

# SCHOOL DISCIPLINE: KNOW YOUR RIGHTS



Students have rights when it comes to when and how they can be disciplined for certain behaviors. Schools have different rules about what students can be suspended for and how long. Your school's code of conduct should have all these rules and be available online. According to Virginia law, students may be suspended or expelled from attendance at school for **sufficient cause**.

Some additional protections and processes exist for students with disabilities. You can learn more about those at [bit.ly/PEATCDiscipline](https://bit.ly/PEATCDiscipline).

It also is important to note that some incidents that happen in school may (and sometimes are required to be) be reported law enforcement.

## Types of exclusionary discipline, generally:

- **Short-term suspension:**
  - 10 consecutive school days or less
- **Long-term suspension:**
  - 11-45 consecutive school days
- **Expulsion: 365 calendar days**

## Suspension and expulsion exceptions:

- **Students cannot be suspended for truancy alone.**
- **Pre-K through 3d graders can be suspended for no more than 3 school days at a time, and not expelled, except under these circumstances.**
  - Physical harm or credible threat of physical harm,
  - Possession of firearm and related objects
  - Possession of drugs and related objects
  - School board, superintendent, or designee finds presence of aggravating circumstances
- **Generally, schools cannot suspend or expel students for behavior that takes place off of school grounds, even if it results in juvenile charges.**
  - HOWEVER, there is an exception for serious offenses. Students may be suspended for up to ten days for certain offenses if the offense involved an intentional injury to a student at the same school.



**Due process in school discipline:**

- The Principal is required to tell the child why they are proposing to discipline and give the child an opportunity to tell their side.
- Parents are entitled to notice of incident, proposed disciplinary action, and have the right to appeal.
- **NOTE: Incidents at school can form the basis of juvenile or criminal charges and any written statements given in this process may be used in that proceeding. Be careful with written statements!**
- **Deadlines for appealing a disciplinary action may be very short, sometimes as little as three days after receipt of written notice! The length of time must be written in the code of student conduct.**
- **The decision to expel a student must be based on these factors:**
  - The nature and seriousness of the violation
  - The degree of danger to the school community
  - The student’s disciplinary history
  - The availability and appropriateness of an alternate education placement or program
  - The student’s age and grade level
  - The results of any mental health, substance abuse, or special education assessments
  - The students’ attendance and academic records
  - Other matters that the superintendent or designee deems appropriate

**THESE CHARTS SHOW DUE PROCESS FOR DIFFERENT TYPES OF EXCLUSIONARY DISCIPLINE:**

	Initial Action	Prior Notice	Mid-Level Review	School Board Review
<b>Short-Term Suspension</b> Va. Code § 22.1-277.04	Principal, assistant principal, or teacher.	May be oral or written. Must include facts known to school personnel and an opportunity to explain.	Any interested party may petition superintendent or designee for review. Superintendent or designee may confirm or overturn.	Depends upon school board regulations, which may provide for review or may state that superintendent’s decision is final.
<b>Long-Term Suspension</b> Va. Code § 22.1-27.05	Not stated, but generally, the superintendent or designee	Must be written and include proposed disciplinary action, reasons for it, and right to a hearing.	Hearing may be conducted by superintendent or designee, or committee of the school board, by regulation of school board.	Appeal must be provided. If mid-level review is conducted by superintendent or designee, appeal may be to committee of the school board (and then to full vboard if not unanimous). If mid-level review is conducted by committee, appeal must be to full school board.
<b>Expulsion</b> Va. Code § 22.1-277.06	Not stated; however, school board must confirm or disapprove the expulsion, regardless of whether the student exercises right to a hearing.	Must be written and include proposed disciplinary action, reasons for it, and right to a hearing.	Hearing may be conducted by a committee of the school board.	Student or parent may appeal the committee’s decision to the full school board within 30 days.

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