



AFC'S

# Guide to School Discipline

July 2020



Advocates for Children of New York  
Protecting every child's right to learn

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*This guide does not constitute legal advice. This guide attempts to summarize existing policies or laws without stating the opinion of AFC. If you have a legal problem, please contact an attorney or advocate.*

*This guide is an overview of the education rights of students facing school discipline who attend New York City public schools except those that are charter schools. It includes the special rights of students with disabilities facing discipline.*

*If your child faces discipline at a charter school, please ask your child's school for its discipline policy and see Advocates for Children's Guide to Charter School Discipline, available at: [https://www.advocatesforchildren.org/sites/default/files/library/charter\\_school\\_discipline.pdf](https://www.advocatesforchildren.org/sites/default/files/library/charter_school_discipline.pdf). Charter schools must follow state and federal law as well as their own discipline policies, but do not have to follow the NYC Discipline Code or NYC Chancellor's Regulations.*

## WHAT KIND OF DISCIPLINE IS ALLOWED IN SCHOOL?

In New York City, only **3 types of removals** from class or school are allowed. While removed from class or suspended from school, your child must still be given education.

### 1. TEACHER'S CLASSROOM REMOVALS

A student who is very disruptive or interfering a lot in the classroom may be **removed from class** by the teacher. The student may be removed from the teacher's class for **1 to 4 school days**. The teacher must tell the principal of the removal the same day. The principal must make every effort to call the parent to tell the parent of the classroom removal that day, but no later than the next day, and give the parent a chance to meet to discuss the removal.

### 2. PRINCIPAL'S SUSPENSIONS

The principal may **suspend** a student from school for dangerous or disruptive behavior for **1 to 5 school days**. The principal must give the parent written notice of the suspension before the student is removed from class. The principal also must hold a conference with the parent before the student is suspended. However, the student can be suspended before a conference if the student is a continuing danger to other students, staff, property, or an ongoing threat of disruption to the academic process.

**NOTE: Due to COVID-19, principal's suspension conferences will be conducted remotely unless the parent asks that it be held in person. The school will consult with the borough director of suspension to consider the parent's request.**

### 3. SUPERINTENDENT'S SUSPENSIONS

For more serious behavior, the principal may ask the superintendent to **suspend** the student from school for **6 to 20 school days**. In very limited situations, the principal may ask for approval to suspend the student for **more than 20 school days**. Written notice of the suspension must be given to the parent. A hearing must be held within 5 to 10 days of the suspension at a suspension hearing office.

**NOTE: For a Superintendent's suspension hearing, parents can ask that their child's hearing be done virtually using video conference.**

**All other removals from class or school, or threats of removals, are not allowed. The school should NOT:**

- call you repeatedly to pick your child up early from school
- tell you to be in school so your child can go to school
- tell you to find a new school for your child
- call or threaten to call Child Protective Services (ACS) on you
- call the police to handle your child's behavior unless there is a real emergency
- send your child to the emergency room unless your child is an immediate danger to themselves or others and after the school takes proper steps. **See Key Documents section below.**
- tell you your child must transfer to another school, unless your child does not have an IEP and the school follows certain procedures. See Key Documents section below.

Instead, the school should work with you to address the problems that your child is having.

**See page 27 of this guide for important information about supports and interventions you can ask for your child, and special protections for students with disabilities.**



## KEY DOCUMENTS

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Before removing or suspending your child, the school must follow the procedures in the Discipline Code and Chancellor's Regulations:

→ ***The NYC Department of Education Discipline Code***

This document lists all the reasons and ways that your child may be disciplined by their school. You can find the Discipline Codes for Grades K-5 and 6-12 at: <https://www.schools.nyc.gov/school-life/rules-for-students/discipline-code>

→ ***The NYC Department of Education Chancellor's Regulations***

**Section A-443** of the Chancellor's Regulations describes your child's rights related to school discipline.

It also describes special education protections related to discipline.

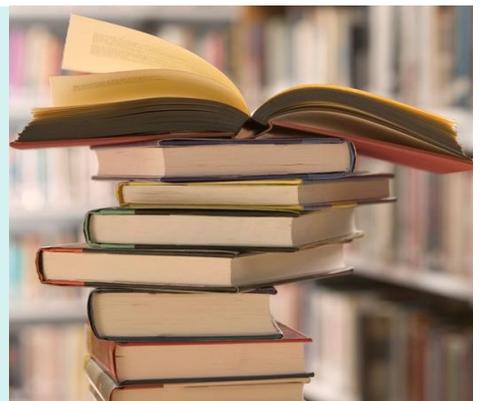
**Section A-411** of the Chancellor's Regulations describes the NYC Department of Education's policy and procedures that schools must follow when a student is in a behavioral crisis. It discusses intervention, de-escalation, and 911 calls.

**Section A-450** of the Chancellor's Regulations describes the NYC Department of Education's policy and procedures that schools must follow when a student is told they must transfer to another school.

### LEARN MORE:

You can find the Chancellor's Regulations at:

[www.schools.nyc.gov/school-life/policies-for-all/chancellors-regulations/volume-a-regulations](https://www.schools.nyc.gov/school-life/policies-for-all/chancellors-regulations/volume-a-regulations)



# WHAT KIND OF INSTRUCTION SHOULD MY CHILD GET DURING A TEACHER'S CLASSROOM REMOVAL OR SUSPENSION?

During a classroom removal or suspension, your child must be given alternate education that meets their individual needs. Your child cannot be punished academically for a removal or suspension and must continue to earn academic credit.

## **Alternative instruction includes:**

- instruction
- class work
- homework
- tests, including citywide and state tests such as Regents exams

**NOTE:** Giving your child worksheets only is *not enough*.

If your child has a disability, they **must get education appropriate for their special education needs while suspended**, such as services on their Individualized Education Program (IEP) or 504 Plan, related services, or a paraprofessional.

