When My Child is Disciplined at School

A Guide for Families

I WILL NOT MISBEHAVE IN CLASS.
This guide can be accessed online at www.GaAppleseed.org/publications.
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**Acknowledgments**

Georgia Appleseed offers this guidebook as a tool to help parents and guardians throughout our state to become informed advocates both for their children and for fair, equitably applied school discipline policies.

Too often early disciplinary problems at school can escalate to juvenile court involvement. Georgia Appleseed recognizes that parent involvement in schools is critically important to ensure a child’s educational progress and to help maintain safe schools and minimize the need to remove children from the regular classroom.

**Guidebook Team**

Georgia Appleseed’s three core competencies of research, dissemination and advocacy are all present in this project. We extend our sincerest thanks for the pro bono expertise of a score of legal and education professionals who worked in concert with Georgia Appleseed staff to create this parent handbook.

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Georgia Appleseed Center for Law and Justice is an independent affiliate of the national Appleseed network of nonpartisan, nonprofit, public interest law centers. Georgia Appleseed leverages the pro bono work of lawyers and other professionals to produce systemic solutions to difficult social justice problems.

**Georgia Appleseed Mission**

To listen to the unheard voices of the poor, the children, the marginalized; to uncover and end the injustices that we would not endure ourselves; to win the battles for our constituency in the courts of public opinion or in the halls of justice that no one else is willing or able to fight.

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**Legal Disclaimer**

The information in this manual is provided as a matter of public service and is for informational use only. The information does not constitute legal advice and should not be used as such. Parents, guardians, and other users of this manual are strongly urged to confer with legal counsel in matters involving their students and school discipline.

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When My Child is Disciplined at School:
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Introduction

When a child is involved in a school disciplinary action, it is important that you – as the child’s parent or guardian – promptly become involved. School discipline is a serious matter, and it is important to advise your children to come to you immediately when they find themselves in a disciplinary situation. Parental involvement is a key factor in school discipline. Studies have shown that schools with more parental involvement have lower rates of disciplinary referral as well as fewer incidents of violence. When a parent or guardian establishes an open line of communication with the school and asks to be contacted at the first signs of a behavior problem, it is possible to prevent more serious misbehavior that can result in a disciplinary removal from the regular classroom.

Title 20, Chapter 2 of the Official Code of Georgia Annotated (OCGA) guides school discipline. At the beginning of every school year, Georgia public schools are required to distribute the Student Code of Conduct to every child’s parent or guardian. The school can solicit or require a parent or guardian to confirm by signature that a Student Code of Conduct has been received.¹

Your school district’s Student Code of Conduct will guide you through most disciplinary actions and decisions, and you will refer to it often as you navigate through this process. If you do not have or did not keep a copy, make sure you ask your school for a printed copy to keep at home.

To advocate effectively on behalf of your child when he or she is involved in a discipline incident at school, it is important to:

• Remain calm and open to listening to both your child and the school.

• Make sure that your child is aware of what is expected in the way of appropriate behavior in school – and the possible disciplinary consequences for violating the Student Code of Conduct.

• Ensure that teachers and administrators apply discipline appropriately as outlined in the Student Code of Conduct – and that they adhere to any parent notification and disciplinary conference or hearing requirements.
• Make sure that, if your child receives special education or other modified educational services, the school follows those regulations required by the federal Individuals with Disabilities Education Act (IDEA). The school must use your child’s Individualized Education Plan (IEP) to address behavioral problems and administer appropriate discipline that will not harm your child. It is not appropriate for the school to alter your child’s IEP to fit a placement in an Alternative Education Program.

• Check frequently to make sure that your child is continuing to make educational progress in any out-of-classroom disciplinary setting.

• Consider seeking legal counsel if the courts become involved, or if a lengthy Alternative Education Program placement is assigned.

The Student Code of Conduct outlines many of the policies and procedures governing most disciplinary actions; however you may disagree with the school’s assessment of the situation, the decision to discipline your child, or the severity of the punishment.

This handbook will provide you with guidelines governing the school disciplinary process and strategies to make you both an informed advocate for your child and an involved partner in your child’s education. In this guide, we cover the different types of disciplinary actions, how to advocate for your child, and more detailed information on serious actions, such as referrals to Alternative Education Programs, expulsions, and juvenile complaints.

Our hope is that you find this guide helpful during this challenging time for you and your child. The guide can be accessed online at www.GaAppleseed.org/publications.
Chapter 1 – School Discipline: A Parent’s First Response

Your child is accused of breaking the rules at school. Your first step is to talk to your child and the school to find out what happened and what kinds of disciplinary actions could be imposed. Your child’s school district may have zero tolerance policies in place that could trigger your child’s immediate removal from the regular classroom. Depending on the seriousness of the disciplinary problem, your child could face a range of school-imposed consequences, from short-term loss of privileges to referral to an alternative school or expulsion. The situation becomes even more serious if your child is arrested on campus or a juvenile complaint is filed and the juvenile court becomes involved. Remember, state law requires that school discipline be administered in a progressive fashion, meaning it should be imposed in proportion to a student’s misbehavior, a student’s discipline history, and other important and relevant factors.³

Some of the most commonly imposed consequences for classroom misbehavior are listed below:

• **Loss of privileges.** Schools may revoke certain classroom or school privileges or require the student to complete extra school work to address classroom misbehavior.

• **Behavior contract.** A teacher or school administrator may set up a parent meeting or conference to create a classroom behavior contract for your child and to establish regular communication between the school and parents to ensure that your child meets classroom expectations for behavior and academic performance. A behavior contract is required when a teacher or principal identifies a student as a chronic disciplinary problem student. When this occurs, the school is required to notify a parent or guardian. The parent or guardian should be invited to observe the student in a classroom situation, and the school may request a parent or guardian to attend a conference to devise a disciplinary and behavioral correction plan.⁴

• **Detention.** Students in detention may remain after school, be assigned to a detention classroom during the lunch period, or be required to attend Saturday school to complete their work.
• **In-School Suspension (ISS).** A disruptive student can be removed from the regular classroom and assigned for one or more days to a separate ISS classroom to complete class assignments. (The school does not always give students their class assignments. Your child may fall behind unless you intervene to make sure the work is provided to your child.)

• **Exclusion.** A teacher may exclude a seriously disruptive student from his or her class, in which case the student may be reassigned to another teacher. Such removals require that the teacher file a report about the removal with the principal. The principal or his or her representative should subsequently notify the student’s parents or guardians that the student was removed from the classroom for disruptive behavior.  

• **School or community service requirement.** As a consequence of having broken school rules, a student may be assigned school or community service. Examples include picking up trash, cleaning graffiti, or providing after-school help to a teacher.

• **Out-of-School Suspension (OSS).** A disruptive student can be removed from school and not allowed to return for certain periods of time during a given quarter or semester. A student has the right to receive a disciplinary hearing where a principal or school administrator recommends a suspension for longer than 10 school days. A hearing officer, a tribunal, or a panel must conduct a disciplinary hearing no later than 10 days after a student’s suspension from school, unless the parents and school agree to an extension. Suspensions can be short-term or long-term. Short-term suspensions cannot exceed 10 school days. In contrast, long-term suspensions are imposed for 10 school days or longer. However, long-term suspensions may not last longer than the semester or quarter in which the child has been suspended.

• **Removal to an Alternative Education Program (AEP).** A student can be assigned to an AEP for violating the Student Code of Conduct. For offenses that are disciplined in excess of 10 days, a disciplinary hearing must be held. State law mandates that for certain offenses, such as a third occurrence of bullying, a student must be assigned to an AEP.

• **Expulsion.** A student is prohibited from attending school beyond the quarter or semester in which he or she is currently enrolled. In some instances a student may be permanently expelled from the school district in which he or she is enrolled. When a principal recommends that a student be expelled from school, that student has the right to receive a disciplinary hearing.

• **Juvenile Complaint.** The campus police or school resource officer (SRO) may file a juvenile complaint against a student when any student infraction is believed to rise to the level of a delinquent or criminal act.

If you disagree with the way your district or individual school exercises its discretion to discipline students for certain offenses, you and other interested parents should talk to your principal. You also have the right to contact your school superintendent or school board members and request a meeting or other avenue to recommend changes in school or district-wide disciplinary policy.
How to Stay Involved When a Child is Disciplined at School

Regardless of the nature of the disciplinary incident at school, parents should take these steps to stay informed and actively engaged in the disciplinary process.

**STEP 1** Contact the school as soon as you know that your child is involved in a behavioral incident at school, particularly when there could be disciplinary consequences. Ask for all incident reports or other documents related to the incident and the student's behavior.

