Know Your Rights!
School Discipline

These materials are also available in Spanish, if you are interested in receiving the Spanish materials, please contact the Illinois Safe Schools Alliance. Translation was provided by the ¡Comunicaté! Translation & Interpretation Collective.

¡Comunicaté! Translation & Interpretation Collective

We are a collective who seeks to bridge accessibility between Spanish and English, in spoken and written form, in order to promote and enable community members to be their full selves in spaces where language would otherwise be a barrier. Our professional expertise are reflective of our lived experiences as bilingual, immigrant, queer, and/or femmes of color. Our aim is grow alongside our community and ultimately create a more language inclusive world.

DISCLAIMER:

THIS BOOKLET IS FOR INFORMATIONAL PURPOSES ONLY AND NOT FOR THE PURPOSE OF PROVIDING LEGAL ADVICE.

<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABOUT THE KNOW YOUR RIGHTS PROJECT .......... 4</td>
</tr>
<tr>
<td>GOALS FOR THIS PROJECT ................................. 5</td>
</tr>
<tr>
<td>DISCRIMINATORY DISCIPLINE .............................. 5</td>
</tr>
<tr>
<td>PRACTICES AND BULLYING .................................. 6</td>
</tr>
<tr>
<td>504 PLANS &amp; IEPs ........................................ 14</td>
</tr>
<tr>
<td>PROCESSES AROUND DISCIPLINE ......................... 22</td>
</tr>
<tr>
<td>NOTES ...................................................... 43</td>
</tr>
</tbody>
</table>
ABOUT THE KNOW YOUR RIGHTS PROJECT

The mission of the Illinois Safe Schools Alliance (the Alliance) is to promote safety, support and healthy development for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth, in Illinois schools and communities, through advocacy, education, youth organizing and research.

This booklet was created by members of the Alliance Youth Committee. The Chicago Lawyers’ Committee for Civil Rights (the Lawyers’ Committee) and Stand Up For Each Other Chicago (SUFEO) were consulted when developing our Know Your Rights comic materials, whose contents informed this booklet.

The Education Equity Project of the Chicago Lawyers’ Committee for Civil Rights protects and promotes access to education by addressing barriers that unfairly impact historically marginalized communities. They work to disrupt the school-to-prison pipeline and address educational disparities by: 1) representing students and families in discipline and discrimination cases, and 2) working with community partners to achieve systemic reform.

SUFEO is an initiative led by law students at Loyola University Chicago School of Law to address school suspensions of pre-K through high school students in the Chicago area. The goal of the organization is to reduce the use of out-of-school suspensions and keep young people in school and on track to graduate. “SUFEO members inform parents and students of their rights and coach parents on how to communicate with administrators effectively. Through SUFEO, law students also advocate for students in the suspension appeal and school reintegration processes.

GOALS FOR THIS PROJECT

The goal of the Illinois Safe Schools Alliance is to support young people’s success in their school environments by providing essential information about their rights, and the responsibility their schools have to honor and accept them. When students know their rights, they are more likely to get the support they need to address the root causes of the problems at hand and demand remedies that allow them to thrive in their academic setting. When doing so, they develop key leadership and advocacy skills. Our goal is to meet the needs of youth and respond to requests for more legal resources, opportunities for peer-to-peer mentoring, legal and medical rights awareness, and support around discriminatory discipline practices in school.

WHY THIS PROJECT?

As a youth-advocacy organization, we see grossly disproportionate access to education depending on race, economic resources, family support and geographic location. Lack of access to safe and supportive education can impact achievement later in life & limit opportunity for mobility, employment, and health. At the Illinois Safe Schools Alliance, we believe that all students, not just LGBTQ students, flourish in environments where diversity is valued.

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WHEN WE SAY DISCRIMINATORY DISCIPLINE PRACTICES, WE MEAN:

BEING UNFAIRLY DISCIPLINED BY SCHOOL STAFF BECAUSE YOU ARE LGBTQ+ OR BECAUSE SOMEONE THINKS YOU ARE LGBTQ+

This can be either:

Being disciplined for things no one else gets disciplined for OR Being disciplined more than other students for the same things

It’s important to remember that students will be treated differently based on their history at school, or disabilities they may have. The key is being disciplined more than another student who is in the exact same position as you and the only thing that is different is your identity. As you can guess, proving that this is happening to you is pretty hard to do.

