

NYC School Discipline Policy — Chancellor’s Regulation A-443 in a Nutshell

Chancellor’s Regulation A-443 combines the discipline regulations for all students including general and special education students at the elementary, middle and high school levels. It can be found on the Department of Education’s website, www.schools.nyc.gov, under Rules and Policies.

Intervention and Preventive Techniques

A-443 requires schools to provide intervention services and supports when a student has behavioral difficulties:

“School personnel should develop plans and explore techniques for addressing a student’s behavioral problems and discuss these alternatives with the student and his/her parent. These plans might include the use of alternative instructional materials and/or approaches, alternative classroom management techniques, remedial services alternative class placement, guidance support, and services to address personal and family circumstances.”

Schools may also hold a guidance conference. At this meeting, the student’s principal, guidance counselor, parent and teachers will try to resolve the behavior problems, such as by developing intervention strategies to use in the classroom.

Protections for Students with Disabilities

A federal law called the Individuals with Disabilities Education Act (IDEA) gives extra protections to students with disabilities who are disciplined in school. These protections also apply to students whom the school has reason to suspect may have a disability.

Functional Behavior Assessment (FBA):

An evaluation of a student’s problematic behaviors to determine why the behaviors are occurring. An FBA must be conducted within 10 days of any of the following events:

- ⇒ If a student is suspended for more than 10 consecutive school days
- ⇒ If a student is suspended multiple times in a way that constitutes a pattern that adds up to more than 10 school days
- ⇒ If a student is placed in an interim alternative educational setting (IAES)*

Behavior Intervention Plan (BIP):

After the FBA is complete, a BIP is written. A BIP describes what strategies the school will use to address a student’s problematic behaviors. Input from the student’s parents is critical to a good BIP.

Manifestation Determination Review (MDR):

A meeting where a team of school personnel and the child’s parent decide whether the behavior the student was suspended for was a result of his or her disability. An MDR must be held if the student is suspended from school for more than 10 days or placed in an IAES. If the behavior was caused by the student’s disability, then the student must be returned to school immediately.

*A student with a disability may be placed in an IAES for up to 45 days if the student’s behavior is “substantially likely to result in injury to the child or others,” or if the student has been in possession of a weapon or drugs.

Teacher Removal of Students from Classrooms

When a student’s behavior is “substantially disruptive of the educational process or substantially interferes with a teacher’s authority over the classroom,” a student may be removed from that class for up to 4 days.

Before a removal, the teacher must provide an explanation to the student and allow the student to informally present his or her side of the events. If the student’s presence poses a continuing danger or ongoing threat of disruption, the student may be removed immediately.

The teacher must inform the principal by the end of the day that the student was removed. The principal must in turn discuss the incident with the teacher and determine the length of the removal from the class.

The student will be directed to an “appropriate site” for the period of removal. Services at that site must include class work and homework, provided by the teacher. Many schools have SAVE rooms or in-house suspension for students who have been removed from their classrooms.

The student’s parent must be notified within 24 hours of:

- The reasons for the removal;
- The length of the removal; and
- The right to request an informal conference.

An informal conference should be held within 2 days of the parent’s request for a conference.

The principal can “set aside” the removal if he or she decides that it is not warranted or violates the law. However, the principal also can decide that the behavior warrants a principal’s suspension, a more serious type of disciplinary response.



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There are two types of suspensions: principal’s suspensions and superintendent’s suspensions.

Principal’s Suspensions

A student:

- Can be suspended for **1-5 school days** at a time
- Cannot be suspended twice for the same incident
- Can be suspended any number of times. There is no limit to the number of principal suspensions a student can receive.

A student has the right to:

- Be informed of the charges against him or her;
- Have the evidence explained to him or her; and
- Have an opportunity to explain his or her side of the events before being suspended.

A parent has the right to:

- Immediate notice by phone and written notice within 24 hours with a description of the incident
- Notice of his or her right to a conference

The parent must also be notified by mail of:

- The suspension;
- The specific reasons for the suspension, including the date, time and place of the incident; and
- The alternative instruction arrangements.

A parent is entitled to a conference with the principal no later than 5 days from the date of the suspension. At the conference, the parent has the right to question witnesses, to request and present witnesses and written evidence, and to be accompanied by up to two advisors, who may be attorneys or advocates.

The student must be reinstated no later than five school days from the beginning of the suspension.

A parent has the **right to appeal a principal’s suspension to the Superintendent.**

Superintendent’s Suspensions

Before requesting a superintendent’s suspension, the principal or dean must:

- Investigate the incident;
- Question the alleged victim and other witnesses; and
- Give the accused student an opportunity to present his or her side and write a statement.

The parent must be notified of the suspension within 24 hours by phone and in writing.

The student has a right to a hearing within 5 days of the incident that led to the suspension, including the right to:

- Obtain copies of all written evidence before the hearing;
- Be represented by an attorney or advocate at the hearing;
- Subpoena witnesses; and
- Cross-examine the school’s witnesses at the hearing.

At the hearing, the student may **proceed with the hearing, request an adjournment, or plead “no contest”** to the charges. Pleading no contest means that the student neither admits to nor denies the charges but waives the right to a hearing. The charges will automatically be sustained (upheld) and the hearing officer will enter a disposition against the student (see below).

If the student proceeds with the hearing, the school must prove that the student committed the act with which he or she is charged. If the charges are sustained, a superintendent’s suspension can result in any of the following dispositions

- Reinstatement (the student goes back to his or her school)
- Continued suspension for 6-90 days
- A one-year suspension with or without the opportunity to petition for early readmission
- Expulsion (ONLY if the student is in general education and turned 17 during a prior school year).

Note: students cannot be transferred to another school after serving a superintendent’s suspension without parental consent.

The parent has the **right to appeal a Superintendent’s suspension to the Chancellor.**

The **Citywide Standards of Discipline and Intervention Measures** is a guide that lists the different types of infractions that a student could be charged with. It also lists the range of punishments that may be given by the school for each infraction. This document is available at: <http://schools.nyc.gov/RulesPolicies/DisciplineCode/default.htm>.



**Have more questions?
Call the Jill Chaifetz Education Helpline
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