

KNOW YOUR RIGHTS

INTERROGATION & STUDENT DISCIPLINE

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STEP 1

WHAT SHOULD A STUDENT KNOW GENERALLY ABOUT THEIR RIGHTS IN DISCIPLINARY MATTERS?

Schools have discretion to discipline students for a wide range of behavior including, but not limited to, any criminal behavior, code of conduct violations, actions that occur off campus, and truancy.

- Read the code of conduct! See what it requires. These are dense legal documents, but every school district must have one posted on their website.

Know that the school can discipline a student for off-campus behavior. If the school's superintendent, or someone designated by the superintendent, has "reasonable belief" the student committed certain crimes off-campus, then the school may choose to punish that student for off-campus behavior. This usually occurs when a child has been charged or arrested because then law enforcement may notify the school district of the charge. In fact, for certain misdemeanors and all felonies, law enforcement **must** notify the school district.

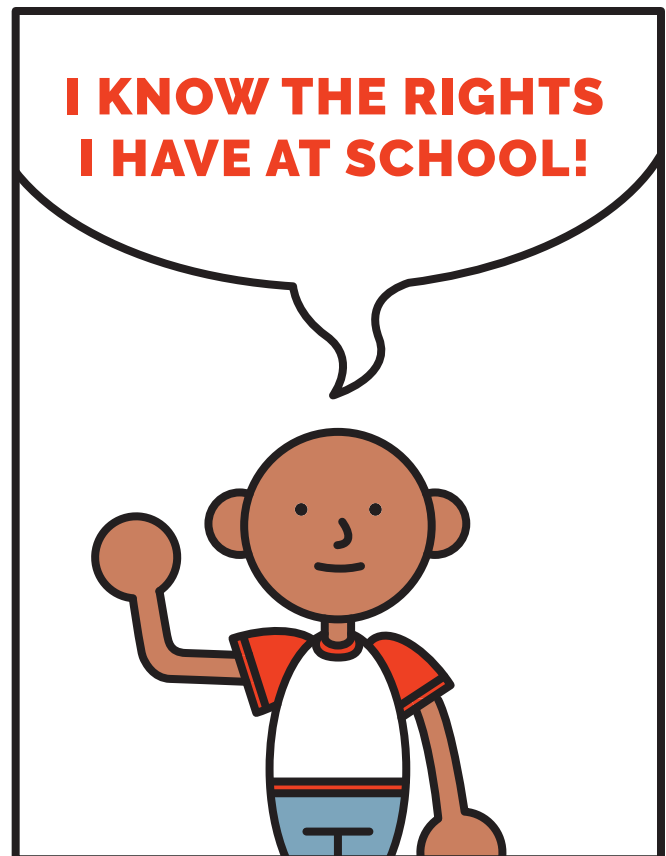
The same rules that apply in court do not apply at school. This means your child is not innocent until proven guilty and the school does not need to prove its case beyond a reasonable doubt. Instead, they only need to believe that more likely than not the allegations occurred.

The student does not have a right to speak to a parent before answering questions about alleged misbehavior. But your child should still ask politely to wait until a parent is present before answering any questions. Most importantly, if the school asks your child to sign any statements, disciplinary referral slips, or other document that confesses misbehavior,

the child should generally NOT sign the form if the child intends to contest the violation. At the very least, the student must make clear if the student disagrees with the school's characterization of the incident at issue.

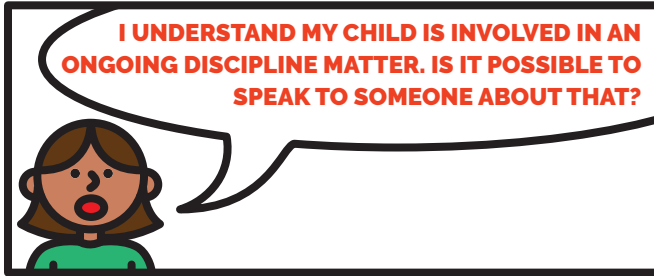
If a police officer is involved, then the child has a right to remain silent.

