

Legal Services Offices

Statewide Legal Services: (Entry point for the legal services network in Connecticut). **860-344-0380** Central CT area or **1-800-453-3320**.

Other Legal Services Programs:

Hartford, Hartford County:

Greater Hartford Legal Aid

999 Asylum Avenue
Hartford, CT 06105
(860) 541-5000
FAX: (860) 541-5050

Greater New Haven Area:

New Haven Legal Assistance Association, Inc.

426 State Street
New Haven, CT 06510
(203) 946-4811
TDD: (203) 946-4811
FAX: (203) 498-9271

Visit us on the internet:

www.slsct.org
www.ghla.org
www.nhlegal.org
www.connlegalservices.org
www.larcc.org



This pamphlet was produced by the Legal Assistance Resource Center of CT in cooperation with Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services.

The information in this pamphlet is based on the laws in CT as of February 2008. We hope that the information is helpful. It is not intended as legal advice for an individual situation. If you need further help and have not done so already, please call Statewide Legal Services (see above) or contact an attorney.

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Throughout Connecticut:

Connecticut Legal Services:

Administrative Office: (860) 344-0447

Offices:

211 State Street
Bridgeport, CT 06604
(203) 336-3851

587 Main Street
New Britain, CT 06051
(860) 225-8678

153 Williams Street
New London, CT 06320
(860) 447-0323

20 Summer Street
Stamford, CT 06901
(203) 348-9216

85 Central Avenue
Waterbury, CT 06722
(203) 756-8074

872 Main St., P.O. Box 258
Willimantic, CT 06226
(860) 456-1761

CLS Satellite Offices:

Danbury (203) 348-9216

Meriden (860) 225-8678

Middletown (860) 225-8678

Norwalk (203) 899-2451

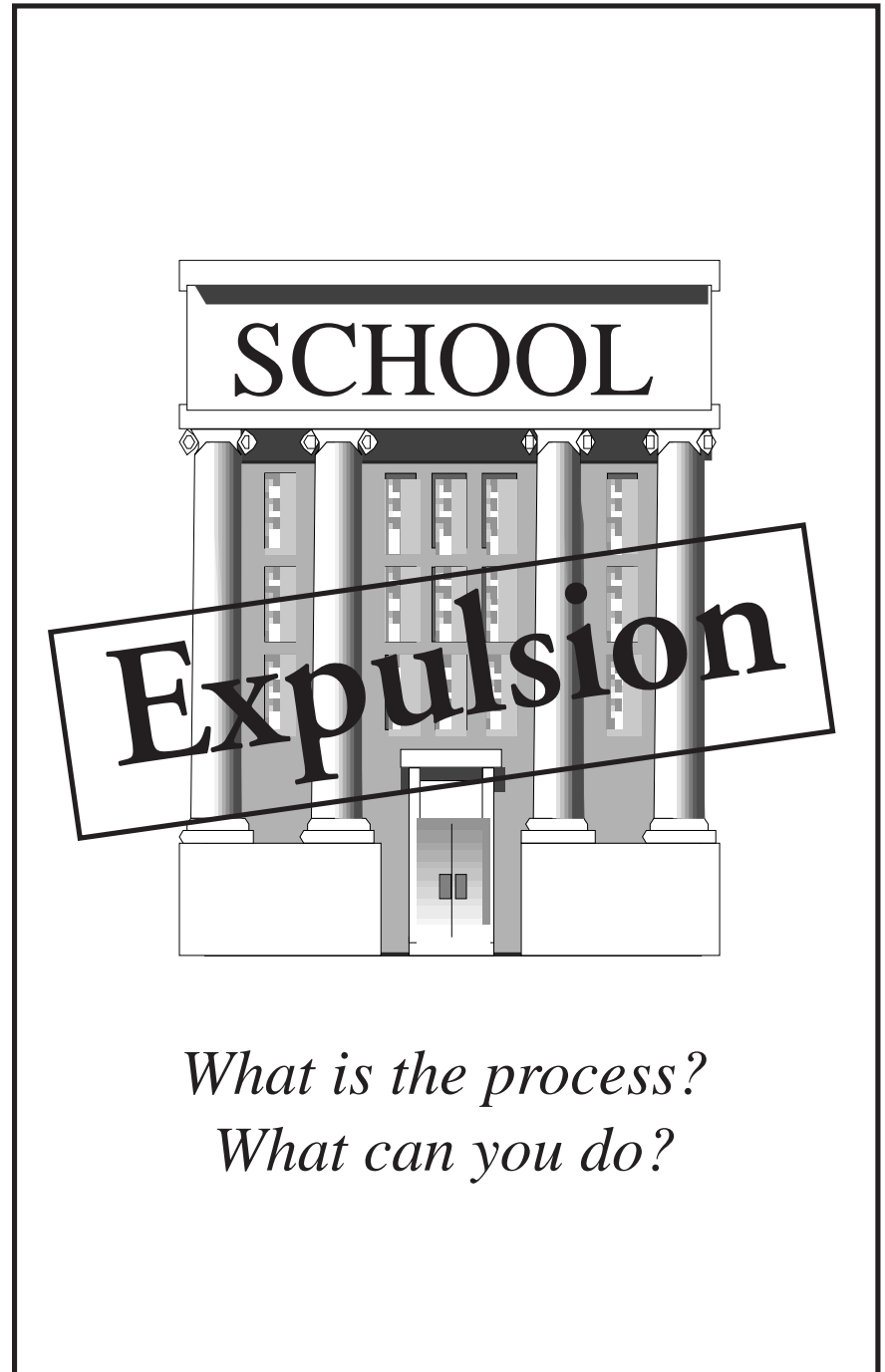
Norwich (860) 447-0323

Rockville 1-800-413-7796

Torrington 1-800-413-7797

AIDS Legal Network for CT

999 Asylum Avenue
Hartford, CT 06105
(860) 541-5027 or 1-888-380-3646



What is the difference between suspension and expulsion?

Suspension vs
Expulsion

The main difference between *suspension* and *expulsion* is the amount of time a student must stay out of school. A suspension may only last for ten days, but an expulsion can last up to one year.

Who makes the final decision to expel?

Usually, the Board of Education will appoint an impartial hearing officer, such as someone from the community who does not work for the school district, to listen to reports about the incident from the school, the student and witnesses, and to make the decision whether or not to expel. In some cases, an impartial “hearing board” of more than one person may be appointed or three or more members of the Board of Education itself may conduct the hearing and make the decision.

When can a Board of Education expel a child?

A student **must** face expulsion proceedings if he or she:

1. Possesses a gun or other deadly weapon on school grounds or at a school activity.
2. Uses a firearm or other deadly weapon to commit a crime off school grounds.
3. Sells or attempts to sell illegal drugs, on or off school grounds.

A student **may** be expelled if he or she:

1. Violates a school rule on school grounds or at a school activity.
2. Acts in a way that is disruptive or endangers other people or property on school grounds or at a school activity.
3. Violates a school rule off school grounds *and* is “seriously disruptive of the educational process.”

Q. Can a special education student be expelled from school?

A. Yes, but there are special procedures that apply to students with disabilities. See page 9 for more information.

My child has gotten into trouble and may be expelled. What rights do we have?

- The right to a hearing before actually being expelled, except in cases of emergency, such as where a child may pose a danger to self or others if the child remains in the classroom.
- The right to a written notice at least five days before an expulsion hearing. The notice must explain which rule the school believes was broken and what the child actually did to break the rule.
- The right to bring an attorney to the hearing *if* you hire one. There is no right to have an attorney appointed for an expulsion hearing. If you do not have an attorney, you can bring someone else as an advocate. Call Statewide Legal Services as soon as you think your child might be expelled.
- The right to explain the child's side of the story to the board which includes the right to present evidence such as documents and testimony from witnesses.
- The right to question or “cross examine” any of the witnesses the school may present to support its case for expulsion.
- The right for the parent and student to get, in advance of the hearing, a complete set of all documents that the school will be presenting to the hearing officer as well as any written statements by teachers, witnesses, etc. In addition, the parent should ask for a complete copy of the student's entire school record as there may be helpful information.

What can I do to get ready for the hearing?