**STEP 2** Ask your child what happened and who was involved. Write this down.

**STEP 3** Ask your child, and his or her teachers, if he or she is having trouble keeping up in class or is experiencing any other problem at school, such as bullying.

**STEP 4** Use this opportunity to find out if your child feels misunderstood or wrongly accused.

**STEP 5** Collect any evidence and take pictures if your child has been hurt.

**STEP 6** Gather information from your child, any witnesses, and the school about the disciplinary incident.

**STEP 7** Keep a contact log, writing down the name, job title, phone number and email address of all persons you contact regarding your child’s disciplinary issue. Recording the date and time of all conversations will make future contacts easier and will document your progress.

**STEP 8** Keep a paper trail and electronic records during the disciplinary process. SAVE EVERYTHING! Keep all written and emailed communications from the school about the disciplinary incident, including any parent conference or hearing notices. Make copies of anything you send through the mail or electronically to the school.

**STEP 9** It is important to find out whether the disciplinary offense will become part of your student’s school record. If it is a delinquent act or criminal offense, find out whether a juvenile complaint or petition will be filed with juvenile court or superior court. You must find out whether your child will be taken into custody or arrested if a juvenile complaint or petition is filed against your child. You should also determine whether a report of the delinquent act or criminal offense will become a permanent part of your child’s legal records. If a court petition or arrest warrant is filed against your child, you should consult an attorney to protect your child’s best interests.

**STEP 10** Find out if your school has a zero tolerance approach to certain kinds of offenses. Refer to the Student Code of Conduct to see whether a zero tolerance policy is included along with information about whether intent, self-defense, and disciplinary history are considered before disciplinary decisions are made.
If you believe that zero tolerance policies are counterproductive, you can communicate your concerns at the school or district level. Attend school board meetings when disciplinary policies are addressed. Consider talking to like-minded parents and organizing an effort to change zero tolerance policies.

What is zero tolerance?

Zero tolerance is the disciplinary removal of a student from his or her classroom without taking into account student intent, self-defense, disciplinary history, or other factors that might have influenced the behavior.

“Adopting a zero tolerance approach has not increased consistency in discipline and, instead, students’ chances of receiving some type of disciplinary referral depend largely on where they go to school, rather than on the type of offense.”

Texas Appleseed, October 2007
Texas School-to-Prison Pipeline,
Dropout to Incarceration:
The Impact of School Discipline
and Zero Tolerance, pps. 36-37
What if...

Your child has gotten into trouble for fighting at school, but says she acted in self-defense when another child attacked her. What should you do first?

- Ask her to explain what happened. Ask questions so that you fully understand how the fight occurred, and take notes.

- Ask if any friends or other students saw what happened. If they did, ask them to write down what they saw, if possible.

- Ask your child if she knows what disciplinary action the school intends to take.

- Determine whether a juvenile complaint was filed with the courts. If so, get a copy of the complaint and consider consulting with an attorney prior to the disciplinary hearing. Make sure you know when you have to be in court for any court hearings.

- Consult a copy of the Student Code of Conduct. It should state whether the school will consider self-defense or a student's intent when making disciplinary decisions.

- If the school has not already contacted you, call the school to schedule a meeting to discuss the fight. Try to get a sense of what steps the school is considering.

- If your meeting with the school is not for several days, ask if your child will be allowed to attend his or her regular classes while the school is determining the consequences for the fight. Will the school refer your child to in-school suspension (ISS) or out-of-school suspension (OSS) instead?

- If your child is being referred to ISS or OSS, make sure you and your child ask teachers for any assignments or state/district mandated tests your child will need to complete during the suspension period.
Chapter 2 – Meeting with the School on Discipline Problems

Open communication between parents and school staff is important when a child has discipline problems. At any time, either the school or the parent can call to schedule a meeting to discuss these issues.

Whenever a teacher or principal has identified your child as one who has chronic disciplinary problems, the principal must notify you by phone, certified mail, first-class mail, or overnight courier about your child’s disciplinary problems. You must receive an invitation to observe your child in a classroom setting. You should also be invited to attend a school conference with the principal, your child’s teacher, or both to discuss and devise a disciplinary and behavioral correction plan for your child.

_Schools must notify parents and students when they schedule any required school disciplinary hearings._

When You Agree with the School on Disciplining Your Child

As the parent or guardian, you can make the school aware of whether you think your child’s misconduct was intentional or not, and whether your child has learned his or her lesson. Let the school know what consequences have been imposed at home for your child’s misbehavior at school. If your child did violate the Student Code of Conduct and is sorry, consider having your child apologize. Working with the school can reduce the amount of time your child spends outside the classroom for behavior problems.

Even if you agree with how the school proposes to address your child’s misbehavior, it is critical that you attend any requested school meeting, required school conference, or mandatory disciplinary hearing to ensure that the discipline imposed is fair and in your child’s best interests. In those meetings, conferences, or disciplinary hearings:

- Listen to what school representatives have to present about the disciplinary incident.

- Present supporting documents, including a letter of apology from your child, if appropriate.
• Reach agreement on your child’s educational needs. Identify how these will be met during the disciplinary period and how the child can return to the classroom as soon as possible. (See the Appendix for an overview of the legal issues that pertain to disciplining a child with disabilities.)

• Establish a system for maintaining regular contact with teachers concerning your child’s behavior and performance in the regular classroom or in an alternative placement.

When You Disagree with the School on Disciplining Your Child

When you want to challenge a school’s decision to discipline your child for a violation of the Student Code of Conduct, it is even more important that you communicate with the school and attend all meetings, conferences, or disciplinary hearings. In those situations:

• Let school representatives present their side first. You may gain new information.

• Keep calm.

• Present your most persuasive arguments first to support a different disciplinary approach that you believe best meets your child’s educational and emotional needs. Be concise.

• Explore the option to request a classroom behavioral contract for your child to avoid escalating the consequences of your child’s misbehavior to an out-of-classroom disciplinary placement. Make sure the terms are reasonable and realistic for your child.

• Stay informed about your child’s behavior and performance in the regular classroom or in an alternative placement.

• Ask your principal or school counselor about the process in your district for appealing short term, long-term and expulsion disciplinary decisions. Georgia law allows you to appeal long-term suspensions and expulsions imposed by a disciplinary hearing officer, panel or tribunal.14 Local school districts may set their own procedure for appealing other, more minor disciplinary decisions. It is important to check with your individual school district to see what avenues of appeal are available to you.
Georgia Education Code – Student Removals

Georgia law allows two types of classroom and school removals. Teachers may follow the prerequisite procedures for removing a student from the classroom when the student demonstrates behavior that is disruptive or interferes with his or her classmates’ ability to learn. In addition, principals and other school administrators may begin the process of removing a student from the classroom or the school by recommending a student’s suspension or expulsion when a student has violated the Student Code of Conduct. Georgia law prescribes separate due process procedures for these two different types of classroom removal.

Parent Notification and Disciplinary Hearings

Your child is entitled to receive due process when certain disciplinary procedures are imposed. Title 20 Chapter 2 of the Georgia Code requires schools to notify parents and students personally or by mail when scheduling any required school disciplinary hearing to consider a request for expulsion or suspension that will exceed 10 days. The school may offer you the opportunity to waive your child’s right to a hearing, but doing so may not be in your child’s best interests because your child may lose any future rights to appeal the school’s imposition of suspension or expulsion.

The notice that you will receive about a hearing should include the time, location and nature of the hearing; a short statement of the details of the infraction; and a statement that both the school and the parent or guardian will be able to present evidence to the hearing officer, panel, or tribunal. Both the school and the parents may have an attorney present at a disciplinary hearing. This hearing must be held no later than 10 school days after the beginning of a suspension unless the parents or guardian and the school agree to an extension. You and your student will be allowed to present and respond to any evidence and question all witnesses. Teachers may be called as witnesses, and an electronic or written record of the hearing will be available for you to request. Parents, legal guardians, or attorneys may obtain a copy of any documents relating to a disciplinary proceeding. Be sure to request an interpreter if necessary.

What to Do at a Disciplinary Hearing:

• Remain calm. Speak confidently and with authority about your child’s case.

• If the school system presents its evidence and witnesses first, listen closely so that you will be prepared to respond to any issues that you may not have thought of before coming to the hearing.

• Present all of your concerns, records and documents even if the hearing officer, tribunal or panel does not believe it is relevant to your student’s case. This will allow you to present that evidence again should you need to appeal the decision of the disciplinary hearing, panel, or tribunal. If you need to appeal the disciplinary hearing decision, you will not be able to offer any new evidence, witnesses, or documents during the appeals process if you did not offer them at the local disciplinary hearing.
• Tell the hearing officer, panel, or tribunal that your due process rights are being denied if you are not allowed to submit your information, voice your concerns, or question a witness.