Alternate instruction can take place at your child's school, a different school, or at an **Alternate Learning Center (ALC)**. If your child does not attend the school assigned for alternative instruction, they will be marked absent. If you have travel or other concerns about the ALC, contact the Borough Suspension Director and the Principal of the ALC. See page 34 for contact information.

For **classroom removals**, ask the teacher where your child is getting alternative education and who is giving it to your child during the removal. Talk to the principal if you have any concerns.

For **suspensions**, information about the location and hours of alternative instruction should be on your child's suspension notice.

## ***If your child gets a principal's suspension...***

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- Grades K-8 students must get full-time instruction in a room in their school.
- High school students must get at least 2 hours a day of instruction in a room in their school.

## ***If your child gets a superintendent's suspension...***

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- Grades K-5 students must get full-time instruction. They usually go to another school called “a buddy school” for alternative instruction.
- Grades 6-8 students must get full-time instruction. They go to an ALC for alternative instruction.
- High school students must get at least 2 hours a day of instruction before a superintendent's suspension hearing. If they are still suspended after a hearing, they must get full-time alternative instruction. They go to an ALC for alternative instruction.

## ***If your child is sent to an ALC...***

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Your child's home school should send all their classwork and assignments to the ALC. Your child's home school and ALC should work together to make sure your child makes academic progress and has smooth transitions from school to school. Both the home school and ALC must give your child supports needed.

## ***If the ALC is too far from home or your child feels unsafe...***

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Call the Principal at the ALC and the Director at the Borough Suspension Hearing Office. See page 33 for contact information. You can ask them to:

- Move your child to a different ALC; You can call the ALC you would like your child to attend to see if they are able to admit your child, see page 34 for ALC contact information;
- Give your child busing to travel to the ALC in a reasonable amount of time; or
- Let your child return to their home school.

### **NOTE:**

If your child gets busing on their IEP, **they must get busing to the ALC.** Your child's home school must make sure that busing is in place during the suspension. If busing is not available, your child can return to their home school until busing is in place.

# WHAT CAN I DO IF MY CHILD GETS A TEACHER'S CLASSROOM REMOVAL? (1-4 DAYS FROM ONE CLASS)

A teacher can remove your child from the teacher's class for up to 4 days if the teacher believes your child's behavior:

- Substantially disrupts the class; or
- Substantially interferes with a teacher's authority over the class.

Before the removal, **the teacher must first explain to your child why they may be removed from class.** The teacher must explain to the child why they were removed and let your child tell his or her side of the story within 24 hours of removal.

*If your child is in grades K-2... they cannot be removed from class for more than one (1) school day*

*If your child is in grades 3-5... if your child is removed from a classroom by a teacher 4 times during a semester or 3 times during a trimester, the school must issue a principal's suspension for at least 1 day if the student later behaves in a way that would otherwise result in a removal by the teacher during that semester or trimester.*

The teacher must tell the principal by the end of the day that the student was removed. The principal must discuss the incident with the teacher and decide how long the student will be out of class.



## NOTICE

The principal must call you to tell you your child has been removed from class within 24 hours after the removal. They must tell you the **reason** for the removal;

### NOTE:

Students with disabilities and students presumed to have a disability have extra protections. See page 29 of this guide for more information.

the **length** of the removal; and the **right to ask for an informal conference** about the removal within two (2) school days.



## CONFERENCE

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At the conference, you can discuss or challenge the removal and talk about ways to address your child's behavior so your child will not be removed from class again. See pages 27-28 for information on supports and interventions. A written summary of the conference, including next steps, should be created. You have a right to a copy of the summary.



## ALTERNATE INSTRUCTION

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Your child must be given instruction, class work, homework, and tests while removed. Your child will be sent to another class in the school or an administrator's office. See pages 7-8 for details.

# WHAT CAN I DO IF MY CHILD GETS A PRINCIPAL'S SUSPENSION? (1-5 DAYS)

The principal can suspend a student for up to 1 to 5 school days for behavior that:

- Presents a **clear and present danger of physical injury**;
- Prevents the **orderly operation of classes of other school activities**; or
- **Endangers the safety, morals, health or welfare** of others.

If your child gets a principal's suspension, check the discipline code to see if it allows for suspension for what the school said your child did.



If your child is in  
grades K-2...

*Principal's suspensions are not allowed except in very limited cases where the student's behavior is repeatedly violent or could cause serious harm.*

If your child is in  
grades K-3...

*The principal cannot suspend your child unless the principal gets permission from the main DOE office that oversees suspensions. The main DOE office looks at whether the school has used supports and interventions and other types of discipline that keep your child in class before allowing the suspension.*



## NOTICE

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If your child gets a principal's suspension, you must get written notice of the suspension in your main language by personal delivery **within 24 hours** (email, mail, or another way that you will be sure to get it). The school must give you written notice of the suspension before the suspension begins unless the principal thinks your child is a continuing danger or disruption.

The notice must include:

- Reasons for suspension (including, date, time, and place of incident)
- How long the suspension will be and the arrangements for alternative instruction
- Date, time, and place of the principal's suspension conference
- Your rights to ask the school for an interpreter or bring your own interpreter
- Statement of student's rights



## ALTERNATE INSTRUCTION

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Your child must be given instruction, class work, homework, and tests while removed. Your child will be sent to another class in the school or an administrator's office. See pages 7-8 for details.



## CONFERENCE WITH THE PRINCIPAL

You have a right to a conference with the principal to discuss what happened and to come up with a helpful plan to address your child's behavior if your child did not behave.

The conference must take place before the suspension unless the written notice you got from the school says that your child is a continuing danger or disruption. If your school thinks your child is a continuing danger or disruption, the conference must take place as soon as reasonably possible. **No matter what, the conference must take place within five (5) days of the notice.**

The principal must hold and attend the conference. The principal can ask the assistant principal, dean, guidance counselor, or other school staff to attend, too, but not instead of the principal.

You and your child should attend the conference. If you do not attend the conference, the principal can have the conference without you. If you are not available on the date of the conference, you can ask to meet at another time.

At the conference you have a right to discuss what happened and explain your child's side of the story. You have the right to question any witnesses. At the conference you can work with the principal to come up with a helpful plan to address your child's behavior if your child did not behave. You can discuss and ask for behavior supports for your child if you think they are needed. You can bring your child to all or part of the conference. See pages 27-28 for examples of supports. If your child has a disability, see page 29 for their extra protections.

After the conference, the principal will decide whether to suspend your child. Or, if your child is already suspended, the principal will decide whether to return your child to school sooner than planned.

### **KNOW YOUR RIGHTS!**

***You and your child have a right to an interpreter at the conference***

If you asked the principal before the conference for an interpreter, then the interpreter should be at the conference. If the interpreter is not at the conference, you can ask the principal to use the **Language Line** to get an interpreter on the phone. You can also bring your own interpreter, if you prefer.



## DECISION

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After the conference, the principal must send you a letter about the decision to suspend or not suspend your child. If the letter says that your child is suspended, it will include the number of suspension days, why your child is suspended, and where your child will get alternative instruction. The principal must send you the letter so you get it within ten (10) school days of the conference.

### WHAT CAN I DO IF MY CHILD GETS A SUPERINTENDENT'S SUSPENSION? (MORE THAN 5 DAYS)

The school must get approval from the main DOE office to suspend your child for more than 5 days. The school must tell you immediately by phone if the suspension is approved. You will then get a written notice within 24 hours that includes:

- **Reasons** for the suspension or “charges”
- **Alternate school location**, for grades 6-12 it will list an Alternate Learning Center (ALC)
- **Details about the hearing**, including date, time, and place (scheduled within 5 school days)
- **Witness List**
- **Parent’s rights and places to call for help**
- If your child has an IEP or 504 Plan, the date, time and place of the **Manifestation Determination Review (MDR)**. See page 29 for general information on students with disabilities facing school discipline

### LEARN MORE

Learn more about students with disabilities facing school discipline in AFC’s MDR guide:

[www.advocatesforchildren.org/sites/default/files/library/mdr\\_guide.pdf](http://www.advocatesforchildren.org/sites/default/files/library/mdr_guide.pdf)

***Below are some important steps to follow after you get the suspension notice:***

## **STEP 1**

### **Get the suspension packet from your child's school**

The suspension packet is different from the suspension notice you got in the mail. You must ask for it from the principal, assistant principal, or dean and go pick up at the school. The suspension packet should have everything the school could use at the hearing, including:



- **Occurrence or “OORS” reports** created for the incident
- **Witness statements**, including your child's statement if they wrote one
- **Records cover sheet**, which has the amount of time the principal is asking to suspend your child from school
- **Video**, if the school has a video of the incident. If the school has a video and tells you they are not going to use it, you can ask to see it and get it anyway
- **Social media** (e.g., Snapchat, Instagram posts), if relevant
- **Evidence**, if evidence was taken, such as a weapon or drugs
- **Injury report**, if someone was injured during the incident
- **Your child's academic records**, such as grades, program, IEP or 504 Plan (if your child has one), and any prior suspensions

#### **NOTE:**

If the school **refuses to give you all or part of the packet**, contact the Borough Suspension Office listed on your suspension notice to let them know. Ask them to tell the school to give you the whole packet to prepare for the hearing.

You have the right to review all this information before the hearing, but schools often do not give parents the suspension packet until the morning of the hearing. To make sure you have enough time to prepare for the hearing, ask for the suspension packet from the school as soon as you get the suspension notice. Schedule a time to pick up the packet. Schools often do not give parents all the records when they ask for the packet. When you pick up the packet, check to make sure everything is in there. If anything is missing, ask for it again.

## STEP 2

### Review the notice of suspension and the suspension packet

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Read the charges against your child listed in the suspension notice. Talk to your child about what happened. Did your child do what the school accuses your child of doing? What happened before the incident? What happened after the incident? Next, review the written statements in the suspension packet. Note if there are any differences between the statements. Do the statements say that your child did what the charges say your child did?

## STEP 3

### Decide whether to adjourn the hearing, plead no contest, or go forward with the hearing.

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**No one who works at the Hearing Office or your child’s school should tell you what you should do.**

#### *Option 1: Adjourn the Hearing*

If you can’t attend the hearing on the date scheduled, you may want to adjourn (postpone) the hearing to another date. You can adjourn the hearing over the phone or in person at the Hearing Office before the day of the scheduled hearing. If you adjourn the hearing, your child will continue to be suspended until the new hearing date. If the school adjourns the hearing, your child can return to school until the new hearing date.

#### **NOTE:**

Tell the Hearing Officer if you asked for the suspension packet before the hearing and the school refused to give it you until the day of the hearing. Say that the school did not follow the rules by not giving the packet to you before the hearing to prepare for the hearing. Ask the Hearing Officer to let your child go back to school until the new hearing date.

#### *Option 2: Plead No Contest*

If you do not want to fight the charges against your child, you can “plead no contest.” You may want to plead no contest if you agree that your child did what the charges say and do not want to challenge the charges. This means you accept the school’s charges

and give up your right to challenge them. You will not have a hearing. The Hearing Office will decide how long your child will be suspended. This will be decided based on the charges and any documents not related to the incident that you and/or the school give the Hearing Office (e.g., academic records, information about other incidents from the school, letters in support of your child that you give). See more in the box at right for information about letters in support.

You can plead no contest by:

- Calling or going to the Hearing Office at least one (1) day before the hearing
- Going in person to the Hearing Office on the day of the hearing

If you plead no contest in person, you will meet with an Early Resolution Counselor (ERC) at the Hearing Office. You may still ask to discuss the length of the suspension in front of a Hearing Officer so what you say is recorded. Please read the section called “The Dispositional Phase” on page 20 for more details.