Expulsion hearings are usually scheduled within 10 days or less, so you should begin to prepare for the hearing as soon as you receive the notice. There are five steps you should take to prepare for the hearing:

1. Ask to see your child's school record. Reading the record will help you understand what the school believes has happened. It should have information about the incident, including names of witnesses that the school might ask to testify at the hearing and documents the school may use as evidence at the hearing.
2. Try to talk to as many of the school's witnesses as you can before the hearing to find out what they plan to say.
3. Make a list of people who can be witnesses to help you tell your side of the story. Talk to these people so you will know what they will say and ask them to come to the hearing. You may also want to find some "character" witnesses. A good character witness would be an adult from outside the family, such as a scout leader, someone from your church, or a coach who knows your child and can say some positive things about him or her.
4. Plan your strategy for the hearing. Remember that two issues will be decided at the hearing:
 - *whether the child should be expelled and;*
 - *how long the expulsion should last.*
5. Ask for help if you need it. If you have trouble doing things on time or keeping track of paperwork, ask a friend or family member to help you prepare for the hearing and practice what you would like to say.

If you are nervous about the hearing, ask someone you trust to drive you to the hearing and stay with you for support. If possible, talk to an attorney. At the end of this pamphlet, there is a list of organizations to contact for legal advice, if you have not already done so.

Each case will be different, but here are four possible scenarios for you to consider:

- a. **If you think the school simply has the facts wrong and that your child did not violate the rules,** you will want to find witnesses or documents that will support your version of what happened and try to show the hearing officer that there is no reason for the expulsion.
- b. **You may agree with the school about what happened but feel your child had a good excuse and should not be expelled.** You may have witnesses or documents to help show why your child acted as he or she did, or you may simply have to explain that your child's behavior was justified and expulsion would be too severe a punishment under the circumstances.
- c. **You may agree with the school about what happened and want to concentrate on making sure the expulsion period is not too long.** You will want to insist that a long expulsion is too severe a punishment or that a long expulsion will be very harmful to your child. Character witnesses are particularly helpful here.
- d. **You may want to try a combination of strategies.** You can try to prove that the school's version of events is wrong. And, you can ask that if your child is expelled, the expulsion last for only a short time.

What will happen at the hearing?

While a hearing is not as formal as a court trial, it is a legal proceeding and will probably be your only opportunity to tell your story. There is no right to appeal the hearing officer's decision in court if you are not happy with the outcome. The hearing will either be tape-recorded or a stenographer will take down all that is said. The hearing officer will listen while each side tells its story and will then decide:

- 1) whether the child has done what he or she is accused of doing; and
- 2) if so, should the child be expelled and how long the expulsion will last.



The School's Presentation

It is up to school officials to present enough evidence to justify expelling the student. Therefore, the school goes first in presenting its "case". A school official will be the one to ask questions of the school's witnesses. In addition to having people tell

what they saw and heard, the school can give the board documents that support its position. The school may offer evidence about past discipline problems. Remember, the school has to prove that your child actually broke the rules by having someone with first-hand knowledge of the situation tell the facts to the hearing officer. For example, a principal cannot tell the hearing officer "I did not see what happened, but afterwards the teacher told me _____".

If the school does not produce a witness who was actually there when the incident took place, or tries to prove its case using only written documents, be sure to point this out to the hearing officer. After the school official is through asking questions of each witness, the student, parents or their representative may ask their own questions, or "cross examine" the witness.

The purpose of cross-examination is to bring out additional information that might be helpful to the child's case. It will not help your child's case if you argue with a witness, even if you think he or she is not telling the truth. It is better for you and your own witnesses to explain what happened when it is your turn to speak to the board.

The Student's Response

When the school has finished presenting its case, it is the child's turn. Ask each of your witnesses to come forward to speak one at a time. Ask them to tell the board what they saw or heard or what they know about the incident or your child. The school will then have a chance to cross-examine each of your witnesses.

Your child does not have to testify about what happened, and in some cases, should not be a witness. (*See the question below about Juvenile Court*). If there is a person who would be a good witness for your child, but that person will not come to the hearing at your request, you can ask the hearing officer to send the witness a *subpoena*. A *subpoena* requires the witness to attend the hearing. If you want the hearing officer to subpoena a witness, make this request as far ahead of the hearing as you can. (Use Sample Letter A at the end of this pamphlet.)