If you do not attend a disciplinary conference or hearing after being given adequate notice, the school may move ahead and decide how to discipline your child without your input.

Student Removal from Class & Placement Review Committee

A teacher is authorized to remove a student from class or to refer a student to the principal or the principal's designee if that student exhibits behavior which repeatedly or substantially interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of a student's classmates to learn. Before removal occurs, the teacher must have previously filed a report with the principal about the student's disruptive behavior in the classroom, or there must be a reasonable belief that the student presents an imminent threat to the teacher or to his or her classmates. When a student is removed from the classroom, the teacher must file a report with the principal or the principal's designee before the end of the school day or by the beginning of the following day. The principal or principal's designee then has one day to notify the student's parents that the student has been removed from the classroom. The principal or principal's designee should meet with the student to discuss the behavior that led to the student's removal from class.

If a principal determines that a student should return to his or her original classroom but the teacher refuses, a school Placement Review Committee must be convened and it must render a written decision about the student's removal within three days. The committee is composed of three members, including two selected by the school's faculty and one selected by the principal. This committee receives special training and determines the placement of a student on those rare occasions when a teacher refuses to allow a student's return to his or her classroom. The principal must notify a student's parents or guardians in writing once the Placement Review Committee decides whether to return the student to his or her original classroom. In addition, the principal retains the option of disciplining a student for violating the Student Code of Conduct after the Placement Review Committee makes its decision.

If your child is facing long-term removal from school, or is permanently removed from a teacher's class and is not receiving adequate instruction or materials, seek legal advice. See the resources listing in the Appendix of this manual.
What if...

Your child has gotten into trouble for fighting at school. You believe her when she says she acted in self-defense. You have talked to the school and they have agreed to schedule a meeting to discuss the fight. You have a written description of what happened from your daughter and a friend who saw the fight. You have talked to teachers to make sure that your daughter has all the assignments she will miss while the school is deciding what action to take. What can you expect at the meeting? (Keep in mind that if the school is considering long-term suspension or expulsion that requires a disciplinary hearing by law, then they may not be willing to meet with you before the formal disciplinary hearing.)

• This will be a meeting with a school administrator and perhaps the teacher or staff who witnessed the fight.

• Let the school’s officials begin the meeting. Try not to be defensive or become visibly angry, even though you may be upset.

• Listen to what the school officials tell you about the incident, and take notes. Consider any differences between what your child has told you about the fight and what the school officials describe. Is there a possibility that the school officials who witnessed the fight misunderstood what happened? Is there a possibility your child misunderstood the other student’s actions?

• Describe what your child told you about the events, or have your child explain what happened. Make sure you stress the importance of staying calm to your child before the meeting. Share any written eyewitness accounts of the incident that support your child with school officials.

• Ask the school officials if they will consider self-defense, or your child’s intent, before they impose discipline.

• If they say they WILL NOT, but the Student Code of Conduct says they DO consider these factors, point out the discrepancy and note that state law requires them to follow what is laid out in the Student Code of Conduct.

• If your child has never been in trouble before or is a good student, make sure the school is aware of these facts.

• If no disciplinary determination is reached at the meeting, ask when you can expect a decision and write down the date.

• If you disagree with the outcome of the meeting, ask the school how to appeal the decision and how long you have to file the appeal. Ask school officials where you can find any necessary forms that must be filled out to appeal a disciplinary decision.
Chapter 3 – When to Challenge a School Discipline Decision

By gathering information and talking to both your child and the school, you can better decide whether your child needs to accept the consequences for his or her misbehavior or if the school’s disciplinary action should be challenged. If you decide to challenge a school disciplinary decision, be sure to keep the lines of communication open with the school administrators involved.

Even if you agree that the school is taking appropriate action to discipline your child, you should partner with the school to make sure that your child’s behavior and success in school improves. You may want to meet with one or more teachers, school counselors, school administrators, or behavioral specialists assigned to your school if your child is experiencing more serious or more frequent behavior problems.

It is important that you consult with the school or an outside specialist to determine whether or not a disability or other condition may be impacting your child’s behavior. If you are uncomfortable with the pace or support you are receiving in exploring this with your local school, contact your principal, district, or state special educational leaders. You may also want to consider hiring an advocate that specializes in special education to assist you during this process. If testing uncovers a need for special education services or other learning accommodations, you can request that the school work within those findings to accommodate the learning needs of your child. You should maintain close contact with the school to make sure that any new accommodations are having the desired positive effects on your child’s learning and behavior.

Defining Your Goals

It is important to remain clear about your goals and priorities when meeting with teachers and administrators to resolve a disciplinary issue. Your aims may include one or more of the following:

- Reduce the academic impact of the disciplinary action. For example, make sure your child will receive assignments while in In-School Suspension (ISS) or during any suspension from school.
• Schedule suspension days or detentions so they do not conflict with tests or other difficult to schedule schoolwork.

• Accept a reduced punishment in exchange for changes in student behavior and agreed upon out-of-classroom work, community service, or other consequence.

• Change class assignments to avoid any personality conflicts with particular students or teachers.

• Return the student to school and to the regular classroom as soon as possible.

• Reverse the discipline.

• Reduce the length or severity of the punishment.

• Request an evaluation for special education services if you feel that the child’s behavior is related to a disability or special need that should be addressed by the school. This request should be in writing.

• Establish or modify an Individualized Education Plan (IEP) if your child is a special education student.

**First Steps to Challenge Proposed School Discipline**

If you disagree with the school’s recommendation that your child be removed from the classroom and sent to ISS, out-of-school suspension, or to an Alternative Education Program (AEP), it is important to be able to clearly state the reasons for your opposition and your desired outcome for your child.

These are some helpful first steps:

• Write down your reasons for challenging the proposed discipline for your child.

• If you feel the proposed disciplinary action is too severe, determine your goal in the situation and a strategy to meet that goal.

• Build a persuasive argument and gather supporting documents before setting up a meeting with school administrators.

• Ask the school or school district for a copy of the process to follow for appealing a disciplinary decision.

After gathering all relevant information and talking to both your child and the school, you may conclude that the disciplinary action taken against your child has been inappropriate or unfair for one or more of the following reasons:

*Your child is innocent.*

This is a difficult argument to win. Students can be wrongly accused, wrongly identified, or their actions misunderstood, but it is difficult to refute a claim by a teacher or administrator without adult witnesses or other evidence supporting your child’s account of what occurred.
Acknowledge that you did not see the misbehavior that occurred at school, but ask lots of questions to help reconstruct the incident and help clarify how your child was involved.

Your child’s behavior did not violate a school rule.

While the student may have done what the school accuses him of, the behavior may not violate any written school rule. Bring it to the school’s attention if the behavioral infraction and prescribed punishment are NOT listed as required in the Student Code of Conduct.

The enforcement of the proposed discipline is illegal.

In some cases, a school may impose a punishment that may not be legally valid and should not be enforced. For instance, your student uses a home computer during non-school hours to state that he strongly dislikes a specific teacher on a social networking website. This information is reported to the school and school officials decide to place your student in long-term suspension. The school may have violated your student's First Amendment rights to free speech.

While a school district may resist addressing the legal validity of its rules in the middle of disciplinary proceedings with your child, continue to raise your concerns during all disciplinary meetings, conferences, and hearings and then follow up and document these concerns in a letter written to the school principal and to the school district. A court can overturn a school disciplinary action that violates the law, or reverse a disciplinary policy that punishes student behavior that is protected by state or federal law.

The punishment does not fit the situation.

At times, a punishment may seem too extreme. Under zero tolerance, the punishment may be removal to an Alternative Education Program, or, in some districts, expulsion.

In Georgia, there are minimum discipline standards. The Georgia Department of Education expects local schools to incorporate progressive discipline into their student learning environments. The Department’s expectation is that the degree of discipline will be in proportion to the severity of the behavior leading to the discipline. The previous disciplinary history of the student and other relevant factors must be taken into account when discipline is administered. Georgia is very clear in its policy that it is preferable to reassign students to alternative education settings than to suspend or expel students from school.¹⁹

Your child was singled out unfairly.

