

DECLARATION OF STUDENTS' RIGHTS IN NORTH CAROLINA

STUDENTS' RIGHTS AT SCHOOL

Students attending North Carolina public schools have the right to...

- The equal opportunity to a sound basic education. At a minimum, students must receive a free education that teaches them to read and write, and to use science, math and technology. Students must know history, civics, geography, and economics well enough to be an informed member of society and participate in the democratic process. Students must be able to successfully go on to college or vocational education after graduation. Students must have learned enough knowledge and skills to compete for further education or a decent job.
- Have their parents inspect and review their complete educational records.
- The creation of a Personal Education Plan for students who are at risk of academic failure or scored a Level I or Level II on their EOGs/EOCs.
- Clear rules and policies defining prohibited behavior and potential consequences (check your local board of education policies or code of conduct).
- Freedom of speech and expression, although it cannot be vulgar, lewd, threatening, or disruptive speech.
- Freedom of religion, both to express religious views and also to be free from the establishment of religion by the school.
- Freedom of assembly. Students have a right to form non-disruptive protests, although the school can restrict the location when on school property.
- Freedom from discrimination based on race, national origin, gender, religion, or sexual orientation.
- Remain silent when questioned by the police.
- Freedom from unreasonable searches and seizures. Student should know that:
 - School officials may search students' lockers any time without any suspicion, notice, or probable cause.
 - School officials only need reasonable suspicion to search students and their belongings.
 - Police need probable cause—and usually a search warrant—to search students and their property.

STUDENTS' RIGHTS WHEN SUSPENDED

Students facing short-term suspension (10 days or fewer) have the right to...

- Receive an explanation from the school as to why they are being suspended (what rule they broke and the evidence against them).
- Tell their side of the story.
- Take textbooks home, get homework, and have a chance to make up tests (parents should request this from the school's front office).

Students facing long-term suspension (more than 10 days) or expulsion have the right to...

- Take textbooks home, get homework and have a chance to make up tests during the first ten days of the suspension and during the appeals process.
- Receive written notice of the charge(s) that must include: a description of the incident; the specific policies or rule from the student code of conduct that the student is charged with violating; the specific process for parents to request a hearing to challenge the suspension or expulsion, including how many days a parent has to request it; and the format for holding a hearing.
- Have an informal hearing before an unbiased decision-maker where students can present evidence in their defense, bring witnesses to testify on their behalf, and question the witnesses, evidence or statements used against them by the school. The student can make a recording of the hearing.
- Bring an attorney to the hearing. In addition to having a parent or attorney speak, some districts also allow students to bring a community advocate to the hearing. Check your local board of education policies on advocates and see below for a listing of free legal resources.
- Appeal to the local board of education.
- Appeal to the local superior court.

RIGHTS FOR STUDENTS WITH DISABILITIES

Students with a disability have the right to...

- A free, appropriate public education, including special education and related services to meet the students' needs.
- An individualized education program (IEP) designed to meet their unique educational needs.
- Receive their education in the least restrictive environment, with their non-disabled peers as much as possible.
- A free independent educational evaluation if the student's parent disagrees with the evaluation conducted by the school.

Students with disabilities who are suspended for more than ten days (total) in one school year have the right to...

- A special meeting called a manifestation determination review to decide if the alleged misbehavior was: 1) caused by or directly and substantially related to the disability; or 2) a direct result of the school's failure to implement the student's individualized education program (IEP).
- Request a functional behavioral assessment to figure out the causes of the behavior problems and to identify ways to prevent problem behaviors.
- Request a behavior intervention plan to reduce the likelihood of misconduct; identify supports or strategies that will improve behavior; establish steps to be taken when misconduct happens; and identify consequences for misconduct.

WHEN STUDENTS' RIGHTS ARE VIOLATED

- Document everything (such as letters, phone calls, other conversations) and create a file with all papers and important information.
- Talk to a lawyer to see what to do next and if he or she could represent the student for free:
 - Statewide: Advocates for Children's Services, 919-226-0052, www.legalaidnc.org/acs
 - Triangle: Duke Children's Law Clinic, 919-613-7169, www.law.duke.edu/childedlaw
 - Western NC: Pisgah Legal Services, 800-489-6144, www.pisgahlegal.org
 - Charlotte: Council for Children's Rights, 704-943-5941, www.cfcrights.org
 - Southern Piedmont (west-central NC): Legal Services of Southern Piedmont, 704-376-1600, www.lssp.org
- Consider doing the following steps on your own:
 - Call the principal and request a conference. You can also write a letter to the local superintendent and members of the local board of education.
 - File a formal grievance with the local board of education if the school violated specific laws or school board policies.
 - For violations of special education law, you can file a state complaint with the Department of Public Instruction and also file a due process petition with the NC Office of Administrative Hearings.
 - File a complaint with the local police or sheriff's department if the student's rights were violated by law enforcement or a school resource officer.
 - Contact the local newspaper or television station to share what happened and raise awareness of these issues.

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