**You can change your mind about your no contest plea.** After you plead no contest, you will get a letter from the DOE confirming that you pled no contest and letting you know how many days your child will be suspended. You can change your mind about the plea within seven (7) days of the date on the letter or within three (3) days from when you get the letter – whichever is later. If you do change your mind and want to fight the charges against your child, a new hearing date will be scheduled.

## **Letters of Support**

If you plead no contest, you can give documents to the Hearing Office on the day of the hearing that show why your child should go back to school right away. You can ask people that know your child—teachers, members of your community, doctors, counselors, or supervisors from after-school programs—to write letters of support. You can bring any awards your child has been given.

### **Option 3: Go to Hearing**

If you want a witness to come to the hearing, you have the right to ask the Hearing Office for a **subpoena**. A subpoena is a legal letter from the Hearing Office saying that the witness must come to the hearing and testify. You must ask for subpoenas at least two (2) days before the hearing by calling the Hearing Office with your request. You can ask to subpoena school staff, a student, or another witness. Then, the witness must appear at the hearing and testify. However, if you are asking for another student to testify, the student’s parent must give permission, even if there is a subpoena.

## KNOW YOUR RIGHTS!

### ***Bring an advocate to the hearing***

You have the right to bring an attorney or any other advocate, including a friend or relative, to represent you at the hearing. The suspension notice you got includes a list of free and low-cost legal services and advocates who may be able to help.

### ***Have an interpreter at the hearing.***

The Hearing Office must provide you with an interpreter for the hearing if you speak a language other than English. If you need an interpreter, make sure to call the Hearing Office as soon as you get the suspension notice to ask for an interpreter. If the interpreter is not at the hearing, you can ask the Hearing Office to use the **Language Line** to get an interpreter on the phone. You can also bring your own interpreter, if you prefer.

## THE SUPERINTENDENT'S SUSPENSION HEARING

There are two phases to the suspension hearing, the fact-finding phase and the dispositional phase.

### ***1. The Fact-Finding Phase***

In this part of the hearing, the Hearing Officer will decide whether the charges against your child are true. You and the school will have the chance to make opening statements — to sum up what they think the evidence given at the hearing will show.

#### *The School's Case*

After the opening statements, **it is the school's job to prove the charges against your child** and they will present their case first. Usually, the dean or assistant principal at your child's school will present the case against your child. They will ask to enter documents into evidence and may call witnesses. You'll be able to question the school's witnesses and argue against their evidence.



### **Arrive early on the day of the hearing.**

Families are often seen in the order that they arrive. Before the hearing begins, you will have a **Pre-Hearing Conference** with the Hearing Officer. They will tell you your rights and explain your options: (1) adjourn the hearing, (2) plead no contest, or (3) go forward with the hearing.

You have the right to ask the Hearing Officer to keep certain evidence from the school out of the hearing that could hurt your child. This is called an “**objection.**” You should say “**I object**” if:

- the school did not let you see all the evidence against your child before the hearing date.  
*If the school tries to give the Hearing Officer a witness statement or other evidence that you have not seen, say “objection.” Ask the Hearing Officer to keep the evidence out of the hearing because the school did not follow the rules and give it to you.*
- the school tries to bring up any other times your child has gotten into trouble. *You should object to any testimony or evidence that is not related to the charges. Say “objection” and ask the Hearing Officer to stop the school from discussing other incidents.*
- the person who got the evidence is not at the hearing to say how they got the evidence to show that it was not changed.



## Potential questions to ask when the school presents their case

Did the investigating staff person (usually a dean or assistant principal) speak to all the witnesses immediately after the incident?

Was your child forced to write a statement?

Is the witness missing any information?

Is there something the witness did not see?

Does everything the witness says make sense?

Is the witness saying anything different from their written statement?

**The school must have an eyewitness testify at the hearing.** An eyewitness means someone who actually saw what happened. If no eyewitness testifies, you should ask the Hearing Officer to dismiss the charges. The one exception to this rule is if your child confessed to the charges – either in a written statement or verbally to a school staff member who testifies at the hearing.

## Your Case

After the school presents their case, you will have a chance to present your own witnesses and evidence. The school will also have a chance to ask questions and argue against your evidence. The Hearing Officer may ask questions to anyone who testifies. The Hearing Officer will only uphold the suspension if the school shows that your child did what the school says your child did. It is up to you whether to present any evidence or testimony to show your child's side of the story.

If your child has been arrested or got a summons for the same incident, you should tell your child's attorney about the suspension hearing. Your child's attorney may be able to represent you at the suspension hearing or tell you what to do at the suspension hearing. Even if your child was not arrested, the police may have been called if the school or another parent thinks something serious happened.

### **Your child cannot be forced to testify.**

You can ask an eyewitness to tell your child's side. Remember that if your child chooses to tell their side of the story, your child can be asked questions about the incident by the school and the Hearing Officer.

### **Your child has the right to be silent.**

Your child does not have to answer any questions. If your child does testify at the hearing, it can be used in family, criminal, or immigration court against your child.

### **TIP:**

During the hearing, **you can ask for a break** to collect yourself, think about the case, or prepare for questioning and/or your closing statement. Just ask the Hearing Officer if you can have a few minutes.

At the end of the fact-finding part of the hearing, each side will be able to make a **closing statement**. In your closing statement, you can't present new evidence. This your chance to summarize everything said during the hearing that supports your child's side of the story. In your closing statement, you can say that the charges against your child should be dismissed (thrown out) and your child should be able to go back to their school right away. You can talk about:

- how the school did not prove that your child did what the school is claiming
- statements and testimony that do not match
- lack of information about what happened
- procedures that the school did not follow correctly

## 2. The Dispositional Phase

After all the witnesses have finished testifying and each side has had the chance to make a closing statement, the Hearing Officer will start the “dispositional phase” of the hearing. Evidence will be given to the Hearing Office to decide how long your child will be suspended if they decide the charges against your child are true. During this part of the hearing, the school will recommend the length of the suspension. You should say that you think the charges should be dismissed and your child should be allowed to go back to school right away.

