

## How Much Process is Due in Student Discipline and Removals?

*More than 10 Days = Formal Due Process*  
*10 Days or Less = Informal Due Process*  
*De Minimis in Nature = No Due Process*

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Due process rights have been solidly established as constitutionally required checks and balances in criminal proceedings. In criminal trials defendants must stand against the full power of the State, facing serious punishments including fines, imprisonment, or capital punishment. Disciplinary proceedings in public schools are not criminal proceedings. These are civil hearings where students have been accused of non-compliance with school rules. Nonetheless, the charges against the student may be serious events in their lives. These proceedings may impinge on protected liberty rights by harming the student's public reputation, or take away property rights by removing the student from access to educational opportunities through a suspension or expulsion. These actions could seriously limit the student's future education and employment opportunities. In *Goss v. Lopez* the Court addressed due process requirements for students in public school disciplinary proceedings.

### **Goss v. Lopez**

419 U.S. 565 (1975)

Supreme Court of the United States

Mr. Justice WHITE delivered the opinion of the Court.

This appeal by various administrators of the Columbus, Ohio, Public School System (CPSS) challenges the judgment of a three-judge federal court, declaring that appellees--various high school students in the CPSS--were denied due process of law contrary to the command of the Fourteenth Amendment in that they were temporarily suspended from their high schools without a hearing either prior to suspension or within a reasonable time thereafter, and enjoining the administrators to remove all references to such suspensions from the students' records.

Ohio law, § 3313.64 (1972), provides for free education to all children between the ages of six and 21. Section 3313.66 of the Code empowers the principal of an Ohio public school to suspend a pupil for misconduct for up to 10 days or to expel him. In either case, he must notify the student's parents within 24 hours and state the reasons for his action. A pupil who is expelled, or his parents, may appeal the decision to the Board of Education and in connection therewith shall be permitted to be heard at the board meeting. The Board may reinstate the pupil following the hearing. No similar procedure is provided in § 3313.66 or any other provision of state law for a suspended student. Aside from a regulation tracking the statute, at the time of the imposition of the suspensions in this case the CPSS itself had not issued any written procedure applicable to suspensions. Nor, so far as the record reflects, had any of the individual high schools involved in this case. Each, however, had formally or informally described the conduct for which suspension could be imposed.

The nine named appellees, each of whom alleged that he or she had been suspended from public high school in Columbus for up to 10 days without a hearing pursuant to § 3313.66, filed