



## SHOULD YOU CONSULT AN ATTORNEY BEFORE ATTENDING A SCHOOL DISCIPLINARY HEARING?

*The Answer Is A Resounding "YES."*

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Written By: Lynn Brown

A recent article in the ABA Journal (July 2011), entitled "*A Painful Case: Do parents need lawyers for school disciplinary hearings?*" confirms what we at **Meyer, Suozzi, English & Klein** already knew: it can be a big mistake not to consult an attorney before attending a school disciplinary hearing.

Parents often fail to consult an attorney before such a hearing, believing that doing so will needlessly escalate the adversarial nature of such proceedings or that their child is likely to receive no more than "a slap on the wrist." While obtaining counsel is a matter typically left up to the student's family, parents should know that school

districts have very broad discretion in administering punishments that seem unduly harsh to many parents when compared to the supposed wrongdoing. Relying upon their "zero tolerance" codes of conduct with respect to drugs, alcohol and physical violence, school districts have not hesitated to suspend students for months, and sometimes, for an entire school year, for what may appear to a parent to be a relatively minor infraction.

Some recent examples prove the point: In a case involving a Long Island school district, the Commissioner of Education upheld an 8-month suspension of a ninth-grade student who put his arm around the teacher, pressing his knuckles into her scalp, giving her "noogies." In another case involving an upstate school district, a student was suspended for three months and placed on probation for an additional school year following his return to school, for possession and use of marijuana on school grounds.

In short, the threat of a substantial punishment being imposed at a school disciplinary hearing is very real. Knowing what you and your child's rights are before attending such a hearing is critical, even if you decide to attend the actual hearing without an attorney. Parents need to know, for example, what their rights are, what additional procedural safeguards they are entitled to if their child is classified as a student with a disability, what evidence is admissible at any such hearing, and who can be called as a witness. Attorneys also can discuss with parents any mitigating factors that may be used to convince a school district to find in the student's favor or to mete out a less severe punishment, or even how to behave at any hearing.

Taking a "wait and see" attitude toward school disciplinary hearings may have severe consequences. Parents who consult an attorney only after a hearing may find it is too late, as once a decision regarding the appropriate punishment is made by the School District, it is extremely difficult to have that determination modified or set aside.

**Lynn Brown** is Of Counsel at Meyer, Suozzi, English & Klein's **Education Law** practice, and **Litigation & Dispute Resolution** practice.