

TEACHER REMOVALS

Introduction

Under State Education Law 3214 and Chancellor's Regulation A-443, a student may be removed from a classroom for 1-4 days by a teacher if the student's behavior is substantially disruptive or interferes with the teacher's authority over the classroom. Prior to the removal, the teacher must inform the student of the reason(s) for the removal and allow the student to present his/her version of the events. If the student's presence poses a continuing danger or ongoing threat to the academic process, he/she may be removed immediately and must be given the reason(s) for the removal and provided an opportunity to explain his/her version of events within one school day. The school should attempt to notify the parent by the end of the school day on which the removal occurs. However, in all cases, notice must be provided within 24 hours (see letter in SOHO) of the removal. The parent must be notified of the reason(s) for the removal, the length of the removal and the right to request an informal conference with the Principal/designee. The student must receive appropriate alternative instruction during the removal period.

Removal procedures

The school must enter the occurrence in OORS. In SOHO, the school must enter the following information:

- Start Date
- Duration of Removal
- Infraction(s)

PRINCIPAL'S SUSPENSIONS

Introduction

Under State Education Law 3214 and Chancellor's Regulation A-443, when a Principal is considering imposing a suspension for 1-5 days, the parent must be given the opportunity to attend a Principal's conference prior to the suspension being authorized unless the student's presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process. In such cases, the suspension may be imposed immediately and the conference with the parent must be scheduled as soon as reasonably practicable, but no later than the 5th day after the suspension is imposed.

Preliminary Considerations

For Grades 6-12 students charged with certain level 4 infractions (B 35- B45, and B50) and for Grades K-3, all level 5 infractions, the range of disciplinary responses has been expanded. This has been done to allow Principals a wider range of options to be used in addition to guidance interventions.

If the Discipline Code allows for the imposition of a Principal's Suspension or a Superintendent's Suspension for a particular infraction (e.g. Level 4 infractions), the Principal must decide which type of suspension is appropriate before entering the information into SOHO. Both a Principal's and a Superintendent's Suspension may not be sought for the same offense.

When making a determination to impose a Principal's Suspension, the Principal must check to see if the student is a student with an IEP or has a 504 Plan, as additional due process protections may be afforded the student.

Proposed Suspension

When a Principal is considering imposing a suspension and does not believe that the continued student's presence in school poses a continuing danger or threat of disruption, he/she must enter the incident into OORS, notify the parent, as set forth below, and schedule a conference with the parent prior to imposing the suspension. If after the conference the principal determines to go forward with the suspension, the suspension will begin after the conference has been held (or after the scheduled date of the conference if the parent does not attend). In such cases, the student must remain in class until the scheduled date of the conference.

Immediate Suspension

If the Principal seeks to impose a suspension and believes that the student's presence in school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, the student may be suspended immediately. The principal must enter the incident into OORS and explain in SOHO the reason(s) for the student's immediate suspension. The principal must notify the parent, as set forth below, and schedule a conference as soon as reasonably practicable but no later than 5 days after the imposition of the suspension. The student must receive appropriate alternative instruction.

Notification

The school must contact the parent by phone and mail designed to arrive within 24 hours, (see letter in SOHO), notifying the parent of the incident in which their child was involved. The reason(s) for the proposed or immediate suspension, the length of the proposed or immediate suspension, and the date of the conference with the Principal must be entered into SOHO. If the number of days of suspension is modified as a result of the conference, the principal must make the necessary change in SOHO.

Conference

The Principal's conference is informal in nature. During the conference, the incident should be discussed along with how the student's behavior will be addressed. The parents must be provided an opportunity to present the student's version of the event and to question a school official knowledgeable about the incident. Principal's Suspensions may not be longer than five school days in length. Students may not be barred from returning to class after the suspension period has elapsed. Non-attendance in school during the suspension period or parent failure to meet with the Principal has no bearing on the suspension's conclusion date. In accordance with Chancellor's Regulation A-443, the Principal must conduct the conference and may not designate the responsibility to attend even if he/she was not present at the time of the decision to suspend the student. The principal must prepare and maintain notes of the parent conference.

Instruction

The Principal must arrange for school based instruction during the suspension period.

SUPERINTENDENT'S SUSPENSIONS

Introduction

Middle and high school students on Superintendent's Suspensions will attend an Alternate Learning Center (ALC). They are divided between middle and high school sites. Elementary school students serving Superintendent's Suspension attend a 'buddy school.' The OSYD Borough Director of Suspensions will arrange for a suspension location for all students serving Superintendent's Suspension. When making a determination to request a Superintendent's Suspension, the Principal must check to see if the student is a student with an IEP or has a 504 Plan, as additional due process protections may be afforded the student.

