

School Expulsions



July 2024

**Do you have a legal problem?
Call our hotline:**

Statewide Legal Services
1-800-559-1565

What is the difference between suspension and expulsion?

The main difference between suspension and expulsion is the amount of time a student must stay out of school and be excluded from all school-sponsored events (for example, sports, field trips, moving up or graduation ceremonies).

- A **suspension** can only last for up to ten days.
- An **expulsion** can last for up to one calendar year.

If your child gets a 10-day out-of-school suspension, it means the school thinks your child seriously violated a school rule. You should expect that the school will also try to expel your child and you should begin preparing for a possible expulsion hearing.

Who can decide to expel a student?

If someone from the school thinks your child broke a serious school rule, they can ask the district superintendent to expel your child. In this case, the school will send you a notice with a date for an expulsion hearing. An expulsion hearing is usually not as formal as a court trial, but it is a legal proceeding and it may be the only chance you get to tell your child's side of the story.

It is important that you go to the expulsion hearing. The hearing will happen even if you do not go.

At the hearing, someone (called a *decision-maker*) will decide if the child will be expelled. The decision-maker will usually be

- a neutral person appointed by the Board of Education, or
- a neutral *hearing board* of three or more members of the Board of Education.

The decision to expel will be based on statements and reports from

- the school,
- the student, and
- witnesses who saw what happened.

A witness can be

- someone who saw what happened, or
- someone who knows your child well and can talk about their academic and disciplinary history.

When can a child be expelled?

Students in kindergarten through second grade (K-2) can only be expelled for very limited reasons (for example, having certain dangerous weapons or selling illegal drugs).

Students in grades K-12 **must** be referred for expulsion if they

- possessed a weapon on school grounds or at a school activity,
- used a weapon to commit a crime on or off school grounds, or
- sold (or tried to sell) illegal drugs on or off school grounds.*

*If your child only used or possessed alcohol or drugs on or off school grounds, your child might still be referred for expulsion for breaking a school rule.

Students in grades 3-12 **might** be referred for expulsion if

- on school grounds or at a school activity, they broke a school rule in a way that seriously disrupts the educational process or is a danger to people or property; or
- off school grounds, they broke a school rule in a way that seriously disrupts the educational process.

My child might be expelled. What rights do we have?

- **A hearing must be held before an expulsion can happen.** The hearing should be held as soon as possible. If it is not held before your child is scheduled to return to school, your child must return to school because keeping them out of school for longer than 10 consecutive school days without a hearing would be considered an unlawful expulsion. If something prevents the hearing from being held before your child is scheduled to return to school and there are safety concerns about your child returning to school, your child can be kept out of school until the hearing happens.
- **You should get written notice from the school at least 5 business days before an expulsion hearing.** The notice must explain which rule the school thinks was broken and how they think

your child broke it. The notice must also tell you the date, time, and location of the hearing and how you can try to get an attorney to represent your child.

- ▶ **You have the right to get copies of the documents that the school will present at the hearing.** You can ask for a list of the witnesses that the school plans to bring to the hearing and copies of written statements made by teachers, your child, or witnesses. You can also ask for copies of any other records that you think may help you defend your child. Some districts call these documents the expulsion packet. See below: How can I get ready for the hearing?
- ▶ **You have the right to be represented by an attorney at the hearing.** Call Statewide Legal Services at 1-800-453-3320 right away to see if you can get free legal help.
- ▶ **You have the right to ask to postpone the hearing to later date.** You can ask to postpone the hearing if
 - ◊ you can't attend the hearing at the scheduled date or time on the notice,
 - ◊ you need more time to prepare, or
 - ◊ you need time to get an attorney.

NOTE: If you ask for time to find an attorney, you have the right to a postponement of up to one week, unless there is an emergency. And the school may ask your child to remain out of school until the new hearing date.
- ▶ **You have the right to explain your child's side of the story.** You can bring witnesses with you to the hearing and show evidence, such as documents that support your case.
- ▶ **You have the right to question the witnesses** that the school brings to the hearing.