Once all of the witnesses have spoken and any written evidence has been given to the hearing officer, each side will have a chance to make a final statement. This is your chance to summarize what you think happened and what you think should happen. Finish by asking the hearing officer not to expel your child and/or to expel your child for only a very short time.



To make the best possible presentation to the board, you will need to be prepared, organized and polite. Angry words or conduct directed at the school officials or the board will only add additional stress to the situation and may even hurt your child's case.

What if my child has been arrested and has to appear in Juvenile Court?

It is not unusual for a child to face expulsion and criminal charges for the same incident. The school can expel the child even if the criminal case is still going on and there is no conviction. Expulsion hearings usually take place before the criminal case is resolved so the child should be careful not to make statements at the expulsion hearing which could be used against him/her later in Criminal or Juvenile Court. *Be sure to consult with the public defender or defense attorney handling the criminal matter about what, if anything, your child should say at the expulsion hearing.*



If we lose the hearing and my child is expelled, will my child be able to continue receiving an education?

If your child is under sixteen, he or she will be offered alternative education during the expulsion. If your child is between the ages of sixteen and eighteen and wants to continue his or her education, alternative education will be offered so long as your child complies with any conditions the board may set. However, the board does not have to offer alternative education to students between sixteen and eighteen if the incident involved weapons or drugs, or if the student has been expelled before.

Will the expulsion stay on my child's school records forever?



The expulsion will be erased from the child's school record if he or she graduates from high school, unless the expulsion was for possession of a firearm or deadly weapon.

Can I stop the expulsion by transferring my child to another school or school district?

If your child withdraws from school before the expulsion hearing is held, his or her record will still contain the notice of expulsion hearing. In most cases, the new school district cannot refuse to admit your child based on his/her record alone, but it has the option of holding its own expulsion hearing based on the incident at the old school.

Can the school withdraw a child from its attendance rolls without going through the expulsion process?

No child under 18 can be withdrawn without a parent's permission. However, schools sometimes withdraw children over 18 from their rolls if the child has not been attending school very often. Just because your child has been withdrawn, however, does not mean he or she has lost the *right* to attend school. If your child starts attending school again after being withdrawn, he or she should be administratively re-admitted. However, the child may not receive credit for classes due to poor attendance.

My child has disabilities and is in special education. Can he be expelled?

Your child cannot be expelled if the school wants to expel your child for behaviors that are *caused by* your child's disability. If the school is considering expulsion, it *must* hold a Planning and Placement Team (PPT) meeting **first**. The purpose of this PPT meeting is to decide whether the disability is causing the problem behavior. If it is decided at the PPT meeting that the misconduct was caused by the disability, the solution is to change the child's individualized education program (IEP) to address the problem, rather than simply expelling the child.

If your school does not schedule a PPT meeting, use Sample Letter B at the end of this pamphlet to request a PPT meeting.

What if my child's PPT decides that the misbehavior was *not* the result of his disability?

If the PPT decides that the behavior was not a result of your child's disability, it may go ahead with the expulsion hearing. If you disagree and believe the misconduct was caused by the disability, you may request a due process review to appeal the PPT decision. (Use Sample Letter C.) Normally, the child's education will continue in the alternative setting chosen by the PPT until the due



process review has been completed. However, the child could return to his or her prior special education program if both the parent and school agree to the return. The due process hearing must happen within 20 days of the date it is requested. The due

process officer must make a decision within 10 school days after the hearing.”

If your child is expelled, he or she will still have to be placed in a program where the IEP can be carried out in the least restrictive environment.

What if I think my child is eligible for special education, but the school has never identified him as a special education student and now he is being expelled?

The school can expel your child if he is not an identified special education student unless the school had knowledge that your child is a child with a disability. Some ways that the school might know your child has a disability is if:

- you have previously expressed your concern about your child in writing to the school;
- you requested an evaluation of your child;
- your child's behavior or performance in school showed that he/she needed special education, or
- school personnel expressed a concern about your child through the school's special education referral system.

