



School Suspensions – Know Your Rights

What are the different types of school suspensions?

There are two types of school suspensions in New York City. A **principal suspension** lasts for 5 days or fewer. A **superintendent suspension** lasts for more than 5 days. The differences between principal and superintendent suspensions are discussed more at the end of this fact sheet.

What are my rights and my child's rights?

You must receive proper notice about the suspension. Your child must continue to receive schoolwork and instruction. Your child must be able to take city- and state-based tests, such as the Regents exams.

What kind of notice will I receive?

For both types of suspensions, you must receive notice within 24 hours of the decision. You must be notified both by phone and in writing. The notice should say why your child was suspended. For a superintendent suspension, it must also have information about a hearing.

What happens if there is something wrong with the notice I'm given?

If there are problems with the notice, or if you don't get any notices, your child should not be suspended. The school must allow your child to return. There are a number of possible problems with the notice that could cause this to occur. For example, the notice must be in your primary language. It must be sent in a timely manner. It must contain information about why your child was suspended.

What happens if my child's behavior was illegal?

If the behavior was illegal, you should be careful. Information from a criminal case can be used in a hearing. Likewise, information from a hearing can be used in a criminal case. For example, if your child pleads guilty or is convicted of the crime, this can be used in the hearing. If your child testifies or pleads no contest in the hearing, this can be brought up in the criminal case. If there might be a criminal case, carefully consider your options. You should speak with a lawyer before making any decisions.

If my child has a disability, does that change the suspension process?

Yes. If your child has a disability and has an **Individualized Education Plan (IEP)** or Section 504 Plan, there is more protection. Your child might be placed into an **Interim Alternative Education Setting (IAES)**. For more information on an IAES, see the next section. If your child is suspended for more than a total of 10 days, the school must do a **Functional Behavioral Assessment (FBA)**. The FBA looks at your child's behaviors and what causes them to occur. The school must use the FBA to make a **Behavioral Intervention Plan (BIP)**. This is a plan of positive ways to deal with your child's behavior.

The school must also hold a **Manifestation Determination Review (MDR)**. At the MDR, the school will look at two questions. First, they will decide if the behavior was related to your child's disability. Second,

they will see if the behavior was a result of the school not following the IEP. If the answer to either of those questions is yes, the suspension is reversed. Your child must be immediately allowed to return to school. There is only one exception. The suspension remains if your child had or used a weapon or illegal drugs, tried to sell or solicit a controlled substance, or seriously injured someone while at school or a school function.

If you disagree with the MDR, the FBA, or the BIP, you can appeal the result. You do this by requesting an impartial hearing. The school must arrange the hearing within 20 days of your request. After the hearing, the final decision must be made within 10 days. You should speak with a lawyer for help with the hearing process.

What is an IAES?

If your child with a disability is suspended, the school must make sure your child is still being taught. Your child must still receive all IEP services. This includes both teaching and any related services.

Sometimes a child will be placed in an Interim Alternative Education Setting (IAES). An IAES is a temporary placement. There are only two ways this can happen. First, a hearing officer can place your child in an IAES if returning to the school would cause injury to your child or others. Second, the superintendent can place your child into an IAES without a hearing. This can happen only if your child had or used a weapon or illegal drugs, tried to sell or solicit a controlled substance, or seriously injured someone while at school or a school function. Your child can be placed in an IAES for up to 45 days. Just like an ordinary suspension, a child in an IAES must receive all of their IEP services. This includes all instruction and services that will help them meet their goals.

PRINCIPAL SUSPENSIONS

What happens after I receive the notice for a principal suspension?

For a principal suspension, you and your child can have a meeting with the principal. This will usually take place before your child is suspended. It should occur after the suspension only if keeping your child in school would risk danger or disruption.

What do I do if I disagree with the principal suspension?

If you disagree with a principal suspension, you can appeal it. This first appeal goes to the superintendent. You must appeal in writing within 10 school days of the start of the suspension. Make sure you keep a copy of the appeal. The principal will have 5 school days to respond. After the principal responds, the superintendent will have 5 school days to make a decision.

If you disagree with the decision, you can appeal again within 20 days. This appeal will now go to the Chancellor. The written statement you make requesting the second appeal is very important. The first appeal will consider your written statement and the principal's written response. If you are appealing to the Chancellor, they will consider those two items and the superintendent's decision. You will not be allowed to make any claims apart from what is in those items. You may want to speak with a lawyer for help with the appeal.

SUPERINTENDENT SUSPENSIONS

What happens after I receive the notice for a superintendent suspension?

For a superintendent suspension, you can request a hearing. The notice of the suspension should tell you about this process. If you request a hearing, it must occur within 5 days of the suspension. The hearing will be before a hearing officer. You can have a lawyer or advocate represent you at the hearing. You and your child can provide the officer with evidence and make your case. The school will likely also have a representative and present evidence. You must be told the officer's decision by phone or email within 2 days of the hearing. You will also be mailed a full report within 5 days.

What do I do if I disagree with the superintendent suspension?

If you disagree with a superintendent suspension, you can also appeal it. This appeal goes directly to the Chancellor. You have 20 school days from the decision, or 10 school days from when you get the report, to file. You get whichever of these time frames is longer. You will file the appeal in writing. Just like in a principal suspension, this statement is very important. The appeal will consider your statement, the principal's response, the hearing record, and the hearing's decision. You will not be allowed to make any claims apart from what is in those items. Again, you might want to speak with a lawyer for help.

**DISCLAIMER: This fact sheet gives general information
for NYC residents; it is NOT legal advice.**