
Ninth Circuit Addresses Due Process Rights of Students in Relation to Suspensions

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In *K.J. by and through Johnson v. Jackson* (9th Cir. 2025) 127 F.4th 1239, the United States Ninth Circuit Court of Appeals found that the procedural due process rights outlined in *Goss v. Lopez* (1975) 419 U.S. 565 must be observed when imposing a suspension or extending a suspension based on new allegations or evidence. Specifically, students must receive oral or written notice of the charges against them, an explanation of the evidence authorities have, and an opportunity to present their side of the story when a suspension is enlarged to additional days or otherwise extended based upon new or different evidence than that at issue when the student was originally suspended. Under this framework, the Ninth Circuit found that the school administrators in this case failed to follow these requirements, resulting in a violation of K.J.'s constitutional due process rights.

Factual Background

The case involved K.J., a high school student, who was initially suspended for three days following a physical altercation on campus. Specifically, he was suspended for causing, attempting, or threatening to cause physical injury. However, after reviewing video surveillance footage, a school administrator decided that K.J. did not just participate in the fight but “*willfully caused serious injury*” to another student and had not acted in self-defense. Subsequently, school administrators extended K.J.'s suspension and recommended expulsion based on the new allegations and evidence. School officials did not inform the student of the new evidence and the charges before his suspension was extended from three days to five days.

Federal District Court Decision

The District Court ruled in favor of K.J. on the due process issue, finding that the administrators had violated his constitutional rights. However, the court granted qualified immunity to the administrators, concluding that the legal standard governing due process protections for students in the context of extending or enlarging suspensions (both in terms of duration and the violations involved) was not clearly established at the time of the incident. Additionally, the District Court held that K.J. lacked standing to seek expungement of his disciplinary record because any potential reputational harm from the suspension or expulsion proceedings was too speculative.

Ninth Circuit Opinion

On appeal, the Ninth Circuit agreed with the District Court that K.J.'s due process rights had been violated. Relying on *Goss*, the Ninth Circuit emphasized that students have a constitutionally protected property interest in public education under California law, which cannot be taken away without following the procedural safeguards of the Constitution's Due Process Clause. The Ninth Circuit held that school officials violated K.J.'s due process rights because he was never informed of the new charges and evidence that resulted in the extension of his suspension to a larger number of days. The Ninth Circuit also rejected the school administration's argument that the initial suspension hearing satisfied due process requirements, clarifying that every new charge and evidence must meet the requirements laid out in *Goss*.

The Ninth Circuit found that the school administrators were not entitled to qualified immunity. Rather, the court held that the unlawfulness of their actions was clearly established in *Goss*. Qualified immunity protects public officials only when the rights at issue have not been clearly established. In this case, Supreme Court precedent has long established that students must be given a fair process before facing school discipline. Here, the administrators' failure to provide K.J. with an opportunity to contest the new allegations and evidence violated K.J.'s clearly-established constitutional rights.

Lastly, the Ninth Circuit also held that K.J. had standing to seek expungement of his disciplinary records. The court determined that maintaining a record of the extended suspension and expulsion recommendation could cause ongoing harm, such as effecting future educational and employment opportunities.

Takeaways

The Ninth Circuit's opinion clarifies the due process protections that public school students are entitled to in disciplinary proceedings, specifically when a suspension term is enlarged or extended following an initial suspension decision. Students must be provided with proper notice of any new allegations against them, any new evidence must be disclosed, and students must be afforded a meaningful opportunity to respond before any additional discipline is imposed.

If you have any questions about the *K.J.* holding or need guidance related to any student discipline matters, please contact one of the authors of this Client News Brief or any attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [X \(formerly Twitter\)](#), and [LinkedIn](#), or download our [mobile app](#).

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