Research has consistently shown that minority students and students who receive special education services are disproportionately referred to in- and out-of-school suspensions, expulsions, and Alternative Education Programs compared to their percentages in overall school populations – giving evidence to possible discrimination in imposing school discipline.²⁰ However, proving discrimination in a specific disciplinary situation can be difficult. With high school graduation rates for Hispanic and African-American students
falling significantly below the state average, parents must ensure that discriminatory practices do not sideline their student onto a disciplinary track that might keep him or her from graduating on time, or even worse, not at all.²¹

If you feel this may be happening in your child’s case, it is important to find out if other children have been disciplined differently for the same behavior, or if some students are punished for this behavior and others are not. It may be helpful to talk to other parents about their experiences, since obtaining other students’ disciplinary records will not be possible due to confidentiality restrictions. If you decide to pursue a course of action based on discrimination, beginning at the school and possibly proceeding to the school district level:

- Use specific facts to back up your concerns; and
- Clearly state what disciplinary actions, if any, you think the school should take.

If you do not feel you can receive a fair hearing at the local level, it is possible to file a complaint at the federal level. The Department of Education’s Office of Civil Rights handles such complaints. (See Chapter 4 of this manual.)

_The school did not follow the child’s Individualized Education Plan (IEP) in managing the student’s behavior._

If your child is in special education, review his or her IEP to determine how the school must address your child’s behavioral and emotional issues. Request an IEP meeting to ask the school district to provide your child with positive behavioral supports and interventions to address your child’s behavior issues. This could include a functional behavioral assessment, a Behavior Intervention Plan, and psychological services such as individual and group counseling. Loss of instruction is never an appropriate disciplinary tool.

If the school decides to take disciplinary action against your child and changes your child’s placement for more than 10 school days, the school district must hold an IEP meeting to conduct a manifestation determination. You can request a manifestation determination before a change of placement occurs. During a manifestation determination, the IEP committee must determine whether your child’s conduct was related to his or her disability or a result of the school district’s failure to implement his IEP, including any positive behavioral supports and interventions that had been approved by your child’s IEP team. If the IEP committee determines that your child’s conduct _was_ related to his or her disability, your child cannot be removed to an Alternative Education Program unless the disciplinary action involved drugs, weapons, or serious bodily injury to another person while at school or during a school function.

If the IEP committee determines that your child’s actions were not related to his or her disability and that the IEP was properly implemented, then the IEP committee may approve your child’s placement in an alternative setting. If this happens, make sure that your child’s educational and emotional needs are being met at the alternative setting in accordance with the IEP and Behavior Intervention Plan. An alternative education placement must ensure that your child continues to make progress towards his IEP goals and receives positive behavioral supports and interventions to address the behavior that led to the disciplinary removal.
There have been procedural errors in the disciplinary process.

In some instances, the school may not have followed the disciplinary procedures contained in its own Student Code of Conduct or in accordance with Georgia law. Examples of procedural problems can include improper student/parent notification and failure to hold a required disciplinary conference or expulsion hearing before imposing discipline. Procedural errors alone, however, are not likely to change the disciplinary action. It is important, however, that any errors are pointed out to school administrators in order for them to be corrected and to ensure your child has a fair hearing.

Corporal punishment

Georgia law allows school officials to administer corporal punishment. Consult the Student Code of Conduct to find out if corporal punishment is allowed in your school district. In districts where paddling of students is permitted, corporal punishment should not be administered to a child whose parents or guardians have provided the school a note from a medical professional on the first day of enrollment stating that corporal punishment will be harmful to the child’s mental and emotional stability. If you do not have a note from a medical professional, then send written requests to your child’s teachers and principal instructing them not to paddle your child under any circumstances.

Parents can take the lead in meeting with the principal and the school board to change school and district-wide policies to prohibit the use of corporal punishment and to make clear to students that violence in any form is not tolerated in their school.

If corporal punishment at school results in an injury to your child, take your child to an emergency room or to a physician, have photographs taken of the injury, and ask the physician to report the injury to their local child protective agency. For more resources on taking action against corporal punishment, see the Center for Effective Discipline’s website: www.stophitting.com/advocacy/. See the Human Rights Watch, American Civil Liberties Union report, A Violent Education: Corporal Punishment of Children in U.S. Public Schools (2008), www.hrw.org.

Source: Alice Farmer, Neier Fellow
ACLU / Human Rights Watch
Chapter 4 – Appealing A School Disciplinary Decision

If you disagree with the school’s decision to discipline your child, you may file an appeal. State law establishes an appeals process in cases where a disciplinary hearing officer, panel, or tribunal imposes long-term suspension or expulsion. The law also allows a school system superintendent to suspend disciplinary action pending the outcome of an appeal to the local board of education. Any decision made by a hearing officer, panel or tribunal must be appealed to the local board of education by filing a written notice of appeal within 20 days of the date the decision was made. Keep in mind the 20 days will INCLUDE holidays and weekends.

Local school boards may issue subpoenas to witnesses such as students or school personnel. Subpoenas are notices that require witnesses to appear at a hearing and provide testimony about what they know about someone’s acts, behavior, or conduct. It is up to the local school board to determine how a subpoena will be issued and served (presented) to a witness. If you intend to bring an attorney with you to an appeal before a local school board, the board may require you to notify it of that fact a specific number of days in advance of the hearing.

An appeal of a local school board decision can be made to the Georgia state board of education, and if its decision is unsatisfactory, to the superior court. Appeals to either the state board of education or to the superior court should be filed within 30 days of a final decision from your local school board or the state board of education. Your request to appeal a local school board decision must be filed with the superintendent of your local school district. The local school superintendent then has 10 days to transmit your request to the state school superintendent.

School boards, both local and state, are required to provide you notice as to the date, time, and location of your appeal proceeding. When hearing appeals, the local school board and the state board of education will not consider any new information. The boards will only consider information that was put on the official record during your first local disciplinary hearing. If you would like to present oral argument during an
appeal to the state board of education, you must notify the state of that fact within 10 days of the date the state board of education places your appeal date on its calendar. Therefore, it is very important that you and your attorney or advocate pay close attention to any communications that you receive from the state board of education.28

A quick look at the disciplinary appeals timeline:
1. School principal or designate imposes discipline (You ask for a hearing or a hearing is required by law)
2. Disciplinary Hearing (You have 20 days to appeal the decision)
3. Local School Board (You have 30 days to appeal the decision)
4. State Board of Education (You have 30 days to appeal the decision)
5. Superior Court

Preserve Your Rights to Appeal
In order to preserve your right to file an appeal after a disciplinary hearing, you should be prepared to do the following:

• Present all of your concerns, records and documents even if the hearing officer does not believe it is relevant to the infraction. If the hearing officer will not allow you to submit information, raise your concerns, or question a witness, then during the disciplinary hearing you will need to tell the hearing officer, panel, or tribunal that your due process rights are being denied.

• When the hearing is over, hand a letter to the hearing officer, panel, or tribunal requesting an electronic or written recording of the disciplinary hearing and copies of all documents submitted during the disciplinary hearing.

• You are obligated to meet the 20 day deadline for an appeal to the local school board. Make sure that you understand that 20 days includes all holidays and weekends. If the 20th day falls on a weekend or holiday, it still must be faxed in or submitted prior to or on that date.

For less serious disciplinary actions the appeals procedures may or may not be outlined in the Student Code of Conduct. In some districts you may be able to appeal less serious infractions beyond your principal; in other districts the principal’s decision is final.

If appealing your child’s lengthy removal from school for a serious misbehavior, you should consult an attorney or an advocate who is knowledgeable about school discipline procedures. A list of available resources is provided in the Appendix of this manual. Unless your child receives special education services, there may be little opportunity to obtain free legal representation in a school disciplinary proceeding.
School Grievance Procedure

If you cannot appeal a disciplinary action imposed by the school, you may be able to file a grievance with the school district. The procedures to file a grievance are outlined in each school district’s Student Code of Conduct or can be obtained from your school district’s central office.

Filing a Complaint with the Georgia Department of Education (GDOE)

The GDOE has a complaint procedure for students who receive special education services. The complaint procedure is designed to be an accessible process for the families of such students. If your child has had a history of behavioral problems that you believe could stem from a disability or special need and the local school district has not evaluated your child for special education services, you may file a complaint with the GDOE without having to attempt a resolution at the school or district level. You have one year from the date of the event or decision where you believe your child’s rights may have been violated to file a formal complaint. Visit www.doe.k12.ga.us for more information about filing a special education formal complaint.

Students who are not in need of special education services are expected to follow the traditional channels of appeals through the local board of education, the state board of education, and the Georgia court system.

Filing a Complaint with the Office of Civil Rights (OCR)

If you believe your child has been discriminated against based on race, color, national origin, sex, disability or age, contact the Office of Civil Rights of the U.S. Department of Education. While it is recommended that parents attempt to resolve the situation first at the school level, and then at the district/school board level, it is not necessary to file a complaint at these levels before filing with the OCR. A complaint must be filed within 180 calendar days of the date that the alleged discrimination took place.