The Discipline Code lists the lowest and highest length of suspension for each charge or “infraction” for students in different grades. Depending on the charge and your child’s grade, the school may recommend:

**Immediate reinstatement (your child returns to school right away)**

**Suspension for 6 to 10 school days**

**Suspension for 11-15 school days**

**Suspension for 16-20 school days**

*On approval by the DOE main office, for very serious behavior only:*

**Suspension for more than 20 school days**

**Suspension for 21-39 school days**

**Suspension for 40-180 school days**

*Automatic review at 30 school days and a review every 15 school days after that*

**One-year suspension**

*Automatic review for early reinstatement at 60 school days and a review every 30 school days after that*

**Expulsion**

*This is extremely rare. Only students over 17 years old who do not have an IEP can be expelled for very dangerous behavior.*

At this point, the school will give records about your child to the Hearing Officer. The school may give grades, progress reports, and information about your child's disciplinary history (e.g., prior suspensions or incidents), if any. During this part of the hearing, the school is not allowed to give records or discuss anything about the incident that led to your child's current suspension.

Next, you may give any materials to the Hearing Officer that you think would be helpful to show your child in a good way. You may want to give:

- Letters from teachers, coaches, or anyone else who knows your child and can discuss good things about your child.
- Anything that shows your child helped their community, such as certificates or awards from school, after-school programs, or summer programs.
- Letters from your child's therapist, counselor, or doctor that can help explain your child's behavior.

Ask the suspension to be expunged (removed) from your child's school record at the end of the school year, if not right away. Finally, you also may want to ask the Hearing Officer to recommend supports and interventions for your child, such as counseling or peer-mediation. You can find a list of these "Support and Interventions" in the Discipline Code. See pages 27-28 of this guide for examples.

## **TRANSFERS AT THE SUSPENSION HEARING**

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**Your child cannot be forced to transfer to another school as a form of discipline (involuntary transfer).**

You may want your child to go to another school after the suspension instead of going back to the school that suspended them. During the dispositional phase of the hearing, you can ask for a school transfer. There is no guarantee that the transfer will be given or that you will be able to transfer to a specific school. If you are interested in a transfer, it is a good idea to have a few schools in mind to suggest. If possible, you should call the schools before the hearing to see if they have space for your child. It is more likely that you will get the school you want if the school has an open spot.

### **NOTE:**

**You have the right to have seen all records that the school wants to give the Hearing Officer before the day of the hearing.** If the school tries to give the Hearing Officer something bad about your child that you have not seen, you should **object**.

# WHAT HAPPENS AFTER THE SUSPENSION HEARING?

## DECISION

### **Within two (2) school days of the hearing**

You should get a call and a letter from the Hearing Office. You will be told that the charges were sustained (found to be true) or dismissed (thrown out) and when your child can go back to their school. You will also be told when the suspension will be removed from your child's school record.

### **Within five (5) school days of the hearing**

The Hearing Office must mail a letter to you with a full decision explaining why the charges were dismissed or sustained.

If the charges were dismissed, your child has the right to return to school right away. All records of the suspension must be removed from your child's school record.

If the charges were sustained, the letter will have the date the suspension ends and when your child can go back to their school. The letter will include:

- **Findings:** explains the results of the hearing
- **Records Disposition:** the date the suspension will be removed from your child's school record
- **School Transfer, if you asked for one:** whether your request has been approved
- **Recommended supports,** such as counseling services the school may offer your child
- **The appeals process**

(See the section called "The Dispositional Phase" on page 20 for more details).

### **NOTE:**

If the Hearing Office does not meet these timelines, contact the Hearing Office and your child's school. Your child should be able to return to school while you are waiting for the decision.

## WHAT DOES IT MEAN THAT MY CHILD'S SUSPENSION WILL BE ON THEIR "RECORD?"

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If the charges against your child are sustained, the suspension will probably stay on your child's school record until a certain date. Before that date, the record can be seen and used only if your child gets another suspension. The record of suspension can be used to decide the result of another suspension. The suspension will not go on your child's report card or transcript. In most cases, the suspension will not go on your child's permanent record.

### *Records Disposition Options*

Expunged (removed) immediately.

Expunged from the student's record at a certain date.

Note of the suspension on the student's record and that it will be removed from the student's record at the end of the current school year.

Note of the suspension on the student's record and that it will be removed from the student's record after the end of the last grade of the current school.

Note of the suspension on the student's record and that it will be removed from the student's record after the end of the last grade of the current school if your child doesn't get suspended and the charges are found to be true.

Note of the suspension on the student's record and that it will be removed from the student's record when the student graduates or permanently leaves New York City public schools.

Note of the suspension on the student's permanent record. This is extremely rare.

## EARLY REINSTATEMENT

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For suspensions over 40 days, your child may be able to go back to their school from suspension earlier than the full suspension length. The decision will have a “target date” when your child will have an **early review conference**.

At the conference, you will have a chance to discuss your child’s progress at the ALC and why they should be considered for early reinstatement. After the conference, the ALC Principal will decide if your child will be recommended for early reinstatement. The main DOE office decides whether to approve this recommendation.

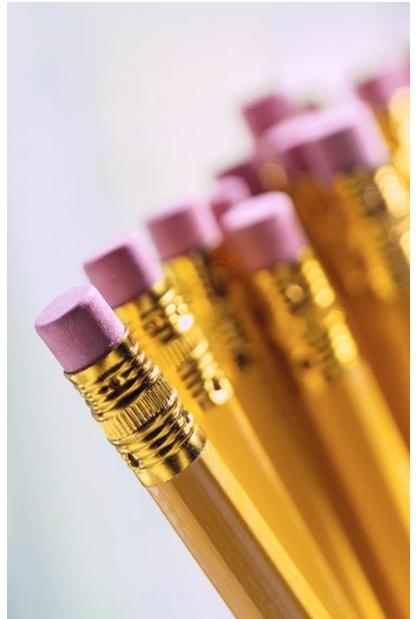


## RETURNING TO SCHOOL: WELCOME-BACK CIRCLE

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Schools must hold a welcome-back circle when a student returns from a Superintendent’s Suspension. The purpose of the circle is to welcome your child back into the school community and discuss what the school will do to help your child and prevent another incident.

