

# STATE OF NEW YORK

4314

2025-2026 Regular Sessions

## IN ASSEMBLY

February 4, 2025

Introduced by M. of A. GALLAHAN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to school suspensions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph c of subdivision 3 of section  
2 3214 of the education law, as amended by chapter 430 of the laws of  
3 2006, is amended to read as follows:

4 (1) No pupil may be suspended for a period in excess of five school  
5 days unless such pupil and the person in parental relation to such pupil  
6 shall have had an opportunity for a fair hearing, upon reasonable  
7 notice, at which such pupil shall have the right of representation by  
8 counsel, with the right to question witnesses against such pupil and to  
9 present witnesses and other evidence on [~~his or her~~] their behalf. Where  
10 a pupil may be considered a dangerous threat to themselves or others, such  
11 pupil may be suspended for no more than ten days prior to a hearing  
12 taking place to allow the school to have adequate time to make an evalu-  
13 ation on the pupil's mental health, which may include a psychiatric  
14 evaluation, and the risk of danger to others and to consult with law  
15 enforcement. Where the pupil is a student with a disability or a student  
16 presumed to have a disability, the provisions of paragraph g of this  
17 subdivision shall also apply. Where a pupil has been suspended in  
18 accordance with this subparagraph by a superintendent of schools,  
19 district superintendent of schools, or community superintendent, the  
20 superintendent shall personally hear and determine the proceeding or  
21 may, in [~~his or her~~] their discretion, designate a hearing officer to  
22 conduct the hearing. The hearing officer shall be authorized to adminis-  
23 ter oaths and to issue subpoenas in conjunction with the proceeding  
24 before [~~him or her~~] such hearing officer. A record of the hearing shall  
25 be maintained, but no stenographic transcript shall be required and a  
26 tape recording shall be deemed a satisfactory record. The hearing offi-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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cer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

§ 2. Subparagraph 1 of paragraph c of subdivision 3 of section 3214 of the education law, as amended by chapter 380 of the laws of 2001, is amended to read as follows:

(1) No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil and to present witnesses and other evidence on ~~his~~ their behalf. Where a pupil may be considered a dangerous threat to themselves or others, such pupil may be suspended for no more than ten days prior to a hearing taking place to allow the school to have adequate time to make an evaluation on the pupil's mental health, which may include a psychiatric evaluation, and the risk of danger to others and to consult with law enforcement. Where a pupil has been suspended in accordance with this subdivision by a superintendent of schools, district superintendent of schools, or community superintendent, the superintendent shall personally hear and determine the proceeding or may, in ~~his~~ their discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before ~~him~~ such officer. A record of the hearing shall be maintained, but no stenographic transcript shall be required and a tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall be advisory only, and the superintendent may accept all or any part thereof. An appeal will lie from the decision of the superintendent to the board of education who shall make its decision solely upon the record before it. The board may adopt in whole or in part the decision of the superintendent of schools. Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in subdivision one of section 265.01 of the penal law, the hearing officer or superintendent shall not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceed-

1 ing that the recovery of such weapon, instrument or appliance was the  
2 result of an unlawful search or seizure.  
3 § 3. This act shall take effect immediately, provided that the amend-  
4 ments to subparagraph 1 of paragraph c of subdivision 3 of section 3214  
5 of the education law made by section one of this act shall be subject to  
6 the expiration and reversion of such subparagraph pursuant to section 8  
7 of chapter 430 of the laws of 2006, as amended, when upon such date the  
8 provisions of section two of this act shall take effect.