BEING UNFAIRLY DISCIPLINED FOR EXPRESSING YOUR IDENTITY WHEN THERE IS NOT A SOUND EDUCATIONAL OR SAFETY REASON FOR THE PUNISHMENT

Ex: A school should not punish someone for wearing makeup because they are a cis-male, trans-male, or perceived as masculine. However, they might be able to discipline someone for applying makeup in class, as it would interfere with them learning in class.
WHAT SORT OF ACTIONS CAN BE TAKEN WHEN BEING DISCRIMINATED AGAINST BY PEERS/TEACHERS/STAFF OR WHEN BEING BULLIED BY PEERS?

PEERS

The State of Illinois considers any of these things to be bullying:

- Threats
- Sexual violence
- Intimidation
- Retaliation for asserting or alleging an act of bullying
- Stalking
- Sexual Harassment
- Harassment
- Public Humiliation
- Physical violence
- Theft

And really anything that makes you feel scared, or keeps you from focusing and participating in school activities.

If a student is doing any of the above to you, your school must address it if you report it to them.

By law, all public district and charter schools have to have an anti-bullying policy. You can ask for a copy of it at any time. It can be a good idea to do this in a letter or email to your school, and to save a copy of either.

If you’re being bullied, you can write a complaint to your school, and you should have the option to do it anonymously. Again, ask for the school’s complaint procedure in a letter or email to the school.

Source: example of Illinois Association of School Boards model policy
Source: CPS policy

Please keep in mind that behavior only qualifies as bullying under Illinois law if it is “severe or pervasive” to the point that it creates an intimidating, threatening, or abusive educational environment. In some cases, just one instance of bullying would not be considered “severe or pervasive.” That doesn’t mean you can’t report, but it may mean that your school won’t respond to it with as many resources as other complaints.

If you are being bullied, you might also find it helpful to keep a log of incidents where you were bullied.

This can include:

- A log of dates that incidents took place on.
- The name of any individuals involved required to listen to you, but you, your parents, your friends, and your community can try to pressure the school into doing something
- What they said or did
- The harm this caused you
- A log of dates when you reported it to the school
- How the school responded to each incident

TEACHERS/STAFF

If a school employee (this can include security guards, bus drivers, coaches, anyone who works for your school district) is disciplining you unfairly for something, you can report them.

Please keep in mind that writing a letter does not start a legal or formal process, but you, your parents, your friends, and your community can try to pressure the school into doing something.

Source: example of Illinois Association of School Boards model policy
Source: CPS policy
WHEN WRITING YOUR LETTER, YOU CAN INCLUDE THIS INFORMATION:

**The name of the person you are complaining about.**

**The dates and times they discriminated against you** (or the other student(s))

**Any people who saw what was going on.**

**What happened, with as much detail as possible.**

**How this made you feel.**

**Any problems this is causing you**
- If you can’t focus in class
- If other students have started picking on you

What you want to happen now that you’ve written a complaint (please keep in mind, the school does not legally have to do any of these things, but you can ask for them):
- “I want this person to apologize to me”
- “I want this person to get training on LGBTQ+ issues and identities”
- “I want all detentions and suspensions this person gave me taken off my record”
- “I don’t want this person to interact with me anymore”
- “I want this teacher suspended”

IF YOU ARE BEING DISCIPLINED MORE HARSHLY BECAUSE OF YOUR GENDER AND/OR SEXUALITY

If you attend an ‘all-boys’ or ‘all-girls’ school but the school is disciplining you based on gender expression or identity:

**You can file a complaint no matter what school you attend**

- Write your complaints the same way described on page 9.
- Even if you write a complaint, this doesn’t mean that the school is legally required to listen to you, but you, your parents, your friends, and your community can try to pressure the school into doing something.
- The school is also not legally required to tell you how they punished the person you complained against. This could violate that person’s privacy rights.
  - If you want more information about what they are doing to keep you safe, you should focus on what the school is doing to fix the situation and keep it from happening again.
- If you want support with this, please reach out to the Alliance

**All public district and charter schools are required** to have a bullying policy that protects LGBTQ+ students. You can ask for a copy of the policy through a letter or email and read it to find out the complaint process for your school.

All public schools and public charter schools

have certain rules they have to follow. Additionally, if a school is getting federal funding, there are certain federal laws they still have to follow.

• If you don’t know if your school receives federal or state funding, please reach out to the Alliance and we will help you figure it out.