You can sometimes give up (or waive) your right to an expulsion hearing by signing an agreement allowing your child to be expelled. As with any written agreement, read it carefully, make sure you understand it, and ask questions. You may be able to negotiate a better agreement. Once you sign the agreement and the decision-maker approves it, it is a legal contract.

How can I get ready for the hearing?

Expulsions usually happen quickly. Good preparation will help you make the best presentation possible for your child at the expulsion hearing. You may not be able to stop the expulsion, but you might be able to decrease the amount of time your child is expelled or improve the services your child gets while they are out of school.

You should start preparing for an expulsion hearing right away if

- your child gets a ten-day suspension,
- you think your child might be expelled, or
- you get an expulsion notice.

1. Ask the school in writing for copies of these documents:

- any documents that the school will be showing at the hearing,
- all discipline records;
- a list of the witnesses the school plans to bring to the hearing,
- written statements made by your child, teachers, or witnesses and
- any school records you may want to present in your child's defense.

Reading these records will help you understand what the school thinks happened. You can use **Sample Letter A** at the end of this pamphlet to make the request.

2. Try to talk to the school's witnesses before the hearing so you can find out what they plan to say. School staff don't have to speak with you, and they might tell you to talk to their attorney.

3. Make a list of people who can help you tell your side of the story. Try to find an adult outside of your family (such as a scout leader, someone from your church, or a coach) who knows your child and can say positive things about them. If they can't attend the hearing, ask them to write a letter describing your child's good qualities. You can give this letter to the decision-maker at the expulsion hearing.

If you want a school staff member to be a witness for your child at the expulsion hearing, you can ask the decision-maker to send the staff member a *subpoena*.

A subpoena is a paper that will require the witness to go to the hearing. You should make this request as soon as possible. You can use **Sample Letter B** as an example.

4. Ask for help if you need it. Expulsion hearings are stressful and a lot is at stake. Consider asking a friend or family member to come with you for support. If possible, talk to an attorney. There is a list of organizations that you can contact for legal information or advice at the end of this booklet.

5. Plan your strategy for the hearing. Remember that these things will be decided at the hearing:

- Whether or not your child broke a school rule and will be expelled.
- How long the expulsion should last if your child is expelled.
- Any additional conditions around the expulsion, if they decide to add them.

Things to think about before the hearing:

- ▶ **You may think the school is wrong and that your child did not break the rules.** Try to find witnesses or documents that can help prove your child's innocence. You will want to convince the decision-maker that your child did not break the rules and should not be expelled.
- ▶ **You may think your child had a good reason for breaking the rules and that expulsion as a punishment is too severe.** Try to find witnesses or documents to help show why your child acted the way they did and that their behavior was understandable under the circumstances.
- ▶ **If you agree that your child broke the rules, you may want to focus on trying to make sure the expulsion period is not too long.** Explain that a long expulsion is too severe or that it would be very harmful to your child. It may be helpful to have an adult outside of your family speak positively about your child.
- ▶ **You may want to try a few strategies.** You can try to prove that the school's version of events is wrong. If your child is expelled anyway, you can ask that the expulsion will last for only a short time.

What will happen at the hearing?

The hearing will be recorded or someone will write down everything that is said. Anything that is said at the hearing may be used in a criminal or juvenile case if there is a criminal or juvenile case for the same incident. (See below: *What if my child was arrested and has to appear in Juvenile Court?*)

The decision-maker will listen to both sides of the story and will then decide

- if your child broke the rules,
- if your child should be expelled,
- how long the expulsion will last, and
- other conditions of the expulsion.

Generally, there is no right to appeal the decision if you are not happy with the outcome.

The School's Presentation

The school will go first in presenting its case against your child. It will need to prove that your child broke the rules by having a witness tell the facts to the decision-maker. The witness must be someone who actually saw what happened. For example, the principal cannot say, "I didn't see what happened, but the teacher told me _____."

A school official will question the school's witnesses. The school can also show documents that support its position, including photographs, screenshots, and evidence about your child's past discipline problems.

