, and/or intimidation directed at school district personnel or students. This must be sufficiently severe and pervasive enough to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invalidating the rights of school personnel or students by creating an intimidating or hostile educational environment.
- Making terroristic threats against school authorities or school property.

\*\*\* You cannot be suspended for being late or absent from school!\*\*\*

\*\*\*\*You cannot be suspended unless the act was related to a school activity.\*\*\*\*

***What are the limitations on suspensions?***

You can only be suspended if other means of correction have failed. That means, the school must try other ways to solve the problem before turning to suspension. The exception is if you were suspended under one of the first five grounds listed above, or if your presence causes a threat.

***What are the limitations on expulsions?***

If you commit a "zero tolerance" offense the school board must expel you. Those offenses are: possessing a firearm, brandishing a knife at another person, unlawfully selling a controlled substance, possessing an explosive, and sexual assault or battery. If you are being recommended for any other reason you cannot be expelled unless the school board finds that other means of correction are not feasible or have repeatedly failed or that you are a continuing danger to the physical safety of yourself or others. Even for a zero tolerance offense, the board can order a "suspended expulsion" which means you are on probation, but you can return to school.

***Before I am suspended, will I have an opportunity to tell my side of the story?***

Yes! Before you are suspended, the principal, principal's designee, or the superintendent of schools must conduct a conference with you and, if possible, with the teacher, supervisor, or school employee who referred you for suspension. At the conference, you must be told of the reason for the proposed suspension and the evidence against you. You must also be given the opportunity to present your version of what happened and evidence in your defense.

The only time a student is not entitled to a conference right away is when an "emergency situation" exists, meaning that a student presents "a clear and present danger to the life, safety, or health of students or school personnel." If you are suspended for this reason without a conference, the school must notify both you and your parent/guardian/caregiver of your right to a conference and your right to return to school for the purpose of the conference within two days.

***If I am suspended, can my parents meet with the principal?:*** Yes! At the time of the suspension, a school employee must make a reasonable effort to contact your parent or guardian in person or by telephone. Your parent or guardian must also be notified in *writing* of the suspension. In every school where 15% or more of the students speak a single primary language other than English, this notice must be written in both English and the student's primary language. The school must give your parents the opportunity to come in and discuss the suspension. However, schools cannot punish you or keep you out of school if your parent or guardian does not attend the conference.

***What are my rights if I am recommended for expulsion?***

You can only be expelled by the school board. You can only be expelled after a hearing. You have the right to:

- ↳ Receive notice of the hearing ten days before your hearing, telling you exactly what you are being expelled for;
- ↳ Look at all documents that will be used at the hearing, before the hearing;
- ↳ Bring your own witnesses to the hearing and/ or ask the district to subpoena witnesses for you (subpoena means force them to come to the hearing);
- ↳ Question any witness that the school brings to the hearing;
- ↳ Bring a lawyer or other advocate;
- ↳ Appeal the board's decision if the hearing was not conducted fairly.

NOTE: Expulsions are very serious. You may want to have a lawyer. Legal Services for Children may be able to help find you a free lawyer.