• If they receive federal funding, you can file a complaint to the Department of Education’s Office of Civil Rights. You can reach them at (312) 730-1560 or OCR.Chicago@ed.gov.

This is the office for the entire state of Illinois

The OCR can decide not to investigate your complaint.

• If your school gets federal funding, it’s also possible to file a lawsuit under Title IX of the Education Amendments Act of 1972.

• Sadly, neither of these are quick processes. If you are interested in filing a complaint or lawsuit, please contact Lambda Legal or the ACLU of Illinois. Lambda Legal has a help desk you can call at 312-663-4413. The ACLU of Illinois can be reached at 312-201-9740 or by filling out an online intake form at Request for Legal Assistance Form.

What are my rights in a private school?
I know they are restricted but what laws can I use to my advantage?

→ You can write a letter reporting discrimination no matter what school you go to

Write your letters the same way described above

Even if you write a letter, this doesn’t mean that the school is legally required to listen to you, but you, your parents, your friends, and your community can try to pressure the school into doing something

If you want support with this, please reach out to the Alliance
If you have a disability, think you might have a disability, or your parent/guardian thinks you might have a disability, you can request an evaluation from your school district to see if you are eligible for special education services.

You have the right to a free formal evaluation from your school once your parent requests it and the school determines that it is warranted.

The district should evaluate whether or not you have a disability and need assistance in school.

WHAT’S A 504? WHAT’S AN IEP? HOW DO I GET ONE?

504 plans and IEPs are special education plans that many students are eligible for if they meet the criteria.

If you have a disability, think you might have a disability, or your parent/guardian thinks you might have a disability, you can request an evaluation from your school district to see if you are eligible for special education services.

• Your parent can request an evaluation at any time.

If someone else requests it

(a teacher, agency, or mental health professional), your parent decides whether or not the evaluation takes places.

You have the right
to a free formal evaluation from your school once your parent requests it and the school determines that it is warranted.

The district should evaluate whether or not you have a disability and need assistance in school.
If the district decides that you qualify...

for special education services, they must write an Individualized Education Program (IEP) for you.

AN IEP:

- Sets learning and behavioral goals specifically for you.
- Lists and describes services the district will provide you.

It must include...

- Where you're at now, academically and socially, and what you might need help with.
- What you need to learn over the next year.
- Steps to get towards your year-end goals, and how to make sure you get there.
- Progress reports every quarter.
- Special Ed services you will receive, when they'll begin, how often they'll happen, and how long they'll go on for.
- Other services you'll receive.
- Where you'll receive these services. A lot of students receive services in their regular classrooms, and other students are put in classrooms with other students with special learning needs.

IEPs are only available to people with specific disabilities who need specialized instruction in school because of a disability. So, if you don't qualify for an IEP and would like accommodations for a disability, you might qualify for a 504 plan.

continues on page 19
A 504 plan isn’t as well structured as an IEP...
but it is similar

- You or the school still have to request an evaluation for a 504 plan, and your parent decides whether or not the evaluation takes place
- If the school decides you qualify for a 504 plan, they put together a 504 team to write a plan.

This committee could include teachers, nurses, principals, parents, and you

- A 504 plan is a less formal document than an IEP. The school needs to describe how it will support you in school so that a disability will not limit your ability to receive an education or participate in school activities, this description may include:
  - Specific accommodations, supports or services
  - Names of who will provide each service
  - Name of the person responsible for ensuring the plan is implemented
  - BUT there’s no annual plan with goals and steps to get there

HOW ARE THEY SUPPOSED TO WORK?

IEPs and 504 plans should be reviewed annually.

There should be one person in charge of making sure you are getting all the services you need.
Your parent can request an IEP meeting at any time during the academic year

- Write a letter or email asking for this
- Your parent can request a re-evaluation for your IEP every year if you think it would be helpful
- Whether or not you request it, a new evaluation will take place at least every three years, unless your parent and school agree that it’s not needed

Students must be invited to IEP meetings after the age of 14 ½, which involves a transition in the students’ learning.

After turning 18, the rights and responsibilities of IEP resources are given to the student, and parents will be notified of this change a year before the student turns 18. The school must also give the student a Declaration of Rights about their rights in the IEP system (see ISBE form 34-57k located at https://www.isbe.net/Documents/nc_deleg_34-57k.pdf).

