

BOND

SCHOOL LAW INFORMATION MEMO

OCTOBER 17, 2023

Instructional Time for Suspended Students

On Oct. 10, 2023, the New York State Education Department's Office of Counsel issued [Formal Opinion No. 243](#) (the Opinion), stating that alternative instruction for suspended students must equal the number of hours recently deemed necessary for students receiving instruction in a home, hospital, or institutional setting (homebound instruction) under 8 NYCRR § 100.22 of the Regulations of the Commissioner of Education (the regulation).

The regulation mandates that students receiving homebound instruction at the elementary school level receive at least two hours per day of instruction. Similarly, a student receiving homebound instruction at the secondary school level must receive at least three hours per day of instruction.

Although the regulation does not mention suspended students, according to the Opinion, the minimum requirements now apply to alternative instruction for students who have been suspended. Therefore, per the Opinion, a suspended student at the elementary school level must receive at least two hours per day of instruction. A suspended student at the secondary school level must receive at least three hours per day of instruction.

We understand that the school districts we serve may have different needs and resources, and that this area of the law can be difficult to navigate. For further information and assistance in meeting the requirements of the regulation and Opinion, please contact any attorney in Bond's [school law practice](#) or the Bond attorney with whom you regularly work.

**Special thanks to Associate Trainee Christopher Cruz-Sierra for his assistance in the preparation of this memo. Christopher is not yet admitted to practice law.*