Legally, it is important that your child try their best to politely assert the rights that they do have because this could make a difference in future conferences, court hearings, or other proceedings.



STEP 2

YOU RECEIVE NOTIFICATION YOUR CHILD HAS GOTTEN INTO TROUBLE. WHO DO YOU TALK TO AND WHAT SHOULD YOU EXPECT?



The most important point to remember is that there is NO guarantee the school will allow you to speak with your child while the school interviews the child. You may ask to be present in the room during the interview, but the school does not have to let you see the child immediately. They need only make a “good faith effort” to provide written notice on the day the action is taken.

Trying to interfere with an ongoing interview can lead to the school removing or arresting a parent. Emotions run high and you will understandably want to do anything to protect your child. So the key is to be careful—insisting on speaking with a child when the school refuses can end up doing more harm than good.

If a parent arrives at the school while your child is being questioned, parents should expect that some school staff may be confused with what you are asking. They might tell you they have no information or that there is nothing that you can do.

In that case, you should:

1. Each school must designate a “campus behavioral coordinator,” which is the legal term for the person in charge of discipline on the campus. Some schools will have the behavioral coordinator displayed on their website. For example, all HISD CBCs information are posted:

www.houstonisd.org/CampusBehaviorCoordinators

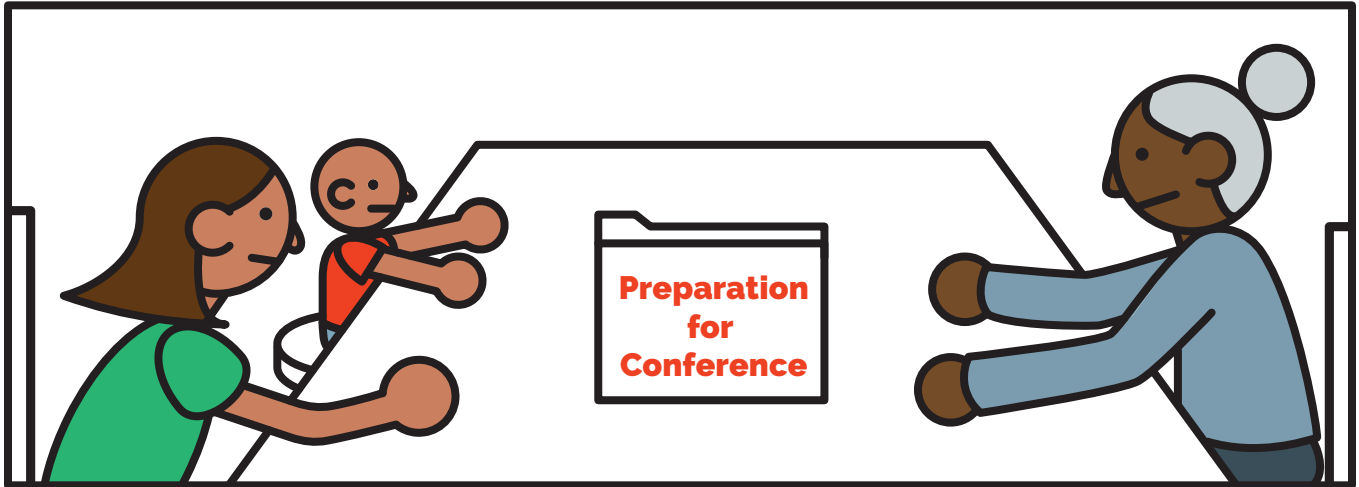
Other schools will have the information in an office dedicated to student discipline. The name of these offices varies, but your best bet is to google “[name of the campus] student discipline office.”

2. If your child has been disciplined before, ask to speak with the principal who disciplined your child previously.
3. If they say neither person is available, then tell them to tell the administrator that “the parent of [child’s full name] is here to see them about the ongoing discipline matter.”
4. If your child receives special education services, then ask to speak with someone you trust on their IEP team.