Source: https://www.isbe.net/documents/ch6-iep.pdf

**DO STUDENTS HAVE THE RIGHT TO MAKE TEACHERS ENFORCE IT?**

**YES!**

There is one person who is responsible for making sure your plan is being implemented correctly.

If they are not doing their job, have your parent write and email them a complaint about what is going on and what needs to be fixed.

If they are not responding, start writing letters or emails to the Principal. It can help you later if you keep a record of all communication relating to your IEP.

If the Principal does not respond, you can call Equip for Equality’s Special Education Clinic Helpline at 1-866-KIDS-046

continues on page 27
DEFINITIONS:

**Detention:**
This varies school to school and is different from an in-school suspension. If you want to know if your detention is on your school record, you should request a copy of your record in a letter or email.

**Suspension:**
Out-of-school suspensions are more serious punishments that should only be used for safety purposes or to prevent disruptions to the school environment.

- Shorter out-of-school suspensions (3 days or less) can be used only if the student’s presence threatens school safety or is interfering with others’ learning. This is done on a case-by-case basis.

- Longer out-of-school suspensions can only be used if all available and appropriate disciplinary options have been exhausted and the student poses a threat to the school or would substantially interfere with school operations. The school will determine when this standard has been met.

**Expulsion:**
Expulsions are more serious punishments that should only be used for safety purposes or to prevent serious disruptions to the school environment.

- Expulsions can only be used if all available and appropriate disciplinary options have been exhausted and the student poses a threat to the school or would substantially interfere with school operations. The school will determine when this standard has been met.

CAN YOU APPEAL A DETENTION? SUSPENSION? EXPULSION?

DETENTION

You may want to appeal a detention because
a successful appeal would mean that the detention would not be on your record, would not be held against you in the future.

If you want to appeal a detention,
you can ask for an informal meeting with your principal or dean.

This is done at the...
school level, and the process can be very different from school to school and throughout grade levels. You should always ask for a copy of your record to see what has or hasn’t changed.

There are a lot of ways of proving ...
you shouldn’t have served a detention.

• You can try proving that the school punished the wrong person
  An example could be that the school says you cut class, when your teacher and all your peers say that you were in the class the school says you missed.

• You can also try proving that the school gave you the detention unfairly
  They never actually performed an investigation and it is clear that they got the facts wrong. They do not have a misconduct report on file.

SUSPENSION

You can appeal a suspension, but...
it may be after you’ve served it. Consult your school or district’s code of conduct and the misconduct report for your suspension to understand the appeals process. Be careful - there may be a short timeline for appeals!

You may want to appeal a suspension because...
a successful appeal would mean that the suspension would not be on your record, would not be held against you in the future, and you would not need to report it to colleges.

This is done at the school district or network level, and ...
the process can be very different from school to school and throughout grade levels. You should always ask for a copy of your record to see what has or hasn’t changed.

In practice, it’s really hard to get a teacher to testify on a student’s behalf at a hearing. Instead, teachers or coaches may be willing to write a letter explaining why the student should remain in school.
**There are a lot of ways of proving ...**
you shouldn’t have served a suspension.

- **You can try proving that you weren’t responsible for the conduct**

  An example could be that the school says you stole something, when you have proof that you were in an entirely different place when they said it happened.

- **You can also try proving that the school gave you the suspension unfairly**

  If the suspension is for 3 days or less, showing that your continued presence in school after the incident would not threaten school safety or disrupt other students’ learning.

  If the suspension is for 4 days or more, showing that:
  
  - Your continued presence in school after the incident would not threaten school safety or substantially disrupt or interfere with the learning environment OR
  
  - Other available and appropriate interventions were not attempted

  - **There was no investigation and they never involved you in the investigation**

  - **You were never given a notice for your suspension or there was no misconduct report filed**

  - **The suspension or the number of days given seem disproportionate to the behavior**

If you want help with appealing your suspension, SUFEO can help, you can reach their hotline at 773-8000-EDU. And you can find more information here: https://www.luc.edu/law/centers/childlaw/institutes/child_education/suspensionadvocacyproject/
The consequence seems unwarranted and inappropriate; such considerations may include:

- if you have a 504 or IEP;
- if you have no prior disciplinary record or only a minimal record; or
- if there are reasons why this incident occurred that relate to issues at home, in school or to mental health concerns.

You have the right to make up...
any assignments, tests, and projects you missed for full academic credit. You should ask your school for assistance in gathering assignments from your teachers and letting you know how you can make up any academic work you missed due to the suspension.