The welcome-back circle provides a space for students to express themselves, actively listen to each other’s views, and build a sense of community. You can also ask for a welcome-back circle when your child returns to class from a teacher’s classroom removal or a principal’s suspension.



# HOW DO I APPEAL A SUSPENSION?

Appealing means asking someone higher up at the DOE to review your case. You can appeal a Principal's Suspension or a decision after a Superintendent's Suspension hearing, if:

- You think your child should not have been suspended
- The suspension is too long
- You want to get the suspension off your child's academic record sooner.

Appealing the decision may shorten the length of suspension or get the suspension off your child's record. It could also help prevent the school from doing the same thing to your child again.



## ***Examples of Reasons to Appeal:***

- You did not get written notice of the suspension.
- The notice you got did not have all required information.
- You did not get the notice on time.
- You were never given a chance to tell your side of the story at a conference with the principal or at hearing.
- You were denied your rights during the suspension hearing. (For example, if your child was forced to answer questions or you were not allowed to bring someone to help).
- Your child was not given appropriate education during the suspension. (See pages 6-8 for alternative education that must be given to your child.)
- The school did not follow other required procedures.

## ***Appealing a Principal’s Suspension***

**To appeal a principal’s suspension**, you need to write a letter with reasons for the appeal and what you are asking for. The appeal must be given to the Borough Suspension Director in the borough of your child’s school within ten (10) school days of the first day of the suspension. See page 33 of this guide for contact information. You will get a decision from the Office of Safety and Youth Development (OSYD).

**If you lose the appeal to OSYD, you can appeal to the Chancellor.** You should write a letter to the Chancellor explaining what you are asking for and why the decision was wrong. You should mail your appeal to:

DOE Chancellor  
c/o The Office of Legal Services  
New York City Department of Education  
52 Chambers Street, Room 308  
New York, NY 10007

The appeal must be received **within twenty (20) school days** from the decision that you get from the Office of Safety and Youth Development.

## ***Appealing a Superintendent’s Suspension***

**In order to appeal a Superintendent’s Suspension decision**, you’ll first need to ask for the transcript of the hearing from the Hearing Office. You can ask for the transcript at the end of the hearing, or any time after by calling the Hearing Office.

Use the transcript to write your appeal in the form of a letter to the Chancellor. In the appeal, you can discuss only the evidence that was given at the hearing. You should explain why the decision is wrong based on the evidence presented at the hearing, or why the suspension is too long. You should also mention if the school did not follow the right procedure.

It must be sent within twenty (20) school days after you get the full decision letter from the Hearing Office, or ten (10) school days after you get a copy of the transcript—whichever is later. You should mail your appeal to:

Office of Legal Services  
New York City Department of Education  
52 Chambers Street, Room 308  
New York, NY 10007

You should get a response to your appeal **within fifteen (15) school days** after the appeal is filed.

## WHAT CAN SCHOOLS DO INSTEAD OF CLASSROOM REMOVAL OR SUSPENSION ?

### SUPPORTS AND INTERVENTIONS

Lots of research has shown the benefits of addressing student behavior in a way that keeps students in school learning and teaches them how to behave better. The DOE's current Discipline Code actively encourages schools to use alternatives called "Supports and Interventions" **before** classroom removals and most suspensions. Schools must use supports even when removing or suspending a student. Supports and interventions can help improve student behavior, decrease problem behavior, and create a more positive school setting. These can be found under "Supports and Interventions" on pages 13-15 of the Discipline Code.



Supports and Interventions used in New York City schools instead of suspension and Class Removal include:

- **Conflict Resolution**
- **Peer Mediation**
- **Professional Mediation**
- **Individual/Group Counseling**
- **Restorative Justice Practices** *i.e. restorative circles and formal restorative conferences*
- **Family Conferences**
- **Collaborative Problem Solving**
- **Mentoring**
- **Guidance Conferences**
- **Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)**
- **Social-Emotional Learning**

If your child's school is struggling to support your child's behavior or your child is facing a classroom removal, suspension, or expulsion, you can ask school staff to provide your child with supports and interventions. **All schools have access to supports and interventions.** If your school needs help using these resources, you or they can contact the Borough/Citywide Office (B/CO) for your child's school. The B/COs have School Climate Managers, Directors of Student Services, Restorative Practices Coordinators, and Behavior Specialists who can help. District 79 and District 75 schools are not assigned a Borough/Citywide Office but you can reach out to their main offices for more support.

### **LEARN MORE:**

More information on Borough/Citywide Offices is available online:  
[sites.google.com/a/strongschools.nyc/contacts/](https://sites.google.com/a/strongschools.nyc/contacts/).

For D75 schools, see <https://www.schools.nyc.gov/learning/special-education/school-settings/district-75>.

For D79 schools, see <https://sites.google.com/d-79.com/nyc-doe-district-79/contact>.

# WHAT IF MY CHILD HAS A DISABILITY?

A federal law called the Individuals with Disabilities Education Act (IDEA) gives extra protections to students with disabilities who are removed from class or suspended. These protections apply to students who have Individualized Education Programs (IEPs) and, sometimes, to students where the school has reason to think your child may have a disability. There are also protections for students who have Section 504 Plans.