If the school does not have a witness who was actually there when the incident took place, or if the school tries to prove its case using only written documents, you should point this out to the decision-maker. These are examples of hearsay evidence. **A student should not be expelled on hearsay evidence alone.**

The student, their parents, or their representative can question (or *cross-examine*) the school's witnesses after the school official is finished with their questioning. This can bring out additional information that could be helpful to your child's case.

It is important that you remain calm and polite. It will not help your child's case if you get angry or argue, even if you think someone is not telling the truth.

Rather than argue, you and your witnesses should explain what happened when it is your turn to give evidence during the student's response (see below).

The Student's Response

After the school presents its case, it will be your turn. Ask each of your witnesses to speak about

- what they saw or heard,
- what they know about the incident, and
- what they know about your child.

You can present any written documents you have that can support your case. If you asked for school records in writing before the hearing but the school did not give them to you, or if you did not get them until the day of the hearing, you should let the decision-maker know. You may want to ask for more time to prepare for the hearing.

The school will then have a chance to question your witnesses.

Your child is not required to testify at the hearing, and sometimes it may be better if they don't. (See the section below about *Juvenile Court*.)

The Closing Argument

Once each witness has spoken and any written evidence is given to the decision-maker, each side can make a final statement. This is your chance to explain what you think happened and what you think should happen to your child. You can ask the decision-maker not to expel your child or to expel your child for only a short time.

If your child has never been expelled before and the incident did not involve a weapon, you can ask the decision-maker to send your child to a special program. A child who completes the special program may be allowed to return to school in less than one year. You may also argue that your child needs specific educational services if expelled (for example, tutoring or a small classroom) or counseling at school.

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

It is not unusual for a child to face both expulsion and juvenile or criminal charges for the same incident. Expulsion hearings usually take place before the juvenile or criminal case is resolved. The school may

expel your child even if a juvenile or criminal case is still going on and your child has not been convicted. **Ask the public defender or defense attorney handling the juvenile or criminal matter if your child should testify at the expulsion hearing.** Expulsion hearings and juvenile court matters are two separate proceedings. Your child could be punished in one proceeding, in both proceedings, or in neither.

Does the school district have to educate my child if they are expelled?

If your child is under age 16, they will continue to be offered an education while they are expelled. This is called an *alternative education*. Depending on the school district, your child may go to a different school or get individual tutoring.

If your child is between the ages of 16 and 18, has never been expelled before, and they want to continue getting an education, alternative education will be offered as long as your child follows any conditions the board or school district may set.

If your child is 17 or 18 years old, alternative education may include placement in an adult education program. Your child will not be required to withdraw from school in order to start adult education as alternative education.

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

If the expulsion was for the possession of certain kinds of weapons while your child was in grades 9 through 12, the expulsion will stay on your child's school records. Otherwise, the expulsion will usually be erased if they graduate from high school.

Your child will probably be asked on college applications if they were ever suspended or expelled. Your child should answer truthfully. College admissions officers will likely talk with your child about what happened and whether they have learned from the experience.

Can I stop the expulsion by sending my child to a different school or school district?

No, you cannot stop the expulsion. If your child withdraws from school before the expulsion hearing is held, your child's school records will still contain the notice of the expulsion hearing. A new school

district will probably hold its own expulsion hearing for the incident at the old school. If your child withdraws from school before the expulsion hearing is completed, the new school district must complete the hearing and issue a decision.

If the hearing was already held and a decision was made to expel your child, the new school district can adopt the old school district's decision if it determines that your child also broke the new school district's rules.

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

No. Your child cannot be withdrawn or expelled from school without an expulsion hearing.

Expulsion for Students with Disabilities

Can my child be expelled if they are in special education or are getting services under a 504 Plan?

It depends. Your child cannot be expelled for behaviors that are caused by a disability. If the school is considering expulsion, it must first hold a special *Planning and Placement Team (PPT) or 504 meeting*. This meeting is called a *Manifestation Determination Review*. If your school does not schedule this meeting, use **Sample Letter C** to request one.

Two things need to be decided at this meeting:

- ▶ Was the behavior related to or caused by your child's disability?
- ▶ Did the behavior happen because the school did not follow your child's Individualized Educational Plan (IEP) or 504 plan?

