

## STUDENT DUE PROCESS RIGHTS

The following due process requirements are to be followed at all times when resolving problems pertaining to student conduct:

1. Publish and post all notice rules and regulations. Provide adequate notice of conferences and hearings. State all charges clearly.
2. All individuals have the right to adequate legal counsel.
3. Judgment must be by an impartial party. Such party must be an official who has not participated in or been a party to the action under consideration.
4. All individuals are free to remain silent and have the right to avoid self-incrimination.
5. The accused has the right to question those bringing or presenting evidence through cross examination.
6. The accused has the right to call or bring witnesses.
7. A preponderance of evidence is the standard for making any findings of guilt.
8. A record of the proceedings must be maintained and made available upon request.
9. The student or parent may request that the matter be reviewed at the next step at any time.

In disciplinary situations, students shall have the opportunity to present their version of the facts and circumstances, and students shall not be suspended unless these due process rights have been observed. Building Principals may suspend a student for a period of up to five days. In cases of this type the Principal shall conduct an informal hearing with the student and other individuals who may have information concerning the situation. When a suspension is imposed the student and parents shall be notified and a written record of the case is made.

If a suspension of more than five days is being considered, the Principal will recommend that a hearing be held. The student and his/her parents will be notified of the time and place of the hearing. Such hearing will be conducted by the Superintendent of Schools or his/her designee. An appeal of the Superintendent's decision may be made by the student to the Board of Education.

Generally, school personnel will identify problems and pursue appropriate, reasonable measures to affect student behavior. Parents, students, and school personnel must work together to ensure the maintenance of the proper atmosphere for learning. Our objective is to provide all students an equal opportunity to grow intellectually, ethically, socially, emotionally, and physically.

A proper and accurate record of the response is maintained for all incidents.

Cross-ref: 5311, Student Rights and Responsibilities  
5311.3, Student Complaints and Grievances  
5313.3, Student Suspension

Ref: 14th Amendment, U.S. Constitution  
NYS Constitution, Article 11, §1  
Education Law §3214  
Rehabilitation Act of 1973, §504, 29 U.S.C. §794  
8 NYCRR Part 200 et seq.

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