In general, these laws require do not allow schools to remove students from class or suspend them from school for behavior that is closely related to their disability. Schools must consider doing an evaluation to create a plan to prevent and improve your child's behavior that interferes with their learning or the learning of other students. The evaluation is called a **Functional Behavior Assessment (FBA)**. The plan is called a **Behavior Intervention Plan (BIP)**.



## LEARN MORE

For information on FBAs and BIPs, see Advocates for Children's z  
Fact Sheet on FBAs and BIPs:

[www.advocatesforchildren.org/sites/default/files/library/  
fba\\_positive\\_intervention\\_bilingual\\_span\\_eng\\_info\\_sheet.pdf](http://www.advocatesforchildren.org/sites/default/files/library/fba_positive_intervention_bilingual_span_eng_info_sheet.pdf)

# MANIFESTATION DETERMINATION REVIEW (MDR)

If your child has an IEP or a 504 Plan and is removed from class and/or suspended for more than 10 days, they must be scheduled for a meeting called a **Manifestation Determination Review (MDR)**. The date, time, and place of the MDR will be printed on the Superintendent's Suspension notice. An MDR is a meeting to determine if your child's behavior that led to the suspension is closely related to your child's disability. If so, your child cannot be suspended. Instead, your child must be given supports to stay in the classroom. Your child should also be scheduled for an MDR if they get more than one classroom removal and/or suspension that adds up to 11 days or more in a 40 school-day period and, in some cases, over the school year.

## LEARN MORE

For detailed information on the MDR process, see AFC's *Guide to Manifestation Determination Reviews*:

[www.advocatesforchildren.org/sites/default/files/library/mdr\\_guide.pdf](http://www.advocatesforchildren.org/sites/default/files/library/mdr_guide.pdf)

## “DEEMED TO KNOW”

Even if your child does not yet have an IEP or a 504 Plan, sometimes the DOE must treat your child as a student with a disability anyway. This means the school is **“deemed to know”** that your child has a disability. Your child is **“presumed to have a disability”** for discipline purposes. Your child's school must hold an MDR if one of these four things happened before the incident that led to the suspension or classroom removal:

- you expressed concern in writing that your child needs special education services;
- your child's behavior showed the need for special education services;
- you made a written request for an evaluation;
- your child's teacher or other school personnel expressed concern about the behavior.

Your child will not be treated as “deemed to know” if you have not allowed your child to be evaluated; you refused special education services for your child; or an evaluation was completed and it was determined your child is not a student with a disability.

If you think the school must treat your child as a student with a disability, ask the school for an MDR. For Superintendent’s Suspensions, you should also tell the Hearing Office before or on the hearing date. Make sure you tell the Principal and Hearing Office details about why the DOE is “deemed to know” that your child has a disability.

You can show the DOE is “**deemed to know**” your child has a disability by giving a copy of records such as:

- ▶ Any written request for an evaluation before the suspension or classroom removal and telling them when, how, and who you gave it to at the school.
- ▶ Incident reports, academic records, and other school records that show your child’s behavior and need for special education services before the suspension or classroom removal.
- ▶ Any reports or letters from your child’s providers, such as therapists, counselors, and doctors, that you gave to the school before the suspension or classroom removal.



If the school must treat your child as having a disability, then:

- The school must hold an MDR.
- Your child must get an **expedited evaluation** –within fifteen (15) days of when you sign a consent form to figure out your child’s disability and needs.

The school must hold the MDR right away. The school cannot wait until the evaluation is done. The school should use all documents and information showing concerns about your child’s suspected disability and behavior, including classroom observations, private evaluations, and reports from your child’s doctor.

## ***If you think your child has a disability:***

Even if your child does not have an IEP or a 504 Plan and the school is not deemed to know has your child a disability, you may think your child has a disability when they are suspended from school or removed from class. Ask for an **expedited evaluation** in writing at the suspension hearing office or at the school. Keep a date-stamped copy of the evaluation request. Once you ask for the evaluation, it must be done within fifteen (15) days of when you sign a consent form. Then, the school must hold an IEP meeting to decide if your child is a student with a disability.

### **If your child is found to be a student with a disability:**

- The IEP team will come up with a plan for special education services at the IEP meeting.
- You can ask for an MDR for your child.

### **If the evaluations show that your child is not a student with a disability:**

- Your child will not get an IEP.
- No MDR will be held.

If you do not agree with the result of the evaluation, you can ask for a special education hearing.

### **LEARN MORE:**

For more information on evaluations and special education, see AFC's special education guides and resources, available in English, Spanish, Arabic, Bengali, and Chinese:

[www.advocatesforchildren.org/get\\_help/guides\\_and\\_resources/disability](http://www.advocatesforchildren.org/get_help/guides_and_resources/disability)

### **LEARN MORE:**

For information on hearings, see AFC's *Guide to Special Education Impartial Hearings*:

[www.advocatesforchildren.org/sites/default/files/library/impartial\\_hearings.pdf](http://www.advocatesforchildren.org/sites/default/files/library/impartial_hearings.pdf)

## CONTACT INFORMATION: Borough Suspension Offices

Borough	Director	Address	Phone/Fax #
Bronx	Collette Lowrie <a href="mailto:clowrie@schools.nyc.gov">clowrie@schools.nyc.gov</a>	501 Courtlandt Avenue, 2nd Floor Bronx, NY 10451	Ph: (718) 742-6550 Fax: (718) 742-6569
Brooklyn	Kate Petrycki <a href="mailto:kpetrycki@schools.nyc.gov">kpetrycki@schools.nyc.gov</a>	335 Adams Street 6th Floor Brooklyn, NY 11201	Ph: (718) 923-5120 Fax: (718) 923-5130
Manhattan	Paula Broomfield <a href="mailto:pbroomfield@schools.nyc.gov">pbroomfield@schools.nyc.gov</a>	209 West 125th Street, 3rd Floor New York, NY 10027	Ph: (212) 932-1058 Fax: (212) 932-2169
Queens	Jennifer Mandelbaum <a href="mailto:jmandelbaum3@schools.nyc.gov">jmandelbaum3@schools.nyc.gov</a>	28-11 Queens Plaza North, 2nd Floor Long Island City, NY 11101	Ph: (718) 391-6055 Fax: (718) 391-6022
Staten Island / Brooklyn	Dorothea Willis <a href="mailto:dwillis@schools.nyc.gov">dwillis@schools.nyc.gov</a>	1106 East 95th Street, 2nd Floor (at Conklin Ave) Brooklyn, NY 11234	Ph: (718) 566-6100 Fax: (718) 566-6150