The school should...
facilitate your reentry back to school after an out of school suspension.

- Send a letter or email to your school asking if the detentions and suspensions will stay on your record and whether or not they’ll be on your transcript or reported to colleges.
- If they say that they won’t, you can ask for this in a letter or email
- Request a copy of your record and transcripts after the detentions and suspensions should be taken off to confirm

Detentions and suspensions might not actually stay on your record from year to year. This depends on your school.

Reference:
http://www.luc.edu/media/lucedu/law/centers/childlaw/childed/pdfs/SUFEO%20Pamphlet.pdf
EXPULSION

If the school decides they want to expel you, they have to convince the school board, or whoever the school board puts in charge of the process, that you should be expelled.

It is the school district’s job to prove... that you should be expelled. It is your job to defend yourself.

Because of this, the process is kind of like going to court.

Which means... you can have an attorney on your side!

But you must provide your own attorney, the school will not provide one for you.

The Chicago Lawyers’ Committee for Civil Rights represents... students in expulsion hearings that go to CPS school, charter schools in Chicago, and students in Chicago-land suburban school districts (even some outside of Cook County).

They also might be able to refer you to other attorneys if they don’t work in your school district.

We really recommend... having an attorney because they understand all the processes and how to make really good arguments to keep you in school.

If you want help with your expulsion hearing... you can reach the Chicago Lawyers’ Committee at 312-630-9744.

continues on page 33
CAN I REMOVE AN EXPULSION FROM MY RECORD?

Generally, there are two ways to get an expulsion taken off your record:

**If you can prove ...**

that you never should have been expelled in the first place

- You can prove you weren’t the person who did whatever they accused you of
- They never actually performed an investigation and have no proof of the facts
- They never gave you a written notice or report of what happened
- The school failed to follow the legal requirements provided by federal and state law

**If your expulsion is “held in abeyance” and...**

you satisfy the terms of your expulsion

- “Held in abeyance” means that the school district said that if you do certain things, they would take the expulsion off your record

This could mean going to an alternative school, completing therapy or community service, completing certain programs they asked you to.

You should still double check that it’s not on your record. Request a copy of your record and transcripts from your school in a letter or in an email. The appeal process can be very different from school to school and throughout grade levels. You should always ask for a copy of your record to see what has or hasn’t changed.

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If you have an IEP or 504 plan, your school may need to consider this when disciplining you. At times, this can have positive outcomes for you.
WHAT IF I’VE ALREADY BEEN EXPELLED? HOW DO I GET BACK INTO SCHOOL?

Expulsions can last up to two years in Illinois. If you’ve already served your expulsion, you definitely can get back into school. All you need to do is re-enroll. If the school gives you any problems, seek out legal help (like the Chicago Lawyers’ Committee!).

If you are in the middle of serving an expulsion, you can’t return to your school and may not be allowed to attend any other public school while serving your expulsion. However, you may be able to challenge the expulsion in court if the expulsion was issued unfairly or in violation of the law.

You may not have any options available to you if ... you don’t have access to an alternative school program. Also, the only options available, like private schools, may require you to pay.

If you have a record of your expulsion and hearing... that should contain the information saying whether or not you can go back to your original school.

Please note that if you are 21 years old or older,... a school can deny you free education. Many people who are 21 years old or older take GED or HSED courses to get a degree that is equivalent to a high school degree.

If you don’t know what is available to you... You can reach out to the Chicago Lawyers’ Committee at 312-630-9744, and they’ll help you figure it out.

continues on page 37
WHAT ARE MY 1ST, 4TH, AND 5TH AMENDMENT RIGHTS?

4TH AMENDMENT RIGHTS

What is the 4th amendment again?
The 4th amendment is the right to be safe from searches and seizures, unless you give someone permission to complete the search or they have received permission from the government in the form of a warrant.

In general, school employees can search your locker, your desk, your person (your pockets and your bag), and your car (if it’s parked on school property) without having a lot of reason to.

• This is because schools act according to in loco parentis which means legally that they act as a parent for you at school. Obviously, they do not have the full control that your guardians have, but schools share responsibility for your actions and can discipline you (like search your stuff if you are suspected of a wrongdoing).

• If you have a password on your phone, you don’t have to give it to them, but they might punish you for not doing that.

The police actually need more reason than a school employee would need in order to search you.