More information and the complaint form can be found online at: http://www.ed.gov/about/offices/list/ocr/complaintprocess.html.
Chapter 5 – Alternative Education Programs

Each local school system provides an alternative education program (AEP) for students who are suspended and need to be removed from the regular classroom setting. A school district may provide an in-school suspension (ISS) program, an on- or off-campus program specifically designed for students disciplined for misbehavior, a school-community guidance center, or any other type of alternative educational program that meets state requirements. AEPs must follow Georgia’s Quality Core Curriculum (QCC); must focus on English/language arts, math, science, social studies, and self-discipline; and must award course credit in the same manner as other programs. Additionally, local school systems must provide their AEPs with the same instructional materials, resources, and textbooks as provided to their regular programs.

When the school has reason to believe a student is guilty of serious misconduct as specified by Georgia law, such as a third finding of bullying in one school year, school officials may be required to place a student in an AEP. The Student Code of Conduct may list all mandatory offenses, as well as less serious offenses, that can result in a school district-specific discretionary referral to an AEP. Principals also have the discretion to assign students to an AEP when the student’s teacher or a school administrator views the misconduct as serious or continuously disruptive and has filed paperwork to that effect. If the principal has recommended a long-term suspension that will exceed 10 days, the student has a right to a disciplinary hearing before a hearing officer, tribunal, or panel.

Frequently Asked Questions

Are elementary, middle and high school students placed into alternative education programs (AEPs) based on disciplinary infractions?

Local school systems must provide AEPs that serve students in grades 6-12. Local school systems may provide AEPs for students in grades K-5, but students in these grades will not be counted for funding purposes.
How will the school notify me if my child is being referred to an AEP as the result of committing a disciplinary infraction?

Principals are required to notify parents or guardians in writing within one day of his or her taking any disciplinary action or referring your student to student support services. If a short-term suspension results in a placement to an AEP then the principal would make that referral. You will want to look at the Student Code of Conduct for any processes the school must follow to provide parental notification for school discipline procedures.

When a disciplinary hearing results in a disciplinary action, the hearing officer will notify you of its decision and whether your student has been assigned to an AEP.

How long may a placement in an AEP last?

Different school districts have different policies so it is important to review the Student Code of Conduct to determine the guidelines that have been established for your school district. A student’s placement in an AEP may be for less than 10 days or it may extend beyond a quarter, a semester, or in excess of a full school year. You will want to refer to the Student Code of Conduct to understand the “exit criteria” for your school district’s AEP.

How do I know how my student is performing in an AEP?

At your child’s orientation to AEP, ask administrators how you can stay regularly updated on your child’s attendance, behavior and academic progress. It may be possible for AEP administrators to send a written log home once a week for you to review, sign and return; or, another form of regular communication can be established that works for both you and AEP administrators. It is important that parents initiate and pursue close communication with AEP officials and that you let your child know that you are staying informed.

Is there any chance to have my child’s assignment to an AEP reviewed?

If your student’s assignment to the AEP is to extend beyond 10 days then your child has the right to a disciplinary hearing. The decision of the hearing officer or tribunal can be appealed to the local board of education within 20 days of the disciplinary hearing decision. You have the right to further appeal to the state board of education and to the superior court. Often, the appeal process may exceed the length of the AEP assignment but you should still proceed because you may be able to have your student’s disciplinary record cleared. The school district superintendent has the authority to suspend the disciplinary action at any time while an appeal is pending.

There may be exit criteria listed in your Student Code of Conduct that allows for a review of the student’s assignment to an AEP, or an early release from the AEP.

Can my child complete his regularly assigned courses at an AEP?

Often the academic offerings within AEPs are not as extensive as what is offered within traditional classroom settings. It is very important that you and AEP personnel work together to make sure your student is receiving the required courses necessary for graduation. If your student has fallen behind on required coursework and is missing credits for graduation, you should contact a school counselor or a “graduation coach” at the AEP or the student’s home school for additional resources. Look to on-line courses, summer school options, and other resources if these are available.
What if my child falls behind academically while attending the AEP?
This can happen - making it critically important that you work with your child's teachers
and counselors to ensure a smooth transition to the regular classroom from the AEP. Even
if your child has made higher grades at the AEP, he may need tutoring and other help to
master material he missed when he returns to his regular campus. Also consult with the
school counselor about having behavioral supports in place for your child.

What happens if my child has behavior problems at an AEP?
When your child is assigned to an AEP, he or she should receive a Student Code of
Conduct outlining the consequences for specific behavior violations for that particular
AEP. Depending on the severity of the misbehavior while assigned to an AEP, the student
may be given more days in the AEP, may be long-term suspended, or may be expelled
from school and unable to attend either traditional school or an AEP. Students in an
AEP can be expelled for the same misbehavior that initially triggered a mandatory or
discretionary expulsion to the AEP.

What if my child was receiving special education services prior to being assigned
to an AEP?
A student who was previously receiving special education services prior to placement in
an AEP must continue to receive those same services while at the AEP unless his or her
Individualized Education Plan (IEP) is amended with the consent of a parent or guardian.
Many AEPs are not equipped to provide special education services. Be sure to ask how the
student’s IEP will be implemented while he or she is in the AEP.

Can I move my child to a different school outside of my district?
If your student enrolls in another local school system before the expiration of his or her current
placement, then the local board of education requiring the initial placement will provide your
students’ records to the new school. The new local school system may review the records and may
continue the educational alternative placement or return the student to regular classes without
completing the period of the placement, unless required to by federal or state law.

Are there standards for Georgia AEPs?
Yes, there are minimal standards that have been identified by the Georgia Department of
Education. AEPs must:

• Separate disruptive students from non-disruptive students who are assigned to alternative
  education;

• Provide for students’ educational and behavioral needs;

• Include the objectives of the Quality Core Curriculum (QCC);

• Provide instruction that will enable students to return to a general or career program as quickly
  as possible;

• Focus on English, language arts, math, science, social studies and self-discipline;
• Provide supervision and counseling to help students to make academic progress toward grade level while attending such a program; and

• Ensure that course credit shall be earned in the same manner as other educational programs.37

Are AEPs subject to the same monitoring, reporting, and safety guidelines as required under No Child Left Behind (NCLB)?

All students are required to take state-mandated tests as required by the Georgia Department of Education and the federal No Child Left Behind Act of 2001.38 Traditionally, reports from alternative schools rarely provide a meaningful assessment of the overall academic performance of students within AEPs for several reasons. Many of the critical aspects of NCLB, including reporting (Georgia Report Card); monitoring (Annual Yearly Progress (AYP) determinations); school consequences (Choice and Supplemental Services); and safety guidelines (Persistently Dangerous Schools) are compromised because of the transitional nature of student enrollment in alternative schools and other AEPs or state rules that may provide exceptions for such programs. You will want to check with your local school district office to find out if its personnel are monitoring AEPs for academic and behavioral performance beyond NCLB requirements.

If you do not feel that the current monitoring of AEPs for long-term suspended or expelled students is adequate, you have several options. You will want to speak with like-minded parents and then meet with the AEP’s local school council or advisory board, the district’s AEP director, or the local board of education to discuss what improvements can be made.

School Councils and Advisory Boards

In Georgia, local school boards must ensure that all schools and AEPs that they govern have a school council or comparable advisory board. Parents, teachers, and business members are elected to serve on the school council with the principal of the school. The role of a school council is to serve as an advisory body and provide recommendations and strategies to the school principal or the local school board on any number of relevant matters.39 School councils can make recommendations on many issues, including the following:

(1) School board policies;

(2) School improvement plans;

(3) Curriculum and assessments;

(4) Report cards issued or audits of the school conducted by the Office of Student Achievement;

(5) Development of a school profile which shall contain data as identified by the council to describe the academic performance, academic progress, services, awards, interventions, environment, and other such data as the council deems appropriate;

(6) School budget priorities, including school capital improvement plans;

(7) School-community communication strategies;

(8) Methods of involving parents and the community;
(9) Extracurricular activities in the school;

(10) School-based and community services;

(11) Community use of school facilities;

(12) Student discipline and attendance

(13) Reports from the school principal regarding progress toward the school’s student achievement goals, including progress within specific grade levels and subject areas and by school personnel; and

(14) The method and specifications for the delivery of early intervention services or other appropriate services for underachieving students.40

What if...