The team cannot make their decision based on whether your child understands right from wrong.

If the answer is YES to either of these questions, then the school district cannot expel your child. Instead of expulsion, the team should talk about your child's need for a *Functional Behavior Assessment (FBA)* and a *Behavior Intervention Plan (BIP)*. The team should look at services or interventions that can help with your child's behavior. Usually, your child should be allowed to return to school right away.

However, even if the answer is YES to either of these questions, if your child seriously hurt someone or the incident involved a weapon or drugs, the school could place your child in an *interim alternative educational setting (IAES)* for up to 45 school days. This is not an expulsion, but your child may be placed in the same program as expelled students or could receive only tutoring.

What if the PPT or 504 team decides the misbehavior was not caused by my child's disability?

If the PPT or 504 team decides the answer to both questions above is **NO**, your child could be expelled. If you disagree with that decision, you can request a hearing. You can use **Sample Letter D** (if your child is in Special Education) or **Sample Letter E** (if your child has a 504 plan) to ask for an expedited due process hearing to reconsider the decision. See the booklet on *Special Education* for more information.

To learn more, see the legal aid pamphlet on *Special Education*. Visit www.ctlaw.help/special-ed.



Your child will be educated until the due process or 504 hearing is completed, but their education may not happen at their current school.

If your child is expelled, they must be placed in a program where their special education or 504 services can be delivered in the least restrictive environment.

What if I think my child is eligible for special education, but the school has never identified them as a 504 or special education student?

If the school knew (or should have known) that your child has a disability and needs special education services, then the district might not be able to expel your child as quickly.

Here are some ways that the school might have known that your child has a disability:

- You told the school in writing about your concerns about your child or you listed serious health issues on your child's yearly State Health Assessment Record.

- You asked the school in writing to evaluate your child for special education services.
- Your child's behavior or performance in school showed that they needed special education services.
- Someone at the school expressed concern about your child through the school's special education referral system.

If you think your child should have been identified as needing special education, ask the school in writing to schedule a PPT or 504 meeting before an expulsion hearing is held.

If the school will not postpone the expulsion hearing, go to the hearing and show the decision-maker a copy of the letter you wrote asking for a PPT meeting (**Sample Letter C**). Ask for the hearing to be postponed until after your child has been fully evaluated for special education.

What happens if my child has already been expelled and I think they are eligible for special education?

You should immediately request an evaluation of your child by asking for a PPT in writing. (You can adapt **Sample Letter C** to request an evaluation PPT.) 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 D**.

How can I help my child after an expulsion?

If your child is eligible for special education, the PPT – which includes you – must meet quickly after the expulsion decision. The team will decide where your child should be educated and what services your child needs in order to learn. Your child's educational program does not have to be as good as the program they were in before the expulsion. But it still must allow your child to make reasonable educational progress. If you have concerns about your child's program or progress, you can ask for a PPT meeting.

Make sure that your child attends any alternative education program consistently, and that your child completes school work. High school credit can still be earned during the period of expulsion, and your child may still be able to graduate on time.

Make sure your child fulfills any conditions listed in the expulsion decision (for example, community service or therapy).

Your child may be eligible for early readmission to school if they attend the alternative education program regularly, complete school work at a satisfactory level, and fulfill any special conditions. Encourage your child to do well.

Sample Letter A – Records Request

Note: You should email or fax this request to the school as soon as possible. Keep a copy and proof of sending. Generally, you may want to ask for one to two years' worth of records.

Parent Name
Address
Telephone numbers
Email address

[Today's date]

Name of School Principal
School Address

To Whom it May Concern or Dear Principal:

I am the parent/legal guardian of _____ (Date of Birth: _____).

