

TEN THINGS TO KNOW: COMPREHENSIVE REFORM OF NEW YORK STATE LAW ON SCHOOL DISCIPLINE

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Under the new law, all Codes of Conduct will improve school climates and help schools to develop policies that:

- ▶ **Encourage a positive and respectful school climate.**
This could include practices like restorative practices, conflict resolution, peer mediation, and others.
- ▶ **Help students in their development of social and emotional skills.**
This could include skills such as self-management, resilience, self-awareness, and responsible decision making.
- ▶ **Involve student advocates through programs such as peer mediation and restorative practices.**

2

Under the new law, all Codes of Conduct must contain common sense use of discipline through policies that:

- ▶ **Take circumstances into consideration before disciplining a student such as:**
 - A student's age
 - A student's limited English proficiency status
 - A student's disability or special education status
 - Student's willingness to repair harm caused
 - Student's prior history
 - Seriousness of behavior and degree of harm caused
 - Whether student behavior threatened safety
 - Whether a lesser intervention would address the behavior
- ▶ **Address disruptive student behavior with appropriate and consistent consequences.**
- ▶ **Recognize harsh discipline is a last resort for the most dangerous misbehavior.**
- ▶ **Require positive interventions and practices be used and recorded before and during the use of suspensions, expulsions, and arrests.**
- ▶ **Prohibit suspension and expulsion for children under Grade 3 unless there is serious physical harm.**

3

Under the new law, all Codes of Conduct must contain policies that clearly show when classroom removals, suspensions and expulsions can be used and that prohibit the use of classroom removal, suspension, or expulsion for:

- ▶ Tardiness
 - ▶ Missing class
 - ▶ Insubordinate behavior like dress code violations, using inappropriate language or gestures, or failing to show student identification
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Under the new law, all Codes of Conduct must contain policies that limit law enforcement interaction with students.

- ▶ Written agreements must be developed with police and with input from stakeholders such as parents, students, community members to limit referrals for arrest.
 - ▶ Written agreements must also define limited role of law enforcement, explain behavior which should not result in arrests, and limit law enforcement involvement when student's behavior does not threaten school safety.
 - ▶ School officials must have discretion to decide not to refer students to law enforcement.
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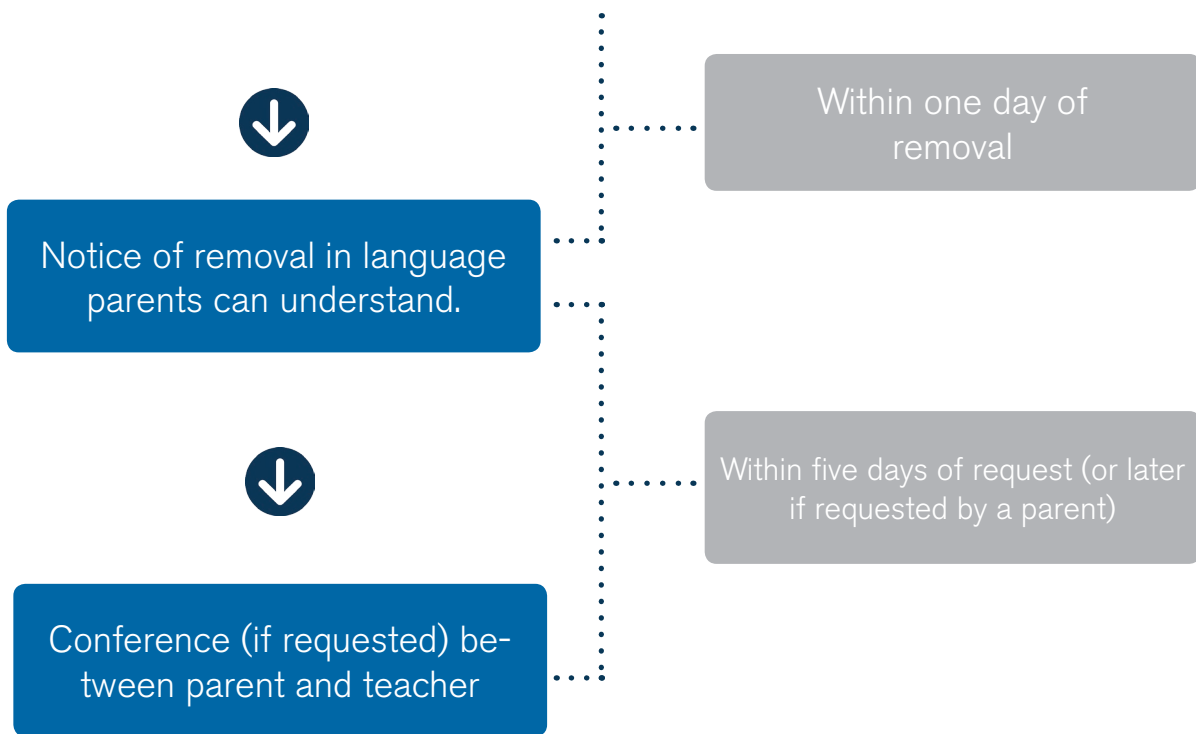
Under the new law, due process rights are better when a student may be suspended.