Your child got into trouble for fighting at school. You believed she acted in self-defense, but the school did not. The school decided to recommend that your student be given long-term suspension. This required your child to have a disciplinary hearing. School officials elected not to meet with you in advance of the disciplinary hearing. You were properly notified of the location, time, and matters surrounding the disciplinary hearing. You presented multiple witnesses who saw the fight and supported your daughter’s statement. You provided information to the hearing officer that was factual and supported your daughter’s claim that she acted in self-defense. This information was put on the electronic record during the hearing. The hearing officer, tribunal, or panel concluded that your daughter was in violation of the Student Code of Conduct and she was expelled for a semester and a half. The school will be sending your child to an AEP. What should you do?

• Appeal the disciplinary decision if you and your child want go through this process; however, your child’s referral to the AEP will still move forward even if you decide to appeal. In many cases, the appeal process does not work quickly enough to make a meaningful difference in the disciplinary consequence, but could clear your child’s disciplinary record, which might be important if your child ever gets into trouble again.

• Make sure you meet with the principal and the teachers at the AEP. Many AEPs have an orientation process for parents, or require parents to meet with them when the student is referred. This is an important opportunity for you to find out what is expected of your child at the AEP.

• Make sure that you talk with the teachers at your child’s regular school about any work that cannot be done while she is at the AEP. This is particularly important for electives, or for classes that are not offered at the AEP. If these classes are part of your child’s graduation plan, the regular school may give your child an opportunity to make up any work she misses so that she can get credit for that course.

• Communicate regularly with the teachers and staff at the AEP to make sure your child is on track and will not have to stay any longer than is necessary.
Chapter 6 – Juvenile Complaints and Arrest at School

Georgia schools have experienced a shift in the way discipline is applied. There is a strong public perception that schools have become more violent and that strong discipline is needed. The presence of law enforcement on campus means it is more likely that juvenile complaints relating to student delinquency will be initiated. Furthermore, students may be more susceptible to being taken into custody or arrested at school if they commit a delinquent act or criminal offense. School districts vary as to their policies and procedures for filing juvenile complaints, taking students into custody, or arresting students on school campuses. *Any juvenile complaint or arrest of a student at school should be taken seriously.*

**Juvenile Justice and Georgia Schools**

Campus police officers and school resource officers (SROs) can file juvenile complaints against students accused of committing delinquent acts or certain criminal offenses at school. School police officers and SROs may take students into custody or arrest them, depending upon the age of the student and whether the student has committed a delinquent act or a criminal offense.

Even before a student is taken into custody or arrested, school officials who have a reasonable belief that a student has committed a crime or delinquent act may search the student’s backpack or locker, and may question a student. Student vehicles are also subject to being searched on high school campuses. School officials are given greater leeway to question and search students than exists in typical law enforcement settings. Sometimes schools question students and ask them to sign “confessions.” The law may not require Miranda rights be read to students when they are being questioned by school officials about a criminal offense or delinquent act. However, a student always has the right to due process whenever there is the risk that his or her constitutionally guaranteed rights might be violated. In juvenile court, confessions made out of court can not be used to find a child to be a delinquent (a minor who has committed an act that would be a crime if committed by an adult) unless the confession can be supported by other evidence.
Sometimes a student’s case may be turned over to superior court because of the type of criminal offense that the student is accused of committing or because of the age of the student.\textsuperscript{43} In those instances, a court may allow a voluntary confession to be admitted into evidence during a court hearing, but the student cannot be found guilty solely on the basis of that confession.\textsuperscript{44} It is very important that students ask to speak with a parent and have a parent present if they are questioned about a school offense which may also be considered a delinquent act or criminal offense. It is appropriate for students to tell a school administrator that they will be happy to cooperate, but only with a parent, guardian, or attorney present.

**Juvenile Complaints and Petitions**

An SRO may file a juvenile complaint to the juvenile court for any student believed to have committed a delinquent act or criminal offense and for which the Student Code of Conduct is in effect. This includes delinquent acts and criminal offenses committed at school functions both on and off campus. A juvenile complaint is a written document stating the facts of the offense for which a student is being charged. The SRO will forward a juvenile complaint to a juvenile court intake officer. A juvenile court intake officer will screen the complaint and determine whether a petition should be filed with juvenile court. A petition is a legal document that contains a written statement of facts concerning a student’s case and seeks to bring the student’s case before juvenile court. The parent or guardian is entitled to ask whether a juvenile complaint or a petition has been filed and to receive a copy of these documents. If you find your student in this situation you should immediately consult an attorney. A juvenile complaint can be filed even when the school has initiated separate disciplinary actions for a student’s violation of school rules.

**Arrest at School**

Once a student is formally taken into custody, the officer may transport the student to a juvenile processing office. A juvenile intake officer will determine whether a student should be released, detained, or brought before the court. Law enforcement officials and parents will be included during such intake determinations to the extent possible.\textsuperscript{45} Before a written statement or confession can be taken, Miranda warnings will be read to the student. A juvenile court official must determine that the student has voluntarily waived his or her rights before a statement or confession may be given. If a student is detained rather than released, he or she has the right to have an informal detention hearing no later than 72 hours after being placed in detention.\textsuperscript{46}
Searches at School
Schools have wide discretion to search a student’s locker or backpack if they suspect he or she is in possession of an illegal substance, stolen property, or a weapon; however, the school’s authority to search a student’s physical person is limited.

If your child has been strip-searched at school, contact an attorney to find out whether all standards and procedures governing a body search were followed.

Going to Court
It is important to keep a written record of court dates to resolve a criminal or delinquent charge. Find out who will prosecute your child’s case, what the exact charge(s) against your child will be, the range of potential court-imposed punishment, and how long your child might be removed from the regular classroom. It is important that you and your child be on time and appropriately dressed for court. It is important to maintain a positive attitude and to have all supporting documents with you.

Juvenile Court and Students in Special Education
If the school or school resource officer reports a student to law enforcement or judicial authorities, the school must ensure that the child’s special education and disciplinary records are transmitted to the court for consideration. If the child has a special need, this will enable the judge to take that into consideration. Make sure that you ask whether the court has received your child’s records. If the court has not received the records, request that the school provide the records to the court prior to a hearing.

Court Decisions and Your Compliance
Once the court has reached a decision in your child’s case, it is important to follow through on any court-imposed judgment.

• If a fine is assessed, ask if it is possible to pay it in installments. Make the payments on time.

• If your child is assigned community service hours, make the court aware of any transportation difficulties and family situations that should be taken into account when determining how long your child will have to complete community service.

• Ask about the impact of the arrest or conviction on your child’s legal record. Find out what it takes to have the record expunged, or permanently cleared.

• Keep a record of any court-imposed deadlines for paying fines or completing any other requirements. Be aware that failure to comply with court-imposed deadlines can mean additional penalties.
What if...

Your child has gotten into trouble for fighting at school. In addition to being sent to an AEP, a juvenile complaint was filed with the juvenile court. What should you do?

• Even though this complaint is probably for a low-level misdemeanor offense, you will want to consult with an attorney because a complaint can trigger unanticipated consequences should your child get into trouble with the law again.

• Make sure you attend the court dates set for the hearings.

• If you believe your child acted in self-defense, make sure the prosecutor or judge is aware of these facts. Self-defense is a legal defense, even when a school will not consider it during disciplinary proceedings.

• Make sure your child can comply with court-ordered community service. If your child has a disability or there are family issues that will make completion of community service difficult within a short period of time, make sure the prosecutor and judge are aware of those facts.

• Make sure your child successfully completes anything she is ordered by the court to do; if your child does not complete the community service, both you and your child may be ordered to appear before the court again for a contempt hearing.
Chapter 7 – Expulsion

Earlier chapters in this manual noted that a student may be expelled from school for committing extremely serious disciplinary offenses. Expulsions, unlike long-term suspensions, may extend beyond the semester or quarter in which the student has committed a serious breach of school disciplinary policy. A student may even be permanently expelled from the school district in which he or she is enrolled. Schools and local school systems must follow their formal disciplinary policies and procedures as outlined in the Student Code of Conduct prior to expelling a student from school.

- Students in Georgia must be expelled from school for a year or more for bringing a weapon to school. The local school board has the option of modifying this expulsion requirement.

- If a Georgia student intentionally makes contact with a teacher, school bus driver, or other type of school official and that contact causes physical harm, the student must be expelled from school unless it can determined that the reason for the physical contact was self-defense.

- Students who have been charged with committing a felony, indicted for committing a felony, or convicted of committing a felony or specific type of delinquent act may be expelled from school.

In all of these instances, the student must be given a formal disciplinary hearing. If a disciplinary officer, panel, or tribunal determines that a student should be expelled, the local school board may permit the student to attend an alternative education program (AEP) rather than keep the student from attending school and receiving class credit at all.

