

Public School Discipline: Alternatives to Suspension

Marnie Smith

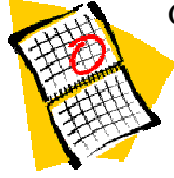
Most public school districts rely heavily on suspensions for student discipline. Section 2801 of the Education Law requires that school districts create a code of conduct, and one of the most common punishments for a violation of the code is out of school suspension.

What is the process for suspending a student?

- Under state law, a principal, superintendent, or school board may suspend a “pupil who is insubordinate or disorderly or violent or disruptive, or whose conduct otherwise endangers the safety, morals, health or welfare of others.”¹
- The suspension can be for up to five school days.²
- The student is entitled to notice of the charged misconduct, and the student and parent must be given an opportunity for an informal conference with the principal where they can present their side of the story to the principal and ask questions of the complaining witnesses.³
- If the suspension will be for longer than five days, the student and parent must be given an opportunity for a fair hearing, upon reasonable notice.⁴
- The student may be represented by an attorney and has the right to question witnesses against the student and to present witnesses and evidence on his/her side.⁵
- The superintendent shall hear and determine the proceeding, or may designate a hearing officer to conduct the hearing. A record of the hearing shall be maintained (a tape recording is sufficient).⁶
- The hearing officer shall make findings of fact and recommendations as to the appropriate discipline to the superintendent. The superintendent may accept all or any part of the findings and recommendations.⁷
- The superintendent’s decision can be appealed to the board of education, which shall make its decision solely on the record before it. The board may adopt in whole or in part the decision of the superintendent.⁸



How long are students suspended from school?

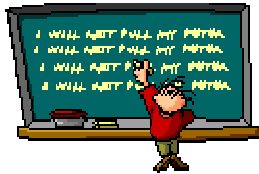


Generally, school districts have the authority to determine appropriate penalties for their students. The only requirement in the law provides that “Consistent with the federal gun-free schools act of nineteen hundred ninety-four, any public school pupil who is determined under this subdivision to have brought a weapon to school shall be suspended for a period of not less than one calendar year.”⁹ However, superintendents have the authority to modify this suspension requirement for each student on a case-by-case basis.¹⁰

Some districts have zero-tolerance policies where students are automatically suspended for certain offenses. In most districts, the length of the suspension is dependent on the severity of the misconduct and the student’s disciplinary history.

What happens to students who are suspended?

Education Law requires that the school district provide instruction elsewhere or supervision or detention of any student of compulsory under 16 years old who has been suspended.¹¹



Many districts can implement alternative education quickly through an alternative learning center or home instruction, while others do not have the resources for other instruction readily available, and the students suffer gaps in their education.

What are the goals of suspension?

- Address real and perceived immediate threats to a student’s own safety or to the safety of others.¹²
- Secure a safe educational environment that is conducive to both teaching and learning.¹³
- Punish students who do not follow the rules.
- Deter future misconduct.
- Change behavior of students.
- Enable students to learn from their mistakes so that they can successfully complete their schooling and become contributing members of society.
- Provide a cooling-off period for the offending student as well as for frustrated educators and administrators.¹⁴
- Create warnings for parents who may not have taken their child’s misbehavior seriously and who may have considered problem behaviors to be purely the school’s responsibility.¹⁵
- In some cases, to eliminate troublesome students from the educational system.¹⁶

What are some arguments against the use of suspension?

- In the long term, many student suspensions hamper, rather than improve student safety.¹⁷
- Suspension is not an effective measure against misbehavior in school; it is a significant contributor to poor academic performance figures and high drop-out rate.¹⁸
- Missing school results in poor academic performance, which is a strong indicator for dropping out of school.¹⁹



- Suspension does not reduce the number of subsequent suspensions (no deterrent effect), nor curb misbehavior in schools.²⁰
- There is strong evidence that youths who are suspended once tend to be suspended again.²¹
- “There is strong evidence of a direct causal link between suspension and criminal conduct.”²²
- Research shows a clear correlation between suspensions and both low achievement and dropping out of school altogether. Such research also demonstrates a link between dropping out of school and incarceration later in life.²³
- Student suspensions play a pivotal role in perpetuating the “School to Prison Pipeline.” Schools directly send students into the pipeline through zero tolerance policies that involve the police in minor incidents, which too often lead to arrests, juvenile detention referrals, and even incarceration. Schools indirectly push students into the criminal justice system by excluding them from school through suspension, expulsion, discouragement and high stakes testing requirements.²⁴
- “In 2006, the American Psychological Association found that zero tolerance policies have been ineffective in reducing violence in schools and have instead increased disciplinary problems and dropout rates in middle schools and high schools...The report also found that zero tolerance policies have led to an over-representation of students of color in school discipline processes.”²⁵



What are the biggest problems with the suspension system?

