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## Court rules for student offenders

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Even juvenile delinquents deserve a fair hearing, and now they will get one.

The Pennsylvania Commonwealth Court yesterday ruled unconstitutional part of a three-year-old state law that barred Philadelphia student offenders from regular public schools upon release from custody.

Under the 2002 law known as Act 88, Philadelphia students adjudicated delinquent who've spent time in a day-treatment or residential-placement facility are automatically sent to a school district 10-day transition program, and then many are placed in alternative schools for disruptive students.

The court, however, in a 3-2 ruling, said the law violates the due process clause of the Constitution because students are not given hearings to determine if they are fit to return to regular schools.

The decision states that due process includes "written notice to the parents or guardian of the reasons for the action, an offer to hold an informal hearing within the first five days of the action, sufficient notice of the time and place of the informal hearing, the right of the student to question witnesses present at the hearing and the right of the student to speak and to produce witnesses in his or her own behalf."

The nonprofit Juvenile Law Center and Education Law Center sued the school district on behalf of three male students who were assigned to alternative schools.

Two of the boys served time for joy-riding in stolen cars and the third for possessing marijuana. None of the offenses happened at school.

The ruling means the school district no longer can send such students to alternative schools without first granting them hearings.

"This is America. We generally do understand the notion that before you are punished for something you get a chance to defend yourself. That should have been built into the law," said Len Rieser, co-director of the Education Law Center.

"This ruling does not threaten school safety in any way but correctly enforces the students' constitutional rights," said Marsha Levick, legal director for the Juvenile Law Center.

School district CEO Paul Vallas said he did not feel the ruling would hamper his ability to remove disruptive students from regular schools.

He said he believes the ruling upholds the constitutionality of the law while validating the 10-day transition program and alternative disciplinary schools.

"I really don't see the need to appeal," Vallas said, noting that disruptive students who are transferred from regular schools to alternative schools already receive hearings.

Of those returning from juvenile detention facilities, only those who committed violent crimes are automatically sent to alternative disciplinary schools, Vallas said.

Last year, 853 students returned to the school district from juvenile facilities. Of them, 387 were sent to evening schools, 233 were allowed to return to regular schools, and 233 were sent to alternative disciplinary schools, Vallas said.