Expulsion and Students who Receive Special Education Services

If a student was receiving special education services prior to the disciplinary incident, federal law requires that the school district continue to provide the student appropriate services even if he or she is expelled from school. These services may be provided in an alternative setting that must be determined by the student’s Individualized Education Plan (IEP) team.
What if...

Your child has gotten into trouble for fighting at school. Because the school says there was a weapon involved, the school is taking action to expel your child. What should you do?

• Consult an attorney, if possible. Expulsion is a serious disciplinary consequence. Some lawyers will represent students at school disciplinary hearings where a student faces expulsion.

• Find out when the school intends to hold the disciplinary hearing.

• Make sure you are fully prepared.

• Consult the Student Code of Conduct to determine whether the school has any discretion in determining whether your child should be expelled. Remember, the local school board may have the discretion to send your student to an alternative educational setting.

• Gather any supportive evidence to present at the hearing.

• If the school has some discretion in determining whether or not to expel your child or there is flexibility in the length of the expulsion, you may influence the outcome if you can show that your child is a good student, has never been in trouble before, or deserves another chance before being expelled.

• If your child was also arrested or had a juvenile complaint filed in this same behavior incident, make sure you consult with an attorney prior to the expulsion hearing. You do not want to do anything that could have a negative consequence on the outcome of the pending case in juvenile or superior court.
End Notes


2. IEPs may be called Individualized Education Programs, Individualized Education Plans, or Individual Education Plans by educators who work with students in need of special education services.

3. Ga. Comp. R. & Regs. r. 160-4-8-.15


Ga. Code Ann. § 20-2-731


Ga. Comp. R. & Regs. r. 160-4-8-.15


Ga. Comp. R. & Regs. r. 160-4-7-.12.


Ga. Comp. R. & Regs. r. 160-4-8-.12.

Ga. Code Ann. § 20-2-751.4


Ga. Comp. R. & Regs. r. 160-4-8-.15.

34 C.F.R. § 300.530(d).

Ga. Comp. R. & Regs. r. 160-4-8-.12.

Ga. Comp. R. & Regs. r. 160-4-8-.12.


Ga. Code Ann. § 15-11-560 [Juvenile courts may have concurrent jurisdiction with superior courts when a child commits certain delinquent acts that would be considered a criminal act if tried in superior court and the child could face certain types of penalties, including life in prison. In addition, if a child between the ages of 13 and 17 commits murder, voluntary manslaughter, arson, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery with a firearm, the child's case must be turned over to superior court.]


34 C.F.R. § 300.535(b)


34 C.F.R. §§ 300.101(a), 300.530(d).
School Discipline: Parent/Guardian Bill of Rights

When navigating the school disciplinary process, a parent or guardian has a right to:

- Visit a child’s school and classrooms, attend school activities, and/or observe class in accordance with district guidelines.

- Have access to a school principal or designated administrator who has the authority to remove your child from class or reassign your child to another classroom.

- Advocate for your child and be shown respect by all district employees.

- Request a conference with a school principal or designated administrator to discuss proposed disciplinary actions and possible alternatives.

- Request an interpreter at parent conferences, school meetings, and other activities if you do not speak or understand English or need cued speech or sign language.

- Have access to all written school records regarding your child, including disciplinary records, counseling records, attendance records, teacher and counselor evaluations, and reports of behavioral patterns.

- Receive the Student Code of Conduct or obtain a copy upon request.

- Receive information on special education services for students with learning difficulties.

- Request and receive an evaluation of your child if you suspect he or she may need special education services.

- Report possible discrimination, harassment or bullying involving your child to the school and school district through a grievance procedure adopted by the local school board.

- Receive timely notice from the school and an invitation to attend all conferences or hearings related to the discipline of your child by the school.

- Appeal disciplinary actions such as expulsion, suspensions or assignment to a Disciplinary Alternative Education Program (AEP).

- Participate and provide input in the development of the school district’s disciplinary policies and procedures.

When My Child is Disciplined at School: A Parent Checklist

1. Gather all relevant information and notes from conversations with your child, witnesses, teachers, and counselors. Ask for all incident reports or other documents related to the incident and the student’s behavior.

2. Consult the Student Code of Conduct to learn what consequences (including removal from school) your child could face for violating the school's rules for student behavior.

3. Find out if self-defense, intent, and disciplinary history must be considered when your school decides whether to discipline a student.

4. Check the Student Code of Conduct for any mention of the school’s taking a “zero tolerance” approach to applying discipline to some or all offenses.

5. If your child receives special education services, obtain a copy of his or her Individualized Education Plan (IEP) to see if it adequately addresses your child's learning and behavioral needs. Determine if failure to follow the IEP is contributing to your child's behavior problems. You may request that your IEP committee meet to discuss the development of a behavior intervention plan (BIP) for your child.

6. Meet with an administrator or teacher involved to discuss the disciplinary situation.

7. Remain calm and diplomatic.

8. Be present and on time for any school conference and for any scheduled disciplinary hearing. Remember to always take notes.

9. If you are not satisfied with the disciplinary action taken against your child, consult the Student Code of Conduct for appeal procedures.

10. If your school's resource officer files a juvenile complaint against your child or your student is taken into custody or arrested at school and must go to court, be present and on time for any court appearance. Make the court aware of any circumstances that would affect the assigned timetable for paying a fine or your child's completing community service.

11. Consult the resources section in the Appendix of this guide if you need to contact a legal aid center or need additional help.
Glossary

**Adjudication** – This is the act of hearing evidence and declaring or pronouncing a judgment or verdict in a court proceeding or administrative hearing.

**Alternative Education Program (AEP)** – An AEP serves students removed from their regular classroom for serious misconduct and chronic disruptive behavior. An AEP may be located on a separate campus but, if housed in the home school, students assigned to an AEP must be kept separate from the rest of the student body. A student must be given a disciplinary hearing when a student is assigned to attend an AEP for more than 10 days.

**Behavior Intervention Plan (BIP)** – Under the federal Individuals with Disabilities Education Act (IDEA), special education students experiencing behavioral problems may undergo a functional behavioral assessment and the findings are then translated into a concrete plan of action for managing the behavior of a student with disabilities. The Behavior Intervention Plan may specify ways to change the environment to prevent misbehavior, reinforce good behavior, and provide supports so that the student will not be driven to act out due to frustration or fatigue.

**Delinquent Act** – an act that is designated a crime as defined by the laws of a local municipality, a state government, or the federal government. Minors are deemed delinquent when they commit an offense that would be a crime if committed by an adult.

**Disciplinary Hearing** – A formal disciplinary hearing must be held when the school administration has requested that a student be suspended for more than ten days (long-term suspension) or expelled (removal from school beyond the current semester or quarter). The following procedures govern disciplinary hearings: (1) NOTICE SERVED PERSONALLY OR BY MAIL. The notice must include a statement of the time, place, and nature of the hearing; a short and plain statement of the matters asserted; and a statement as to the right of all parties to present evidence and to be represented by legal counsel; (2) TIMELY HEARING. The hearing is to be held no later than ten school days after the beginning of the suspension, unless a parent or guardian and the school system agree to an extension; (3) RIGHT TO PRESENT EVIDENCE. Families have the right to present and respond to evidence and cross-examine witnesses on all issues. (4) A RECORD OF THE HEARING. A verbatim electronic or written record (transcript) of the hearing shall be made and shall be available to all parties. (5) A TIMELY DECISION. The decision will be given to all parties in writing no later than ten days after the conclusion of the hearing.

**Discretionary Disciplinary Referral** – Schools in Georgia have the discretion to remove a student to an Alternative Education Program (AEP) for behaviors violating a school district’s Student Code of Conduct. The behaviors triggering discretionary AEP referrals can vary from district to district and include nonviolent offenses.
**Due Process** – A student has a right to be informed of his or her alleged misbehavior and to respond to the accusations. For expulsions and suspensions that are more than ten days, a student has the right to receive a formal disciplinary hearing.

**Individuals with Disabilities Education Act (IDEA)** – A federal law that ensures services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, and youth with disabilities. IDEA delineates the school discipline procedures for special education students that must be followed under federal law.

**Individualized Education Program or Individual(ized) Education Plan (IEP)** – This written document, created by the school’s special education team, outlines how to meet the educational needs of an individual student who qualifies for special education services. It can be modified to include a Behavior Intervention Plan.

**Individual(ized) Education Plan (IEP) Committee** – Under federal law, an IEP committee must conduct a manifestation determination review when the proposed disciplining of a student with a disability would require changing the student’s school placement. An IEP committee must include: 1) the child whenever appropriate; 2) the child’s parent(s) or guardian; 3) at least one regular education teacher who has the child in class; 4) at least one special education teacher or service provider; 5) an administrator who is familiar with providing instruction to students with disabilities and who is knowledgeable about the general education curriculum and resources available in the school district; 6) an individual who can interpret the implications of evaluation information; and 7) other individuals invited at the discretion of the parents or the school district. Whenever possible the regular education and special education teachers participating in the IEP should be responsible for implementing parts of the student’s IEP.