- There is no immediate cause and effect.²⁶
 - Children do not understand why they are being punished.
 - The punishment does not link with the misbehavior.
- The individuals implementing the punishment are too far removed from the student.

- The students have no relationship with superintendents, school district attorneys or hearing officers who dole out suspensions.
- Students and parents have no input.
 - They often feel helpless and are not motivated to change behaviors or support the district’s unilateral long-term suspension.
- Students that are suspended from school have nowhere else to go, or no one at home to ensure they are staying out of trouble.

How can the current suspension system be improved?

Suspensions are sometimes unavoidable, and districts need the power to suspend students who are a danger to themselves, to others, or to the learning environment. Changes in how suspensions are imposed can help to better achieve the goals.

- *Provide Support Services*
 - Mediation, counseling or other treatment programs in school.
 - Referrals to other medical professionals outside of school.
- *Individual Assessment* - Although consistency is important, each child and each situation is different. The district will need some ability to assess each incident individually, so as to best develop a punishment that is appropriate for each student.
- *Inclusion of the Parents* - If the parents understand and support the district’s reasoning, they will be more likely to encourage their child to meet the requirements. If parents do not agree with what the district is doing, their children are less likely to abide by the rules. Invite parents to help brainstorm the discipline.²⁷
 - *Inclusion of the Student* - Give the student some responsibility for his punishment. This can be done with behavior contracts or suspension reduction opportunities. If the student takes some control over his own behaviors, he or she will be more likely to learn from their mistakes and to behave properly in the future.
- *Immediate Consequences* – Students need to understand the cause and effect, and that the suspension is the result of their behaviors. The five-day suspension should be taken more seriously and used more effectively.²⁸
- *Keep discipline at the building, rather than district, level* – Discipline can be handed out more quickly, the students are more likely to recognize and respect their own building officials, individual attention and assessment is more likely.



What are possible alternatives to suspension?



- *In-School Suspension* – must be appropriate, include academic tutoring, instruction on skill-building related to the student behavior problem (e.g., social skills), and a clearly defined procedure for returning to class contingent on student progress or behavior.²⁹
- Keep the students in school, but suspend them from after-school activities, sports, clubs, etc.
- *Alternative Learning Centers* – Similar or adapted classes in a different environment, which still allows students to be within the district and progress towards graduation.
- *In-kind restitution* – the students can help to restore or improve the school environment; for example the students could repair property that they damaged, or they could improve the school environment more broadly by cleaning.³⁰
- Have students provide community service on school grounds during nonschool hours.³¹
- Identify students with poor academic, attendance and behavior performance at the beginning of the year. Arrange meetings with the students and their parents to discuss, develop and sign a contract for success, and agree on terms or goals for the student to achieve and duties and responsibilities to be fulfilled by school personnel. Discuss consequences if either party fails to perform. Encourage the parent to remain in contact with school representatives, and designate an adult staff member as a mentor for each student.³²
- *Behavior Monitoring/Behavior Plans* – Closely monitoring behavior and academic progress (e.g., self-charting of behaviors and feedback sessions for the student) will permit rewards to be provided for successful performance; Create a structured, coordinated behavior support plan specific to the student and based on a hypothesis about the function of the target behavior to be reduced.³³
- *Mini-courses or skill modules*. Short courses or self-study modules on topics related to the student's inappropriate behavior.³⁴
- *Positive Behavioral Interventions & Supports*³⁵ - PBIS is “a proactive school-wide approach to discipline which focuses on teaching and supporting positive behavior in the entire student body.” Use administrator warnings, student meetings, parent-teacher meetings, incident debriefing conferences, behavior contracts, behavior intervention plans, in-school lunch and recess for discipline. Hand-out notices to students caught obeying the rules and behaving appropriately for good-



behaviors, put a copy of the notice in a raffle for a weekly prize.

- *Youth Court*³⁶
 - Let students decide the fate of their peers – attorneys, judges, juries.
 - Punishments are usually more severe.
 - Students tend to respect the decisions of other students more than adults, administrators, or hearing officers.
 - Can be implemented at the building level.
 - Best for high schools, where the youth court could be a productive activity for many students.
- *Suspension Reduction* with student participation in alternative activities.
 - In many instances, suspensions are the only option. In many of these cases, it may be more productive and beneficial to the student, the school district and the community as a whole to offer the student the opportunity to reduce their period of suspension by completing alternative activities.
 - “The board of education may also condition a student's early return to school and suspension revocation on the pupil's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.”³⁷

What types of alternative activities could a district offer to students in order to reduce their suspensions?

