

Dear Parents and Students,

This packet was created by community organizations to help you appeal a school suspension that happened because you or your child walked out of school to protest immigrations laws.

*It is important to appeal the suspension  
so that it does not show up on your child's records.*

Included in the packet is the following information:

- A chart telling you what your rights are.
- A document explaining how to appeal a school suspension and get the suspension erased from the student's records.
- Three sample letters that you can use in appealing the suspension. Each form applies to a different types of suspension:
  - o Out of School Suspension
  - o In School Suspension
  - o Mandatory Saturday School

You are also invited to attend a parent/student training on suspensions and citations (tickets). Please call the hotline number below for more information.

If the student has been placed on probation, expelled or transferred to another school, or the situation is complicated, please call the hotline number listed below to ask for more help.

SCHOOL WALKOUT HOTLINE: In Spanish (310) 712-7066 In English (310) 712-6373 or go to <a href="http://www.schoolwalkouts.info">www.schoolwalkouts.info</a>
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Sincerely,

The National Lawyer's Guild, Public Counsel Law Center, CADRE, CARECEN,  
MALDEF, APALC

## HOW TO APPEAL A SCHOOL SUSPENSION

Schools cannot suspend a student for walking out unless the student did something else to break school rules. A suspension shows up in the student's discipline records and can lead to more serious discipline in the long run.

A parent has the right to appeal a suspension and request that the suspension be removed from the student's records.

### How to Submit Your Letter of Appeal

These are steps that you should take in appealing the suspension:

- Collect all papers and notices from the school regarding the suspension and keep a copy for your records. Keep all of your child's suspension records together
  - Decide which of the three sample letters of appeal listed below and included in this packet applies to your child's situation, and fill it out.
    1. Suspension: If your child was told that he or she could not be in school during the suspension, use the letter on pages 5-6:
    2. In-house Suspension: If your child was forced to be another room instead of his or her regular class during the suspension, use the letter on pages 7-8:
    3. Saturday School: If your child was given Saturday School, use the letter on pages 9-10.
  - Attach a copy of the suspension notice you received to the letter of appeal.
  - Submit the letter of appeal to your School District Superintendent. Make sure you keep a copy for your records!!
  - Provide a copy of the letter to the Principal at your child's school
- Make sure you have proof that you gave them the letter
- If you fax it, keep the fax confirmation paper
  - If you take it to the school yourself, have the school staff sign and date your copy of the letter
  - If you mail it, mail it by certified mail

### After You Submit Your Appeal

- Make sure that the School District gets back to you
  - Call the Superintendent or District Office to follow up on your letter
  - Write down when you called and who you spoke to
  
- The Superintendent or his/her representative must meet with you within 30 days of when you gave them the letter
  - If they don't meet with you, call the Hotline for more help

### At the Meeting To Appeal the Suspension

When you meet with the Superintendent or his/her representative, you should be ready to tell them why you think your child should not have been suspended.

Remember, the law says that a school can only punish a child by giving him/her a suspension if the child did one of the following:

- threaten, bully, fight, or hurt someone, or commit sexual harassment/ assault
- possess a dangerous object
- carry, use or sell controlled substances, or tobacco, or paraphernalia
- damage/steal property, receive stolen property, commit robbery/ extortion
- commit an obscene act or use profanity a lot
- disrupt school activities or defy school officials (see below)\*

The law says that the school **CANNOT** suspend a child for an unexcused absence or tardy, such as walking out of school.

**Walking out of school peacefully is NOT a disruption of school activities or a defiance of school officials.** Also, even if your child had an unexcused absence, they still **CANNOT** be forced to go to Saturday School unless they have three unexcused absences or late arrivals/tardies (being truant).

**EVEN IF** your child broke a school rule while walking out, the law says that the school has to try less serious punishments first, like community service.

**If they Refuse to Take Back the Suspension and/or Remove the Suspension from  
your Child's Records**

You have the right to Appeal to the Board of Education. Call the Hotline Number for more information.

