

ASK
Sybil Liberty
about



Getting an education isn't just about books and grades – we're also learning how to participate fully in the life of this nation. (You know, **we're the future** and all that stuff!)

But in order to really participate, we need to know our rights – otherwise we may lose them. The highest law in our land is the U.S. Constitution, which has some amendments, known as the Bill of Rights. The Bill of Rights guarantees that the government can never deprive people in the U.S. of certain fundamental rights including the right to freedom of religion and to free speech and the due process of law. Many federal and state laws give us additional rights, too.

The Bill of Rights applies to young people as well as adults. And what I'm going to do right here is tell you about

DUE PROCESS.

your right to

FAIR TREATMENT

WHAT DOES DUE PROCESS MEAN?

The Fourteenth Amendment to the Constitution guarantees everyone in the United States something called "due process of law," which means you have the right to be **treated fairly** by people who are in positions of authority – teachers, school administrators – and the police.

Let's say a teacher or a school official accuses you of having done something wrong and wants to suspend you. Well they can't just throw you out! You have the right to a hearing so you can **tell your side of the story**. This right was established by the U.S. Supreme Court all the way back in 1975 when it decided a case called *Goss v. Lopez* that involved some high school students who had been suspended without a hearing.

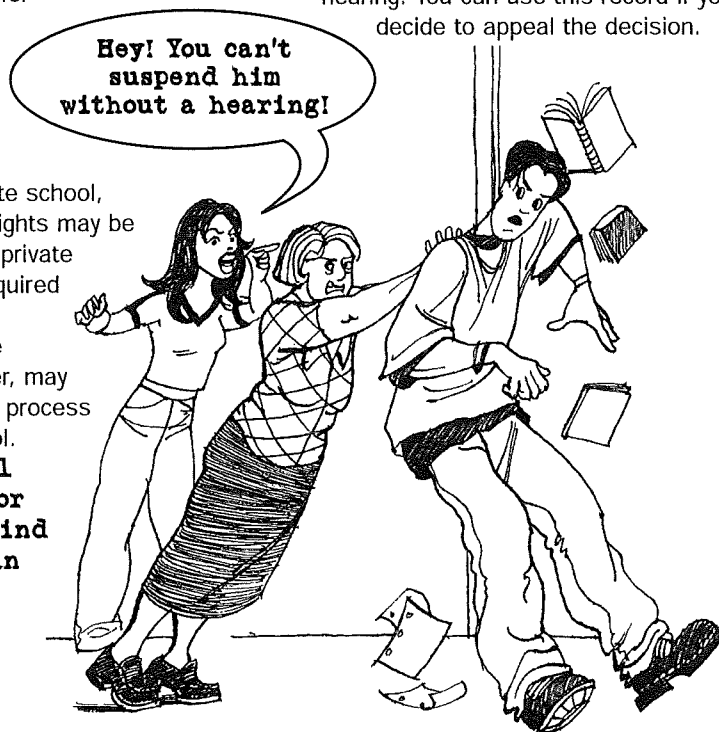
Another thing: if you're found guilty of something, **the punishment can't be more serious than the misconduct was**. So your school can't suspend you for just a minor violation. Or for something other kids did and only got detention for.

If you go to a private school, your due process rights may be different, because private schools are not required to obey the Constitution. Some state laws, however, may give you some due process protection in school. Contact your **local ACLU chapter or affiliate to find out the laws in your state**.

WHAT ARE MY RIGHTS IF I'M ABOUT TO BE SUSPENDED?

No matter how long the suspension, you have the right to notice of the charges against you – that means being told exactly what you did that was wrong. You also have the **right to a hearing** before a person or people who are impartial, meaning they don't have anything to do with the incident, and they don't have any attitude towards you one way or the other.

If you deny the charges, the school officials have to tell you what evidence they have, and give you the chance to tell your side of the story. And if you're facing serious punishment, like **suspension for more than 10 days**, you have the right to be represented by a lawyer who can call witnesses. You also have the right to question or cross-examine your accusers and the witnesses against you. And you have the right to ask that a record be made of everything that happens at the hearing. You can use this record if you decide to appeal the decision.



We spend a big part of our life in school, so **let's make a difference**. Join the student government! **Attend school meetings!** Petition your school administration! **Talk about your rights** with your friends! **It's up to us!**

But you don't have the right to a hearing for a minor punishment, such as being made to sit at the back of the class or detention.

The only way your school can suspend or expel a student without notice or a hearing is if they think the student is a **danger to other students or to school property**. But even then, they're obligated by law to give the student notice and a hearing as soon as possible after the expulsion.

WHAT CAN MY SCHOOL SUSPEND ME FOR?

Each year, more than 1.5 million students miss a day or more of school due to being suspended. Most suspensions are for offenses such as cigarette smoking or truancy. What your school can suspend you for depends on which state you live in.

Most school officials consider that **suspension is an extreme punishment**, and they only use it as a last resort. Often, they don't suspend unless a student does something illegal, dangerous or disruptive. The same thing goes for expulsion, although in a lot of states, expelling someone is illegal because everyone has the right to an education.



Schools should let students know what is allowed and what is not

And schools don't have the right to punish you if you broke a rule you had no reason to know even existed.

CAN I BE PUNISHED FOR WHAT I DO OUTSIDE OF SCHOOL?

It mostly depends on whether the behavior impacts your conduct in school. In some states, schools have authority over students' activities on school grounds, at school-sponsored events, and during recesses and on the way to and from the school or school activities. While in some states, the courts have given schools authority to suspend students who commit serious criminal acts off school grounds, **your school would be violating your due process rights if it automatically suspended you without giving you a hearing.**

DO SCHOOLS EVER DISCIPLINE STUDENTS DISCRIMINATORILY?

Students of color have been suspended at much higher rates than white students, according to Federal Office of Civil Rights statistics, and students have been discriminated against based on their religion, national origins, gender, or other factors. **THIS IS ILLEGAL.**

If you think your school's rules discriminate, you should contact local civil rights or students rights groups to get your school to adopt fairer procedures. The National Coalition of Advocates for Students (100 Bolyston Street, Suite 737, Boston, MA 02216) can give you your school district's recent suspension data. Your local ACLU also can help you find other groups.

HOW CAN WE MAKE OUR SCHOOL RULES FAIR?

The Michigan State Board of Education's guidelines for school rules is a **good model for a fair school rule policy.**

It states that:

- School policies have to clearly say what is allowed and what is not.
- School rules can't be so complicated the average student won't understand them.
- Rules have to be related to valid educational purposes.
- Rules can't restrict activities that are constitutionally protected.
- School policies have to tell you what the punishment is for breaking school rules.
- The punishment can't be more serious than the misconduct, nor harsher than what the school district itself is authorized to do.
- A copy of the rules and procedures must be made available to all students.

If you think your school's disciplinary rules are unfair, you and other students can try to create a task force with parents, teachers and school administrators to improve them.

IS A TEACHER ALLOWED TO HIT ME?

In at least 21 states **corporal punishment is banned**. Some states allow it, but only under certain circumstances, and only if the physical punishment isn't "unreasonable and unnecessary" or "excessive." If a teacher actually hurts you, contact your local ACLU. A lot of people and organizations are working hard to get corporal punishment banned nationwide. Hitting's no way to make a kid learn.

your local ACLU is: