



Community Advocacy & Legal Centre

MY CHILD HAS BEEN SUSPENDED. WHAT CAN I DO?

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January 2014

Abner, 16, and James, 17, attend Limestone High. Abner emigrated from Cuba just three years ago. He is black and speaks with a Hispanic accent. Last Friday, after school, James became upset when he saw Abner speaking alone to his girlfriend. James called Abner a racist word. This enraged Abner, who then punched James in the mouth. A teacher was able to quickly stop the fight. James' mouth was bleeding and Abner was not injured.

James and Abner's fight happened on school property. What kind of consequences could the boys face at school?

Some of the most serious consequences a student can face at school are suspensions and expulsions. If a student is suspended, he or she may not attend school during the suspension period, which can last up to 20 days. A suspension is also recorded in their Ontario Student Record. Even if the student transfers schools, the new school may know what happened because it is on his or her Ontario Student Record.

The principal will consider suspending Abner because he punched James. This is a situation where a suspension is possible, but not required. The law requires principals to suspend students in certain situations that happen at school or school-related activities; for example, when they physically hurt another person so that the other person needs medical attention.

When deciding whether to suspend Abner, the principal will have to consider "mitigating circumstances." These are reasons that the principal might use to choose to not suspend Abner even though he did punch James. Mitigating circumstances include James's racist remark and whether Abner's attendance at school would pose a risk to James' or anyone else's safety.

The school must act fairly towards Abner. The school must tell Abner why he is being suspended and give him a chance to tell his side of the story. Since Abner is 16 and lives with his parents, the school must contact his parents to tell them about the suspension. The school must inform Abner and his parents of the suspension in writing. The school must also provide information about the right to appeal his suspension.

If Abner is suspended, his parents can appeal the suspension by sending a notice of their intent to appeal to the supervisory officer (usually a Superintendent). They must do this within 10 school days of the start of the suspension. A suspension appeal hearing must be held within 15 days after the supervisory officer receives the written notice.

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At the hearing, school board trustees will listen to evidence from both the principal and Abner. It is best for Abner and his parents to have a lawyer, who can challenge the school and present Abner's side of the story. The trustees will decide whether to uphold, change, or overturn the suspension. Even if the suspension ended before the appeal was held, it is still important to get the trustees' decision because the suspension will be removed from Abner's Ontario Student Record if the trustees overturn the suspension.

See the following for more information on suspensions and expulsions:

- Justice for Children and Youth at <http://www.jfcy.org/>
- Community Advocacy & Legal Centre at www.communitylegalcentre.ca

This column provides general legal information and not legal advice. The information above comes from a blog by Justice for Children and Youth (JFCY), a specialty legal clinic. While acknowledging that the primary material is JFCY's, we take responsibility for all opinions expressed herein. It was drafted by staff lawyers from community legal clinics, or Legal Aid Ontario, and volunteer local lawyers. The law can change. You should contact a lawyer to determine your legal rights and obligations. If you are living on a low income, you may be eligible for free legal help from LAO (criminal, family or immigration) or your clinic (income security programs, employment law, tenants' rights, consumer law, education law or human rights). You can reach LAO at 1-800-668-8258 or visit them online at www.legalaid.on.ca. Contact your local clinic (Community Advocacy & Legal Centre) at 1-877-966-8686 for more information or visit www.communitylegalcentre.ca.

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