**SCHOOL WALKOUT HOTLINE:**

In Spanish (310) 712-7066

In English (310) 712-6373

or go to [www.schoolwalkouts.info](http://www.schoolwalkouts.info)

**APPEAL OF SCHOOL SUSPENSION AND  
REQUEST FOR RECORDS REMOVAL**

Date:    /    /

- U.S. Mail
- Hand Delivered

**Attn: Superintendent of Schools**

Name of School District: \_\_\_\_\_

Address of School District: \_\_\_\_\_

**Attn: Principal**

Name of School: \_\_\_\_\_

Address of School: \_\_\_\_\_

**Re:    *Appeal of School Suspension and Request for Removal of Records***

Name of Student:    \_\_\_\_\_

D.O.B:    /    /

Date of Suspension:    \_\_\_\_\_

Dear Superintendent and Principal:

**I am writing to appeal my child's suspension and to request that all documents referring to the suspension be erased from my child's records.**

*This request is made pursuant to Cal. Educ. Code Section 49070 and any and all applicable School Board and District Procedures and Policies.*

On, \_\_\_\_\_ (date), my child exercised his/her right to free speech by attending a peaceful and lawful public assembly/rally opposing H.R. 4437 at \_\_\_\_\_ (location). The public assembly was attended off-campus by my child, other students, and community members.

*This right to attend a public rally is protected by the First Amendment of the United States Constitution and related California Constitutional sections.*

I am appealing the suspension of my child for the following reasons (check all that apply):

- A school district may not discipline a student for exercising his/her right to free speech away from school grounds at a peaceful and public assembly.** As a result, all mention of this suspension must be removed from my child's school file. *See, e.g., Cal. Educ. Code Section 48950(a).*
- A school district may not suspend a student from school for being absent or truant.** *See Educ. Code Sections 48264.5; 48900(v); 48900(a)-(q), 48900.2-48900.4, and 48900.7.*

- ❑ **The absence should be excused because I gave my son or daughter permission to attend the public rally.** I believe that it is important for the young people in this state to participate in defeating this law that would make immigrants criminals. As a parent, I request that this suspension be removed from my child's record because I gave my child permission to attend and approved his/her participation in the public assembly.
- ❑ **My son or daughter has never been suspended from school before.** A school district generally may not suspend a student for a first offense. See Cal. Educ. Code Section 48900.5. A suspension should not have been given to my child; please remove it from his or her student records.
- ❑ A student may not be suspended for **more than 5 days** for any one incident. See Cal. Educ. Code Section 48911(a). My child was suspended for \_\_\_\_ number of days. This is illegal and the suspension should be removed from his/her record.
- ❑ **My child was never provided with an informal conference before he/she was suspended and was, thereby, denied his/her rights.** Before being suspended, a student must be given an informal conference with a school administrator so that he/she can learn the reasons for the suspension and tell his/her side of the story. The suspension is illegal and should be removed from his/her record. *See* Cal. Educ. Code Section 48911.
- ❑ **My son or daughter was told to stay home from school, but I was not provided anything in writing stating that my child had been suspended, the reason for the suspension, and/or the number of days she would be out of school.** This is illegal and violates Cal. Educ. Code Section 48911(d).

For the reasons I have checked, I request that the suspension be immediately rescinded and all record of the suspension erased from my child's school files. **Please send me confirmation in writing to tell me that the records have been erased.**

**If the District decides not to remove the suspension from my child's records, please contact me to schedule an appeal conference.** As you know, the law requires that a conference to discuss these issues be held within 30 days from the date I give this request to you. *See* Cal. Educ. Code Section 49070.

If the Superintendent still decides not to remove the records from my child's file, I am putting you on notice that **I am also requesting an appeal of suspension to the governing board of the school district.** As you know, the law further states that I can have a hearing with the school board to request that they erase the records from my child's school file. The meeting for this appeal must be made in a timely manner. *Id.*

I look forward to hearing from you. I can be reached at \_\_\_\_\_ (phone number).

Sincerely,

\_\_\_\_\_  
Parent/Guardian Signature

**APPEAL OF IN-SCHOOL SUSPENSION AND  
REQUEST FOR REMOVAL OF RECORDS**

Date: / /

- U.S. Mail  
 Hand Delivered

Attn: **Superintendent of Schools**

Name of School District: \_\_\_\_\_

Address of School District: \_\_\_\_\_

Attn: **Principal**

Name of School: \_\_\_\_\_

Address of School: \_\_\_\_\_

Re: *Appeal of In-School Suspension And Request for Removal of Records*

Name of Student: \_\_\_\_\_ D.O.B: / /

Date of Suspension: \_\_\_\_\_

Dear Superintendent and Principal:

**I am writing to appeal my child's in-school suspension and to request that all records related to this suspension be removed from my child's educational records.**

*These requests are made pursuant to Cal. Educ. Code Section 49070, and any and all applicable School Board and District Procedures and Policies.*

On, \_\_\_\_\_ (date), my child exercised his/her right to free speech by attending a peaceful and lawful public assembly/rally opposing H.R. 4437 at \_\_\_\_\_(location). This public assembly was attended away from school grounds by my child, other students, and community members.