Source:
www.iasb.com/law/ICSAGUIDELINESFORINTERVIEWS.rtf
and http://usedulaw.com/345-in-loco-parentis.html
5TH AMENDMENT RIGHTS

What is the 5th amendment again?
The 5th amendment states that you have a right to an attorney when you are in custody and being interrogated, and a right to a fair trial. Also, you are not required to admit that you committed a crime, but other witnesses should report on your actions. In addition, the Miranda warning in the 5th amendment states that, when you are arrested, "you have the right to remain silent, and anything you do will be held against you in a trial."

Do I have a right to remain silent in school?
It depends on who is questioning you and what for.

Student questioned by school official:
Generally, questioning by a school official does not give you a right to remain silent. If the school officials’ questioning is for disciplinary purposes (a detention, suspension, or expulsion), and not law enforcement purposes (an arrest or charge in court), students in public schools are not entitled to Miranda warnings.

- If you feel uncomfortable by a school official’s questioning, you should let them know that and ask for someone else to be present.

- It is better if the other person present is someone you trust, like your parent/guardian

Student questioned by law enforcement officer:
Even the questioning by a police officer in school does not necessarily give you a right to remain silent. The questioning would have to be considered custodial interrogation for you to have a right to remain silent. Custodial interrogation is hard to define, but if the officer tells you that you can’t leave, is being menacing, or trying to get you to confess to something, that is a pretty good way to tell that you are in custody. If you feel uncomfortable, you should ask the officer if you are free to leave. If they say no, you can exercise your right to remain silent.

1ST AMENDMENT RIGHTS

What is the 1st amendment?
The 1st amendment allows for freedom of speech, press, religion, and assembly

What about Public Displays of Affection (PDA)? Are they protected under the 1st amendment?
Because PDA is not pure speech, it can be restricted in schools provided a reasonable school interest.

If the school’s code of conduct is being applied more often or more severely to LGBTQ+ students, such unequal treatment would likely violate Title IX or VI, but would not violate your 1st amendment rights.

- Title IX and Title VI complaints can be filed with Department of Education’s Office of Civil Rights. You can reach them at (312) 730-1560, email them at OCR.Chicago@ed.gov, or visit their website: https://www2.ed.gov/about/offices/list/ocr/addresses.html

This is the office for the entire state of Illinois.
The OCR can decide not to investigate your complaint.

CAN I FILE A COMPLAINT ABOUT A TEACHER?

YES!
But there’s not a set statewide procedure. The best first step would be approaching your Principal or Assistant Principal with a letter or email with details of what happened.

It can be a good idea to keep copies of your letter or email.
When writing your letter, you can include this information:

- The name of the person you are complaining about
- The dates and times they discriminated against you (or the other student(s))
- Any people who saw what was going on
- What happened, with as much detail as possible
- How this made you feel
- Any problems this is causing you

If you can't focus in class
If other students have started picking on you

- What you want to happen now that you've written a complaint
  (please keep in mind, your school may not legally have to do any of these things, but you can ask for them)
  “I want this person to apologize to me”
  “I want this person to get training on LGBTQ+ issues and identities”
  “I want all detentions and suspensions this person gave me taken off my record”
  “I don't want this person to interact with me anymore”
  “I want this teacher suspended”

If you have a supportive guardian/parent/caregiver, ask them to step in, ask for meetings with your principal, and write complaints.

If you are in a meeting with a school employee, you can ask to have at least one other person there with you.
You do not have to be in the meeting if it is just you. If you have a supportive parent, guardian, or caregiver, ask them to be there.

If a teacher hit, struck, or physically threw you, this is explicitly against the law.
To file a complaint, you can follow the same process of approaching your principal, but in these cases, you should have as much communication in writing as possible, whether it's in letters or emails. You should start the process with something in writing, not a conversation with someone.

- If there were witnesses to this, ask them to write about what they saw.
- If your principal or superintendent aren’t supporting you, you can call DCFS at 800-25-ABUSE
- You can also seek out legal representation if the conduct was particularly damaging and/or is an ongoing practice.

If you are a CPS student and your principal is not supporting you,
you can report them to the CPS Law Department’s Labor and Employee Discipline Unit.

You can reach the office of the CPS OIG at 773.534.9400 or inspectorgeneral@cpsoig.org.

KNOW YOUR RIGHTS!

SCHOOL DISCIPLINE

THANKS FOR READING!
THANK YOU TO OUR CONTENT PARTNERS!

THANK YOU TO OUR FUNDERS!