If you believe your child should have been identified as needing special education, you should **immediately** request a PPT meeting. Then, when you go to the expulsion hearing, **you should ask for a postponement of the hearing before the hearing starts.** You should show the hearing officer a copy of the letter you wrote asking for a PPT meeting. (*See Sample B*).

What if my child has already been expelled and I think he is eligible for special education services?

You should immediately request an expedited evaluation of your child by requesting a PPT. (You can adapt Sample Form B at the back of this pamphlet to request an evaluation PPT). If possible, you should consult with an attorney before making that request to see if your child is eligible for an independent evaluation by someone not employed by the school. If your child is found to be eligible for special education services, the school must provide those services even if your child is already expelled. If you disagree with the evaluation results, you can request a hearing using Sample Letter C found at the back of this pamphlet.

Sample Letter A - Request for Subpoena

Parent
Address
Telephone number
Today's Date

Name of Hearing Officer
Address of Hearing Officer *or*
c/o Board of Education

Dear _____,

An expulsion hearing concerning my child (*your child's name*), (*child's date of birth*), who currently attends (*name of school*), has been scheduled for (*date of hearing*). In accordance with Conn. Gen. Stat. §4-177b, please subpoena the following witnesses:

(Name and address of each witness)

(Only if you would like a witness to bring any records or documents) In the subpoena, please order _____ to bring _____ to the hearing.

Thank you.

Sincerely,

(Parent's signature)

Sample Letter B - Request for PPT

Parent
Address
Telephone number
Today's Date

Name of School Principal
Address

Dear _____,

I understand that the school is considering expulsion of my child, (*your child's name*), (*child's date of birth*). I am requesting that the school first schedule a PPT meeting before taking any disciplinary action. I am requesting this PPT meeting because I believe my child's behavior may be a manifestation of his/her disability.

Please contact me at the above number to schedule a date and time for the PPT meeting.

Sincerely,

(Parent's signature)

Sample Letter C - Request for Due Process Hearing

Parent
Address
Telephone number

Today's Date

Connecticut State Department of Education
Bureau of Special Education Due Process Unit
P.O. Box 2219, Room 358
Hartford, CT 06145-2219 Fax #: 860 713-7153

Dear _____,

I request an impartial due process hearing concerning my child (*your child's name*), (*his or her date of birth*), who is currently within the jurisdiction of the (*Name of school district*) and attends (*Name of School*).

The issue in dispute is the proposed expulsion of my child from school. The PPT decided that my child's behavior was not a manifestation of his disability. I disagree, and believe the school should change my child's IEP, not expel him.

Sincerely,

(*Parent's signature*)

Resources

Legal Representation:

Are you looking for an attorney to represent your child at an expulsion hearing? If you are low income and your child needs legal assistance at an expulsion hearing, call **Statewide Legal Services (SLS) at 1-800-453-3320.**

Because expulsion hearings are often scheduled very quickly, please call SLS *immediately* once you know your child is being recommended for expulsion. SLS may provide advice over the phone, mail information, or refer you to a legal services office or private attorney at no cost to you.

Yale Law School Legal Services Organization

P.O. Box 209090, New Haven, CT 06520. (203) 432-4800

University of Connecticut Legal Clinic

65 Elizabeth St, Hartford, CT 06105. (860) 241-4679 or (860) 241-4687

Quinnipiac University School of Law - Civil Clinic

275 Mt. Carmel Ave., Hamden, CT 06518. (203) 562-3200

Other Resources for Parents of Children with Disabilities:

State Office of Protection and Advocacy

60 B Weston Street, Hartford, CT 06120-1551
(860) 297-4300 1-800-842-7303 Web: www.state.ct.us/opapd/

Connecticut Parent Advocacy Center

338 Main Street, Niantic, CT 06357.
1-800-445-2722 Spanish speaking callers: 203-776-3211
Web: www.cpacinc.org

Learning Disabilities Association of CT Inc.

999 Asylum Ave., Hartford, CT 06105. (860) 560-1711
Web: www.ldact.org

SERC (State Education Resource Center, State Dept of Education)

25 Industrial Park Rd, Middletown, CT 06457.
Parent Assistance Line: 1-800-842-8678. Web: www.ctserc.org