*This right to attend a public rally is protected by the First Amendment of the United States Constitution and related California Constitutional sections.*

I am appealing the in-school suspension of my child for the following reasons (check all that apply):

- The school district cannot discipline my child for exercising his/her right to free speech away from school grounds at a peaceful and public assembly.** As a result, all mention of this suspension must be removed from the student's school file. *See, e.g., Cal. Educ. Code Section 48950(a).*
- My child's rights were violated during in-school suspension.** For participating in this public assembly, my child was given in-school suspension for \_\_\_\_ number of days. During this suspension the following violations of Cal. Educ. Code Section 48911.1 occurred:
  - My child was not placed in a classroom that had a teacher present.

- My child was not allowed to complete school-work or tests during the suspension.
  - I was not provided any written notification of the in house suspension and/or the reason for the suspension.
  - Other: \_\_\_\_\_.
- **This absence should be excused because I gave my son or daughter permission to attend the public rally.** I believe that it is important for the young people in this state to participate in defeating this law that would make immigrants criminals. As a parent, I request that this suspension be removed from my child's record because I gave my child permission to attend and approved his/her participation in the public assembly.
- **My child was never provided with an informal conference before he was suspended and was, thereby, denied his rights.** Before being suspended, a student **must** be given an informal conference with school staff so that he can learn the reasons for the suspension and present his side of the story. Because my child never had this informal conference, his suspension is illegal and should be removed from his/her record. *See* Cal. Educ. Code Section 48911.

For the reasons I have checked, I request that the in-school suspension be immediately rescinded and all records of the suspension erased from my child's school files. Please send me something in writing to tell me that the records have been erased.

**If the District decides not to remove the suspension from my child's records, please contact me to schedule an appeal conference.** As you know, the law requires that a conference to discuss these issues be held within 30 days from the date I give this request to you. *See* Cal. Educ. Code Section 49070.

**If the Superintendent still decides not to remove the records from my child's file, I am putting you on notice that I am also requesting an appeal of suspension to the governing board of the school district.** As you know, the law further states that I can have a hearing with the school board to request that they erase the records from my child's school file. The meeting for this appeal must be made in a timely manner. Id.

I look forward to hearing from you. I can be reached at \_\_\_\_\_ (phone number).

Sincerely,

\_\_\_\_\_  
Parent/Guardian Signature

**APPEAL OF MANDATORY SATURDAY SCHOOL AS INVALID  
AND REQUEST FOR REMOVAL OF RECORDS**

Date:    /    /

- U.S. Mail  
 Hand Delivered

Attn: **Superintendent of Schools**

Name of School District: \_\_\_\_\_

Address of School District: \_\_\_\_\_

Attn: **Principal**

Name of School: \_\_\_\_\_

Address of School: \_\_\_\_\_

Re:    *Appeal of Mandatory Saturday School as Invalid and Request for Records Removal*

Name of Student:    \_\_\_\_\_

D.O.B:    /    /

Date of Suspension:    \_\_\_\_\_

Date of Saturday School: \_\_\_\_\_

Dear Superintendent and Principal:

**I am writing to appeal the mandatory Saturday school punishment given to my child, and to request that all records related to the mandatory Saturday school be erased from my child's records.**

*This request is made pursuant to Cal. Educ. Code Section 49070 and any and all applicable School Board and District Procedures and Policies*

On, \_\_\_\_\_ (date), my child exercised his/her right to free speech by attending a peaceful and lawful public assembly/rally opposing H.R. 4437 at \_\_\_\_\_(location). The public assembly was attended off-campus by my child, other students, and community members.