At this stage of the process, **the most important thing is to remain calm. Before the school can suspend, expel, or otherwise remove your child from school, they must give you and your child the chance to tell your side of the story** at a conference with the principal. They must also consider the student’s lack of intent, whether they acted in self-defense, prior disciplinary history, any disability, and whether the student is homeless or involved in child protective services.

STEP 3

MY CHILD HAS BEEN SUSPENDED, EXPELLED, OR SENT TO AN ALTERNATIVE SCHOOL. WHAT HAPPENS NOW?



By Texas law, the school must hold a conference no later than three school days after removing the student from class. If the school does not hold a conference, then you should request one, telling them that Section 37.009 of the Texas Education Code requires it. If they still refuse, then you should file a grievance outlined below.

- At the conference, the designated school administrator must hold a conference and will tell you:
- Why the student is being removed
- Explain the basis for the removal
- Give you and the student an opportunity to respond to the reasons for discipline.

In deciding discipline, the school must consider: the student's lack of intent, whether they acted in self-defense, prior disciplinary history, any disability, and whether the student is homeless or involved in child protective services.

Come prepared to discuss these factors as well as anything else you think the school should know!

The principal or administrator might say the removal is "mandatory." The Texas Education Code does outline certain offenses as *requiring* a student be sent to DAEP or expelled. Federal and state law does consider certain actions as requiring removal. **But many times, school officials will claim something is mandatory when it's not.** Even if the offense is mandatory, the school must still consider the factors discussed above.

Be especially careful if the conduct involves an off-campus arrest. Most misdemeanors and nonviolent felonies are not mandatory!

STEP 4

THE SCHOOL WRONGFULLY DISCIPLINED MY CHILD. WHAT CAN I DO ABOUT IT?

The best place to start is with the administrator who decided the disciplinary action. Were there any factors the school did not consider? Any other options the school could have employed besides removing the student? It is possible the official will not listen and may even be rude in response. However, trying to settle things informally is usually easier than the grievance process.

If you've tried to resolve your complaint informally, then you can follow your district's grievance process. Every district in the state must have a grievance process. A grievance just means filing a formal complaint with the school and the school district. These procedures are usually listed in your school district's "Student-Parent Handbook."

If at any point you get confused of how to navigate the process or who to talk to, many schools have a "Parent and Community Assistance Office." This office can help you navigate the complaint process. At HISD, you can find the person assigned to your local campus here:

www.houstonisd.org/parentassistance

If you feel like you want to file a grievance, you should do so quickly. Most schools require you file a grievance within 10 or 15 days of the disciplinary action taking place. After this period, you will lose your chance to file the grievance!

Checklist

- 1. Check all deadlines. Late grievances are not accepted!**
- 2. Write clearly to make sure someone can read what you write**
- 3. Write your side completely. Include all facts. Attach a different sheet of paper or type out your response and attach it.**

To file a grievance, you call the local administration and ask for the grievance form. There is also generally a copy on your school or district's website. On the form, you should generally attach a separate statement because the form does not usually give you enough space. Be clear and professional and stick to the facts of the case.

Email the form to the person listed on the grievance form or call the school to ask who to send it to.

After filing the grievance, the district must provide you a conference within a time period set out in the Code of Conduct. This is where you present your evidence and explain your complaint.

You must submit all your evidence at the first grievance conference. Otherwise, you will lose your chance to bring those arguments up later on. You can bring statements from other witnesses to the event or other documents showing that discipline would not serve your child's needs.



txcivilrights.org

This handout reflects the law at the time it was written. The law changes frequently and is subject to various interpretations in different courts and legislative changes. The handout is **not** intended to and **does not** replace an attorney's advice or assistance based on your particular situation.

If you have any questions about this material or student discipline in your district, please email: studentdiscipline@texascivilrightsproject.org or christopher@texascivilrightsproject.org