- ▶ Student due process rights must be explained before a student is suspended or expelled.
- ▶ Student records can be sealed or expunged following a request.
- ▶ When an incident occurs, principals must conduct an investigation following these steps:
 - 1) Question the victim and witnesses, review evidence, and explain the evidence to the accused.
 - 2) Give the accused student an opportunity to present his/her side of the event and inform a student and a student's parent that a statement can be used against the student in other proceedings.

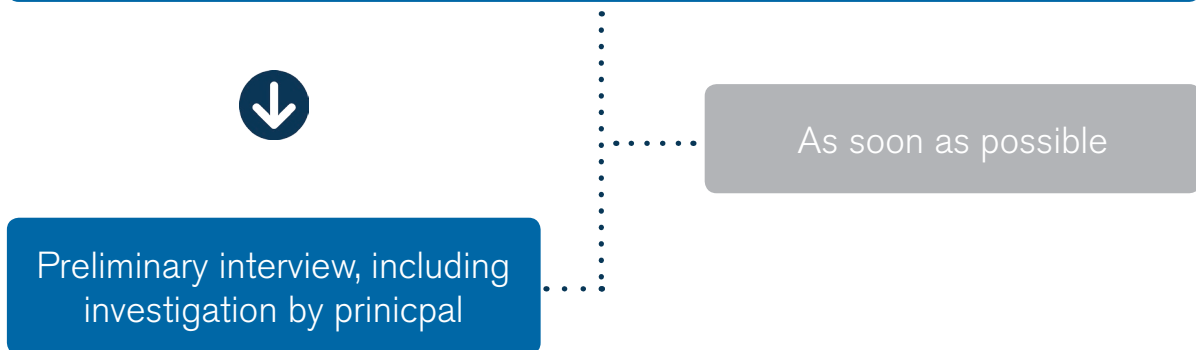
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The following are charts which show the new due process procedures all schools would need to follow under the new law.

REMOVAL



SHORT-TERM SUSPENSION





Written notice in parent's language including description of incident, length of suspension, date of conference, copy of evidence, statement of student and parent rights, right to appeal.

Within one day of determination to make suspension



Suspension Conference. Allows witnesses to be called (including school employees), evidence to be presented, interpretation provided if requested. Written summary provided upon request.

ASAP, but no later than five days following written notice



Written decision by principal includes length of suspension, findings, reasoning for decision, and procedures for appeal.

Within three days of conference



Appeal filed.

Timeline determined at conference



Decision made regarding appeal. Suspension will be reversed if suspension was incorrect, there was not enough evidence, not enough due process, or suspension not appropriate.

Within 10 days of appeal hearing

LONG-TERM SUSPENSION OR EXPULSION



Preliminary interview, including investigation by principal.

As soon as possible



Written notice in parent's language including description of incident, length of suspension, date of conference, copy of evidence, statement of student and parent rights, right to appeal.

Immediately



Hearing. Conducted by neutral officer. School must prove behavior by "preponderance of the evidence," with no reliance on hearsay. Students and parents can call witnesses, present evidence. Translation and written summary upon request.

Within five school days, or later if parent requests it



Appeal filed.

Within three days of hearing



Decision made regarding appeal. Suspension will be reversed if suspension was incorrect, there was not enough evidence, not enough due process, or suspension not appropriate.

Within 10 days of appeal filing



Appeal to Commissioner of Education and New York Supreme Court.

Filing to New York Supreme Court within 90 days

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Under the new law, students will receive improved education when excluded from the classroom and will be purposefully reintroduced into the school community following a suspension.

- ▶ All students have a right to alternative education that allows them to keep up with their class work and tests when excluded from the classroom.
 - ▶ Within 24 hours of a classroom removal, principals will provide students with work and have opportunity to make up all missed credits, assignments, and tests.
 - ▶ Suspended students will receive an Education Plan which includes a plan for each missed subject and may include instruction at home or at an alternative learning site.
 - ▶ Following a suspension, schools must hold a conference within five days of a student's return which includes a discussion of academic credits, steps student and school will take regarding school rules, and other circumstances.
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Under the new law, the Commissioner of Education has an important list of responsibilities which the community can hold him/her accountable for.

- ▶ Write a Model Code of Conduct.
 - ▶ Create a behavior matrix which lists behaviors and consequences.
 - ▶ Create model due process forms
 - ▶ Provide guidance and educational materials to school districts regarding best practices.
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Under the new law, comprehensive training of staff will be required.

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Under the new law, public access and data collection will be improved.

- ▶ School districts must include representatives from the community when developing Codes of Conduct
- ▶ School districts must hold public hearings before adopting changes to the Code of Conduct
- ▶ Copies of the Code, training, and explanation will be provided, in languages and formats that parents and students will understand.
- ▶ An annual state report on student discipline will be published and include a summary of discipline data, a review of the fairness of disciplinary practices, and recommendations for improving school codes of conduct