*This right to attend a public rally is protected by the First Amendment of the United States Constitution and related California Constitutional sections.*

**For attending the public assembly, and missing \_\_\_ day(s) of school, my son or daughter was required to attend Saturday school and told that if he/she did not do so, he/she would be punished.**

My child should not have been required to attend mandatory Saturday school because (check all that apply):

- The school district cannot discipline my child for exercising his/her right to free speech away from school grounds at a peaceful and public assembly.** As a result, all mention of this suspension must be removed from the student's school file. *See, e.g., Cal. Educ. Code Section 48950(a).*
- This absence should be excused because I gave my son or daughter permission to attend the public rally.** I believe that it is important for the young people in this state to participate in defeating this law that would make immigrants criminals. As a parent, I request that this suspension be removed from my child's record because I gave my child permission to attend and approved his/her participation in the public assembly.
- My child is NOT a truant because he/she does not have more than three unexcused absences or tardies.** *See Cal. Educ. Code Section 37223(c).* It is illegal for the school district to *require* my child, **who is not a truant**, to attend Saturday school. *See Cal. Educ. Code Section 48260.*

For the reasons I have checked, I request that the Saturday school requirement be immediately rescinded as invalid and all records of it erased from the student's school files. Please send me something in writing to tell me that the records have been erased.

**If the District decides not to remove the suspension from my child's records, please contact me to schedule an appeal conference.** As you know, the law requires that a conference to discuss these issues be held within 30 days from the date I give this request to you. *See Cal. Educ. Code Section 49070.*

**If the Superintendent still decides not to remove the records from my child's file, I am putting you on notice that I am also requesting an appeal of suspension to the governing board of the school district.** As you know, the law further states that I can have a hearing with the school board to request that they erase the records from my child's school file. The meeting for this appeal must be made in a timely manner. Id.

I look forward to hearing from you. I can be reached at \_\_\_\_\_ (phone number).

Sincerely,

\_\_\_\_\_  
Parent/Guardian Signature



**Student Walkouts and School Discipline**

Your Rights	What Schools CANNOT Do	What Schools CAN Do
<b>You have the right of Free Speech in school</b>	Schools CANNOT stop you from passing out flyers, information, petitions, wearing badges, or writing articles in the newspaper.	Schools can stop you if your speech is: <ul style="list-style-type: none"> <li>• obscene, libelous, or slanderous, or</li> <li>• creates the immediate danger of causing other students to violate the law or school rules, or</li> <li>• <u>substantially</u> disrupts school activities.</li> </ul>
<b>You have the right of Free Speech outside of school campus</b>	You cannot be disciplined for free speech activities outside of school.	Schools can discipline you if you commit an act listed in the Education Code for which you can be suspended, while on your way to school, or leaving school. (*See below)
<b>You cannot be suspended for being truant, tardy, or absent</b>	Schools CANNOT. <ul style="list-style-type: none"> <li>• suspend you for simply walking out of school</li> <li>• force you to attend Saturday school unless you were absent, tardy or truant three times in a school year.</li> </ul>	Schools can suspend you if you commit an act listed in the Education Code while you were walking out. (*See below)  Schools can discipline you in other ways for being truant, tardy or absent such as detention, community service, or Saturday school. If you have a history of truancy, there can be more severe consequences such as an involuntary transfer or referral to a SARB.
<b>You can only be suspended or expelled for those offenses listed in the Education Code</b>	Schools cannot suspend you for being truant, tardy, or absent.  Schools cannot suspend you for exercising your free speech rights.	*The Education Code allows the school to suspend or expel you if you: <ul style="list-style-type: none"> <li>• threaten, bully, fight, or hurt someone, or commit sexual harassment/ assault</li> <li>• possess a dangerous object</li> <li>• carry, use or sell controlled substances, or tobacco, or paraphernalia</li> <li>• damage/steal property, receive stolen property, robbery/ extortion</li> <li>• commit an obscene act or use profanity a lot</li> <li>• disrupt school activities or defy school officials</li> </ul>
<b>You should not be suspended if this is your first offense</b>	Unless the act is serious, schools CANNOT suspend you for the first offense, and must offer alternatives.	Schools CAN suspend you if you disrupted school activities or defied the authority of school officials BUT ONLY if <ul style="list-style-type: none"> <li>• other types of discipline were tried but failed (e.g. community service) or</li> <li>• your presence causes a danger to others or</li> <li>• your presence threatens to disrupt the instructional process</li> </ul>
<b>You have the right to Due Process when you are being suspended</b>	Schools CANNOT suspend everyone simply because they walked out. They must decide whether YOU violated the Education Code. Schools must give you an opportunity to tell your side of the story before making the decision to suspend.	Once they have allowed you to tell your side of the story and your evidence, they can suspend you for violations of the Education Code for up to five days.  Schools must give you a hearing on whether the suspension should be erased from your record.