- Community Service
 - SCPA
 - Boys and Girls Club
 - YMCA
 - Church/ Synagogue
 - Nursing Homes
 - Daycare Centers
 - Soup Kitchens
- Tutoring
- Counseling
- Conflict Mediation
- Restitution
- Undergo a threat assessment
- Undergo drug testing and produce negative results
- Behavior Contract
 - Agree to abide by Code of Conduct, set consequences in case of future violations



How could a district implement a suspension reduction program?

- Appoint a staff member, perhaps an assistant principal at each building or a district-wide assistant superintendent, to be in charge of the suspension reduction program.
- When out of school suspensions are proscribed during a superintendent's hearing, have the district representative discuss with the student's parents (and the student, where appropriate) conditions that the student can fulfill which will reduce the period of suspension.
- The alternative activities should fit the misconduct. For example, drug testing and drug counseling for a student who was found in possession of drugs, or conflict mediation and threat assessment for students who get into a fight.
- Require that the students provide proof of their alternative activities to the individual designated by the district.
- Once that individual has received proof of the student's participation in the required programs, he or she can notify the student, the student's parent and the necessary administration that the student has met the requirements and will be returning to school early.



¹ N.Y. EDUC. LAW § 3214(3)(a)

² N.Y. EDUC. LAW § 3214(3)(b)(1)

³ N.Y. EDUC. LAW § 3214(3)(b)(1)

⁴ N.Y. EDUC. LAW § 3214(3)(c)(1)

⁵ N.Y. EDUC. LAW § 3214(3)(c)(1)

⁶ N.Y. EDUC. LAW § 3214(3)(c)(1)

⁷ N.Y. EDUC. LAW § 3214(3)(c)(1)

⁸ N.Y. EDUC. LAW § 3214(3)(c)(1)

⁹ N.Y. EDUC. LAW § 3214(d)(effective June 30, 2009).

¹⁰ N.Y. EDUC. LAW § 3214(d)(effective June 30, 2009).

¹¹ N.Y. EDUC. LAW § 3214 (e)

¹² Committee on School Health, Policy Statement: Out of School Suspension and Expulsion, PEDIATRICS Vol. 112 No. 5 November 2003, pp. 1206-1209, Statement of Reaffirmation published August 1, 2008, available at:

<http://aappolicy.aappublications.org/cgi/content/full/pediatrics%3B112/5/1206>

¹³ Testimony of Donna Lieberman on Behalf of the New York Civil Liberties Union before the New York City Council Committees On Education And Civil Rights Regarding The Impact Of Suspensions On Students' Education Rights, "Testimony: The

Impact of School Suspensions, and a Demand for Passage of the Student Safety Act.”, January 23, 2008. Available at: <http://www.nyclu.org/node/1602>

¹⁴ Committee on School Health

¹⁵ Committee on School Health

¹⁶ Committee on School Health

¹⁷ Lieberman

¹⁸ Trustin, Mark S., “Model for Alternative to Public School Suspension,”

Durham, North Carolina, 2008, available at:

<http://develop.wikispaces.com/Model+for+Alternative+to+High+School+Suspensio>

¹⁹ Trustin

²⁰ Trustin

²¹ Trustin

²² Trustin

²³ Lieberman

²⁴ Lieberman

²⁵ Lieberman (citations omitted).

²⁶ Conversation with Michael J. Looby, Esq., General Counsel for the Buffalo City School District (April 21, 2009).

²⁷ Peterson, Reece L., “Ten Alternatives to Suspension,” *Impact*, University of Minnesota: The College of Education and Human Development, available online at:

<http://ici.umn.edu/products/impact/182/over5.html>

²⁸ Conversation with Michael J. Looby, Esq.

²⁹ Peterson

³⁰ Peterson

³¹ Committee on School Health

³² Trustin

³³ Peterson

³⁴ Peterson

³⁵ Advocates for Children and Youth, “School Suspension: Effects and Alternatives,” *Voices for Maryland’s Children*, Volume 3, Number 6, (April 2006).

³⁶ Conversation with Michael J. Looby, Esq.

³⁷ N.Y. EDUC. LAW § 3214 (3)(e).

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237 Main St., Suite 1200, Buffalo NY 14203
