

# Legal Assistance of Western New York, Inc. ®



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## Quick Facts - Student Rights Regarding Discipline

<b>District Code of Conduct</b>	The District's Code of Conduct should outline appropriate behavior while on school property, including school functions, and consequences for code violations. This document should be publicly available.
<b>Can the school search student belongings?</b>	School officials can search students, their belongings, and lockers without a search warrant. There must be 'reasonable' suspicion that a student has violated the code of conduct or broken the law. Student's can not stop a search but they can state out loud that they do not consent to the search which protects their right to protest the search afterwards for the purpose of criminal or juvenile court matters.
<b>Principal's Suspension</b>	A principal's suspension may last a maximum of five days <ul style="list-style-type: none"><li>• A student must be told the reasons for the suspension.</li><li>• A student must be given the opportunity to defend him or herself.</li><li>• Parents should be notified in writing within 24 hours of the suspension describing the incident and their right to request an informal conference.</li></ul>

<p><b>Superintendent's Suspension</b></p>	<p>A superintendent's suspension lasts more than five days and requires approval of the superintendent of the District</p> <ul style="list-style-type: none"> <li>• The school must provide written notice of the suspension which must include: a description of the action that led to the suspension and the date it occurred; an explanation of your right to a suspension hearing and a date for your hearing; and an explanation of your right to be represented and question witnesses at the hearing.</li> <li>• The District will often offer the opportunity to informally resolve the matter during a pre-hearing conference.</li> <li>• If the District adjourns the hearing, the student may return to school.</li> </ul>
<p><b>Manifestation Determination</b></p>	<p>A meeting to look for a correlation between a special education student's behavior and their disability. This meeting typically occurs following a superintendent's hearing or when a student has been suspended or removed from the classroom 10 or more days in a calendar school year.</p>
<p><b>What rights do students and parents/guardians have at the fair hearing?</b></p>	<p>At the superintendent's suspension hearing students and parents/guardians have the right to:</p> <ul style="list-style-type: none"> <li>• have an attorney present</li> <li>• present witnesses and evidence, and cross-examine the superintendent's witnesses.</li> </ul> <p>*The school must keep a record of the hearing.</p>
<p><b>What happens during a suspension?</b></p>	<p>Specifics of consequences and placement while suspended are governed by a District's code of conduct. New York State law mandates that a school make instructional accommodations for suspended students. In most cases this will take the form of tutoring (1 hour per day for K-6th grade students, 2 hours per day for 7th-12th grade students) or an instruction at an alternative location.</p>

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

Last Review Date: June 2016

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Printed: May 9, 2021

<http://www.lawny.org/node/74/quick-facts-student-rights-regarding-discipline>

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