## CONTACT INFORMATION: Alternate Learning Centers (ALCs)

	School	Address	School Contact
Bronx	(HS) Bronx Educational Center	1201 Lafayette Ave. Bronx, NY 10474	Rajendra Dyal, 718-617-8830
	(HS) Jane Addams HS	900 Tinton Ave. Bronx, NY 10456	Anila Mersini, 718-585-2601
	(HS) Monroe Campus	1300 Boynton Ave. Bronx, NY 10472	David Villalobos, 718-860-8138
	(HS) Stevenson Campus	1980 Lafayette Ave. Bronx, NY 10473	Marla Aviles-Lopez, 718-239-7510
	(MS) Crotona Academy	1211 Southern Blvd. Bronx, NY 10459	Robert Santiago, 718-860-5370
	(MS) Lafayette Academy	1201 Lafayette Ave. Bronx, NY 10474	Erik Timmons, 718-991-1072
	(MS) MS 145	1000 Teller Ave. Bronx, NY 10456	Victoria James, 718-992-9519
	(MS) PAL Longwood	991 Longwood Ave. Bronx, NY 10459	Ron Brijlall, 718-860-2196
Brooklyn	(HS) Brighton Beach Academy	25 Brighton Fourth Rd. Brooklyn, NY 11235	Clark Thomas, 718-648-2014/2127
	(HS) W.E.B. Dubois HS	402 Eastern Pkwy. Brooklyn, NY 11225	Shawn Mack, 718-774-9640
	(HS) Fundamentals Academy	355 Park Place Brooklyn, NY 11238	Franky Simmons, 718-636-3255 x1152
	(HS) John Jay HS	237 Seventh Ave. Brooklyn, NY 11215	Corlace Campbell, 718-832-4283
	(HS) Park Place Academy	355 Park Place Brooklyn, NY 11238	Mitchell Greggs-Sarrazin, 718-636-3255 x2141
	(MS) Albany Avenue	281 Albany Ave. Brooklyn, NY 11213	Gregory Faustin, 718-778-6904/6909
	(MS) Prospect Place	960 Prospect Pl. Brooklyn, NY 11213	Naria Massiah Murphy, 718-778-5891
	(MS) Brooklyn Choices	271 Melrose St. Brooklyn, NY 11206	Juan Santiago, 718-821-5484
	(MS) Melrose Academy	271 Melrose St. Brooklyn, NY 11206	Dawn Crowe, 718-821-5484
	(MS) MS 258	141 Macon St. Brooklyn, NY 11216	Wells Huang, 718-398-3107

## CONTACT INFORMATION: Alternate Learning Centers (ALCs)

	School	Address	School Contact	
Manhattan	(HS) Battery Park	50 Broadway Manhattan, NY 10004	John Lucas, 212-701-9495	
	(HS) Choir Academy	2005 Madison Ave. Manhattan, NY 10035	Vanessa Mckinney, 212-410-6189 x5045	
	(HS) Cloisters	321 E. 111 St. Manhattan, NY 10029	Lesia Wills Johnston, 212-568-3748	
	(MS) East Harlem	287 E. Tenth St. Manhattan, NY 10009	Yvonne El Amin, 347-505-4538	
	(MS) Thompkins Park	601 West 183 St. Manhattan, NY 10033	Rosalyn Childs, 347-505-5377	
	(MS) Washington Heights	601 West 183 St. Manhattan, NY 10004	Sauda Coulter, 212-923-0970	
Queens	(HS) August Martin HS	156-10 Baisley Blvd. Queens, NY 11434	Laura Marquez, 718-525-1801 x4760	
	(HS) Linden Academy	31-51 21 St. Queens, NY 11106	Jackie Morrison-Brailsford	
	(HS) RF Wagner HS	90-40 150 St. Queens, NY 11435	Trevor Mallay, 718-706-6205	
	(HS) Sutphin HS	30-48 Linden Pl. Queens, NY 11354	Joanne Belinsky, 718-557-2571	
	(MS) IS 126	47-07 Thirtieth Pl. Queens, NY 11101	Ines Loveras, 718-728-3753	
	(MS) Jamaica Academy	90-40 150 St. Queens, NY 11435	Lakiba Richmond, 718-526-0670 x279	
	Royal 180 Academy	90-01 Sutphin Blvd. Queens, NY 11435	Michael Turner, 718-526-0670 x312	
	Beach Channel Educational Campus	100-00 Beach Channel Dr. Queens, NY 11694	San Miah, 718-734-3215	
	S. I.	Mount Loretto	6581 Hylan Blvd. Staten Island, NY 10309	Frank Kraljic, 718-966-4890
		St. Marks Place	450 St. Mark's Pl. Staten Island, NY 10301	Peter Garcia, 718-273-3225



## Our Mission

Advocates for Children of New York (AFC)'s mission is to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. AFC achieves this through four integrated strategies:

- Free advice and legal representation for families of students;
- Free trainings and workshops for parents, communities, and educators and other professionals, to equip them to advocate on behalf of students;
- Policy advocacy to effect change in the education system and improve education outcomes; and
- Impact litigation to protect the right to quality education and to compel needed education reform.

### **Still have more questions? Please call the Jill Chaifetz Education Helpline:**

Monday through Thursday

10 am to 4 pm

866-427-6033 (toll free)

### **Advocates for Children of New York, Inc.**

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