

Law Day 2017

“If you and another student get into a fight on school property and the principal wants to suspend/expel you, what are your rights?”

The due process clause within Section One of the Fourteenth Amendment states that “no state shall... deprive any person of life, liberty, or property, without due process of law.” The instance of student suspension and expulsion falls under the jurisdiction of this clause, as it questions the abilities of the state to remove the federally-recognized right to a public education. Though the clause does not include specific guidelines for what policies a public school may hold in regard to suspension/expulsion, it does dictate the ability to which a school may enforce these rules by establishing a standard through which said policies are executed in a fair manner towards its students. Overall, the manner in which this clause is interpreted with regards to suspensions/expulsions is to guarantee a right to notice and a fair hearing before the application of any such punishments to provide a clear reasoning for why the students are deserving of these punishments, specifically in the context of the school’s policies. This clause also provides students with an opportunity to bring evidence on their behalf to potentially overturn the punishment recommended by the school. Thus, the Fourteenth Amendment is crucial to both ensure that punishments are carried out in a just manner and to protect the rights of students as they would be in a court of law.

In the case of student suspension and expulsion, the court case *Goss v. Lopez* in 1985 interpreted the Fourteenth Amendment’s doctrine of due process in public schools, particularly involving Constitutional rights and how they are applied to students. In the case, students from Columbus, Ohio had been suspended from school under Ohio Law § 3313.66. State law also held that students only had the right to petition against their punishment if they were expelled, not suspended, which struck the students as unfair. Such a severe punishment, they believed, necessitated due process before being applied. The case was brought over whether this suspension without the right to petition or hearing was a violation of the students’ Fourteenth Amendment rights. The court ruled in favor of the students, and made several important decisions on the application of the Fourteenth Amendment within schools. The court first established education as an entitlement and a property interest protected under the due process clause of the Fourteenth

Amendment. The court additionally decided the application of this ruling- that students' due process rights extended to the classroom, and major disciplinary actions ought to be treated in the same way as state and federal law violations, in order to ensure that the deprivation of an entitlement is fully justified. The way this has been interpreted within public schools has been give the student fair notice of their violation and to hold a formal, private hearing for the student in question, wherein the student has the right to know which specific rules they are considered to have violated, bring legal counsel and present evidence on their behalf, as well as have the decision regarding their suspension/expulsion decided by an impartial panel. In the provided situation, if a student were to get into a fight in which their principal wished to suspend/expel them, they would have the right to this application of due process under the Fourteenth Amendment, as established by *Goss v. Lopez*. In other words, they would be given fair notice, the right to an impartial hearing, and the opportunity to provide evidence in their defense, to ensure that punishment is as fair as possible. Thus, the due process clause is essential to ensuring that major disciplinary actions are executed fairly and that the justice of the US judicial system is consistent across all state institutions.

There are very minimal cases in which this doctrine would not apply exactly as described. In order to provide a safe school environment, the potential of endangering other students or themselves can lead to a student's immediate suspension for ten days without hearing, although a hearing would be provided as soon as possible. In the scenario provided, if a student who has been in a fight is believed to be violent to the point that allowing them to remain in school would likely cause harm to students, their due process rights may be delayed. However, despite the severity of the student's actions, their right to due process is never completely denied, and would be provided as soon as possible.

In conclusion, if a student is to get into a fight on school property or violate any other school rule that would necessitate suspension/expulsion, they have the right to fair notice and a hearing as established under *Goss v. Lopez*. In conclusion, as the Supreme Court viewed the case, the fair application of the Fourteenth Amendment "could not be taken away for misconduct without adherence to the minimum procedures required by [due process]."