**In-School Suspension (ISS)** – This disciplinary consequence is given for infractions of the Student Code of Conduct, classroom rules, or campus rules. Teachers or administrators may assign a student one or more days of in-school suspension, where students are supposed to finish assignments given to them by their regular teachers. In-school suspension is recognized by Georgia law at OCGA § 20-2-740. Georgia Department of Education rules at § 160-4-8-.12 require that personnel who oversee in-school suspension should allow students to continue progress on regular classroom assignments. It is critical that parents make sure their children receive their assignments while in ISS and do not fall behind on their work.

**Intent** – In a school disciplinary situation, this refers to a child’s reasons or motivation for violating the Student Code of Conduct. Look to your Student Code of Conduct to determine whether your district considers intent in disciplinary decisions. Local school systems are required to consider intent in instances of bullying and where physical violence is used against a school official.

**Mandatory Disciplinary Referral** – A mandatory disciplinary referral is given to a student for behavior that violates Georgia Department of Education regulations and requires his or her removal to an alternative education program. Disciplinary violations that require mandatory referral is the same for all Georgia school districts.
Manifestation Determination Review – This review is required before students who qualify for special education services can be expelled or suspended, or subjected to another significant change in placement. The Individualized Education Plan (IEP) Committee must conduct a “manifestation determination” to decide whether the student’s misconduct was related to a disabling condition. The current standard is that the misbehavior must have been “caused by” or had a “direct and substantial relationship” to the child’s disability, or was the “direct result” of a school district’s failure to implement the IEP. Manifestation determinations are not required for student removals of less than 10 consecutive school days.

Out-of-School Suspension (OSS) – The principal or other appropriate administrator may suspend a student if the student violates the Student Code of Conduct by engaging in any prohibited conduct. The student is not allowed to return to the classroom or to attend an Alternative Education Program when he or she is out-of-school suspended. Suspensions of more than 10 days will require a disciplinary hearing. Both the length of the suspension and restrictions on participation in school-sponsored or school-related extracurricular activities during the suspension are left to the discretion of the administrator. State law does not impose a limit on the number of times a student can be suspended during a semester or school year; however, certain restrictions apply if a child receives special education services.

Placement Review Committee – A three-member committee at each school must determine the placement of a student in those rare instances when a teacher refuses a student’s return to his or her classroom. The committee is composed of two teachers, one alternate teacher, and one professional staff member. The teacher refusing to readmit a student to his or her classroom cannot serve on the committee.

Student Code of Conduct – This Code includes standards for student conduct established by a school district’s board of education, with the advice of a district-level committee. Georgia law requires the code of conduct to be available at every school and classroom. School districts are authorized to solicit or require confirmation of receipt from students and their parents or guardians.

Zero Tolerance – Discipline policies that require the immediate action of school officials, including the removal of students, without regard to the specific circumstances of the school misconduct or offense at issue.
Special Education Services

Children who receive special education services have protections under federal law that establish how disciplinary situations must be handled. Even if your child does not receive special education services, but you feel that she/he should be evaluated, this section will give you insight on how to approach disciplinary issues.

If you suspect that your child has disabilities but your child has not been evaluated for special education services:

Request an evaluation for special education services in writing. Although the primary reason for your child receiving special education services would be to allow him to receive the services and planning he needs to progress academically, special education status also may create some protections for your child regarding discipline for any problem behaviors related to his disability.

If your child receives Section 504 services and engages in problem behavior:

Section 504 services are guaranteed by the Office for Civil Rights. Children receiving 504 accommodations to meet educational needs do not receive the extensive services that are part of special education. Also, Section 504 status does not offer legal protection for your child against disciplinary consequences outlined in the school district’s Student Code of Conduct.

If your child receives special education services and engages in problem behavior:

Make sure that your child has a Behavior Intervention Plan that states how specific problem behaviors will be addressed. The Behavior Intervention Plan should be based on a recent Functional Behavior Assessment and can be adopted and updated by working through the Individual Education Plan (IEP) committee. Sometimes it takes time and experimentation for the adults in your child’s life to know best how to prevent and redirect problem behavior. If you disagree with the Functional Behavior Assessment performed by the district or with the Behavior Intervention Plan designed by the IEP committee, contact an organization that specializes in this area of the law for advice on advocating for your child. The Behavior Intervention Plan serves as a modification of the school’s Student Code of Conduct as it applies to your child.

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1 Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of or be subjected to discrimination under” any program receiving federal financial assistance, which includes public schools.
For More Information:

These websites might provide valuable information for you and your child if he or she uses or needs special education services or has been accused of violating the Student Code of Conduct.

**Corporal Punishment**
- www.stophitting.org (Center for Effective Discipline)
- www.pta.org/1921.htm (National PTA)

**Disciplinary Alternative Education**
- www.dignityinschools.org

**Georgia Department of Education**
- www.doc.k12.ga.us
  (Georgia Department of Education website)
  (Georgia Department of Education discipline cases/State Board Decisions)

**Parental Involvement**
- www.georgiapta.org (Georgia Parent and Teacher Association)
- georgiapirc.net (Parental Involvement and Resource Center)

**Special Education**
- www.wrightslaw.com (Special Education Law and Advocacy)
- www.pbis.org (Positive Behavioral Interventions and Supports)
Sample Letter to Appeal a Long-Term Suspension or Expulsion

[DATE]
Re: [STUDENT’S NAME]
[STUDENT’S DATE OF BIRTH]
[STUDENT ID # IF AVAILABLE]

Name
Address

Dear Superintendent,

This letter is to formally appeal the expulsion [long-term suspension] of [STUDENT’S NAME], a [CHILD’S GRADE LEVEL] student at [STUDENT’S SCHOOL]. [STUDENT’S NAME] was expelled [long-term suspended] on [DATE] by [ADMINISTRATOR], of the [NAME] School District. I do not believe that [STUDENT’S NAME] should have been expelled [long-term suspended]. Therefore, I will submit a detailed written argument to the entire school board. I will not accept a review by a designee from the school system. I hereby request that the school board set a time to review the findings of [STUDENT’S NAME]’s disciplinary hearing. I am also requesting that you stay [STUDENT’S NAME]’s expulsion [long-term suspension] pending the outcome of this appeal.

As [STUDENT’S NAME] has been out of school for [PERIOD OF TIME], I respectfully ask that this matter be handled as quickly as possible. Unfortunately, I will not be available on [DAY(S)] at [TIME] due to prior obligations, so I would appreciate your scheduling a hearing when I may be present to address the Board.

If you have any questions, please contact me at (___) - ___ - ____. 

Sincerely,

[PARENT OR GUARDIAN’S NAME]]
Parent/Guardian of [STUDENT’S NAME]

[STUDENT’S NAME]
Student
Central High School

CC:

Superintendent, School District
Each Member of the School Board
State Superintendent, Georgia Department of Education
Resources for Parents and Students*

American Civil Liberties Union (ACLU) of Georgia
1900 The Exchange
Suite 425
Atlanta, GA 30339
Phone: (770) 303-9966
Fax: (770) 303-0051
www.info@acluga.org

Atlanta Legal Aid Society
151 Spring Street NW
Atlanta, GA 30303
Phone: (404) 524-5811
www.atlantalegalaid.org

Atlanta Volunteer Lawyers Foundation
Suite 1750 North Tower
235 Peachtree Street, NE
Atlanta, GA 30303
Phone: (404) 521-0790
www.avlf.org

Georgia Advocacy Office
150 E. Ponce de Leon Avenue, Suite 430
Decatur, GA 30030
Phone: (404) 885-1234
Fax: (404) 378-0031
www.thegao.org

Georgia Legal Services
104 Marietta Street, Suite 250
Atlanta, GA 30303
Phone: (404) 206-5175
http://glsp.org

NAACP (National Association for the Advancement of Colored People)
Georgia State Conference Office
970 Martin Luther King, Jr. Drive SW, Suite 306
Atlanta, Georgia 30314
Phone: (404) 577-8977
Fax: (404) 577-4593
www.ganaacp.org

Parent to Parent of Georgia
3805 Presidential Parkway, Suite 207
Atlanta, GA 30340
Phone: (770) 451-5484
Fax: (770) 458-4091
www.parenttoparentofga.org

*Note: These organizations have not endorsed the contents of this manual.
This guide can be accessed online at www.GaAppleseed.org/publications.