Pre-hearing procedures

A student charged with any level 3 infraction or specific level 4 infractions (A33, A34, A38, A40, A41, A43, B35, B36, B37, B42, B44, B45) must remain in school attending his/her regular program pending the hearing unless the Principal believes the student's continued presence in school poses an immediate or continuing danger to persons or property or an ongoing threat of disruption to the academic process. In such cases, if the principal seeks immediate removal when seeking approval for a Superintendent's Suspension, the Principal must also request approval for the student's immediate removal by setting forth on the SOHO intake form why the student's continued presence in school poses such a danger or threat of disruption. If the immediate removal is not requested or if approval is denied, the student must remain in class until the hearing is held and the case adjudicated.

Additionally, if the infraction for which the student is charged allows for the immediate removal to a pre-hearing site, the principal may request that the student remain in school prior to the hearing.

In accordance with Chancellor's Regulation A-443, students may not be removed from school prior to notification by the hearing office of the suspension.

MANIFESTATION DETERMINATION REVIEW (MDR)

New MDR Procedures

SOHO will send a notification that the school **must** schedule and conduct an MDR under the following circumstances:

- If the disposition in a Superintendent's Suspension results in the student being removed for more than 10 consecutive days; or
 - The imposition of at least three Disciplinary Actions (Teacher Removal, Principal's Suspension, Superintendent's Suspension of 10 days or less) results in the student being removed for more than ten (10) cumulative school days within a forty (40) consecutive school day period within a school year.
- 1) In addition, if the imposition of a Teacher Removal, Principal's Suspension or Superintendent's Suspension results in the student being removed for more than 10 aggregate school days within a school year, the Principal must determine whether the student's behavior constitutes a pattern. *When determining whether a pattern exists, the Principal must consider whether the behavior for which the discipline is sought to be imposed is substantially similar to the student's behavior in previous incidents that resulted in discipline, the length of prior suspensions, the total amount of time the student has been removed from school, and the proximity of the removals and suspensions to one another.* The Principal can access the student's disciplinary history in SOHO. If the Principal determines that a pattern exists, s/he enters this information in SOHO. SOHO will schedule an MDR and the school must notify the parent. (See SOHO Principal's Suspension letter/Teacher removal letter.) If the most recent disciplinary action is a Superintendent's Suspension, the MDR will have been scheduled by the Hearing Office. The MDR may be cancelled if the student has fewer than 10 school days of removal in total for the school year, or if the school determines no pattern exists. (See pattern assessment above.)MDRs for teacher removals and Principal's suspensions must be held within 5 days of the parent conference. However, if the

principal is considering imposing a suspension, the suspension cannot be imposed until the MDR has been held, unless the principal determines that there is a need for an immediate removal, as discussed above.

Action Required

The school must enter all of the following MDR information in SOHO:

- Date MDR held
- Attendees
- Results

SUSPENSION PLANS

Introduction

A Suspension Plan sets forth the services that will allow the student to participate in the general education curriculum and to continue to progress towards meeting the goals on the student's IEP while on suspension. It provides the student and the staff of the suspension site with a description of the special education services the student will receive during the period of suspension. The student service level intensity and frequency may be different than the services indicated on the student's current IEP. A Suspension Plan must be created under the circumstances explained below.

A Suspension Plan must be created under the following circumstances:

- 1) The student is suspended by the Superintendent and the disposition results in the student being out of his/her regular school program for more than 10 consecutive school days; or
- 2) The student is removed pre-hearing and an adjournment results in the student being out of his/her regular school program for more than 10 consecutive school days.

Action Required

All schools grades 6-12 must complete Part I of the Suspension Plan and forward it to the Hearing Office by the third day of the suspension. The Hearing Office will forward Part I to the Alternate Learning Center. Part II will be completed by the Alternate Learning Center whose staff will make all SOHO entries.

All schools grades K-5 must complete Suspension Plan Parts I and Part II, forward them to the Hearing Office as well as enter all of the following Suspension Plan information in SOHO:

- Date of the IEP team meeting
- Attendees

For more information contact:

Seth Rosenkrantz

Director of Student Suspensions and Hearings
Office of School and Youth Development
New York City Department of Education
52 Chambers St., Room 218
New York, New York 10007
(212) 374-6784 (Phone)
(212) 374-5751 (Fax)

For technical assistance contact: OSYD helpdesk: (718) 935-5004