My child is facing disciplinary proceedings, including a possible expulsion. I ask that copies of my child's regular and special education records be provided to me as soon as possible, but at least three days before the expulsion hearing date of _____. This request includes records from [insert date] to the present, including but not limited to the following:

- all out-of-school suspension notices;
- all in-school suspension, isolation room, or reflection center logs;
- all disciplinary notices and all "Unusual Incident" reports;
- all expulsion notices, referral packets, or decisions;
- the names of all witnesses the school will ask to testify at the expulsion hearing;
- all statements made by school staff, my child, students or others concerning any events for which my child may be disciplined;
- any and all evidence, including any and all exculpatory evidence, concerning my child's alleged responsibility for the disciplinary incident in question, including but not limited to written statements, documents, social media posts, videos, or cell phone data;
- all prior IEPs or 504 plans, if any, from the current and prior two years;
- all report cards from the current and prior two years;
- all reports written as a result of all school or independent evaluations, including, but not limited to, psychological, psychiatric, achievement, neuropsychological, speech and language, and occupational therapy;
- all Behavior Intervention Plans and Functional Behavior Assessments;
- all logs or reports regarding the restraint or seclusion of my child;
- all daily behavior tracking logs or charts;
- all State and District Assessments data, including Fountas & Pinnell, NWEA, STAR, SRI and Lexile scores;
- all medical records, including documentation of any calls made to EMPS (Mobile Crisis);
- all attendance data;
- all correspondence, including electronic, written between school and district personnel regarding my child;
- logs/notes of all phone calls made by school personnel to me and vice versa, regarding my child;
- Other: _____

If you have any questions, please feel free to contact me. Thank you for your assistance with this matter.

Sincerely,

Parent/legal guardian

Sample Letter B – Request for Subpoena

Note: You should email or fax this request to the Hearing Officer or Board of Education as soon as possible. Keep a copy and proof of sending.

Parent Name
Address
Telephone number
Email address

[Today's date]

Name of Hearing Officer
Address of Hearing Officer or
C/o Board of Education + Address

Dear _____:

An expulsion hearing concerning my child, _____, who currently attends _____ [name of school], has been set for _____ [date of hearing]. I would like you to subpoena the following witnesses, in accordance with Conn. Gen. Stat. §4-177b:

[List name and address of each witness]

[If you want the witness to bring records or documents, add this language:] In the subpoena, please order _____ to bring _____ documents with them to the hearing.

Thank you.

Sincerely,

Parent or legal guardian

SAMPLE LETTER C – Request for a Manifestation Determination

Note: you should email or fax this request to the school principal as soon as possible. Keep a copy and proof of sending.

Parent Name
Address
Telephone number
Email address

[Today's date]

Name of School Principal
School Address

Dear Principal _____:

I understand that the school is considering expelling my child, _____ (DOB: _____). I ask that the school first schedule a PPT (or 504) meeting before taking any further disciplinary action. I request this PPT (or 504 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 (or 504 meeting).

Sincerely,

Parent /legal guardian

Sample Letter D – Request for Due Process Hearing (Special Education)

Note: You should email or fax this request to the Connecticut Dept. of Education as soon as possible. Keep a copy and proof of sending.

Parent Name
Address
Telephone number
Email address

[Today's date]

Connecticut State Dept. of Education
Bureau of Special Education, Due Process Unit
P.O. Box 2219, Room 359
Hartford, CT 06145-2219
Fax # 860-713-7153

To Whom it May Concern:

I request an impartial due process hearing concerning my child, _____ (DOB: _____) who is currently within the jurisdiction 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 that my child's behavior was not a manifestation of his/her disability. I disagree, and I believe the school should change my child's IEP, not expel him/her.

Sincerely,

Parent/legal guardian

Sample Letter E – Request for Hearing (504)

Note: You should email or fax this request to the School District's 504 Coordinator as soon as possible. Keep a copy and proof of sending.

Parent Name
Address
Telephone number
Email address

[Today's date]

District 504 Coordinator
School District Address

To Whom it May Concern:

I request an impartial hearing concerning my child, _____ (DOB: _____) who is currently within the jurisdiction of _____ [name of school district] and attends _____ [name of school].

The issue in dispute is the proposed expulsion of my child from school. The 504 team decided that that my child's behavior was not a manifestation of his/her disability. I disagree, and I believe the school should change my child's 504 Plan and not expel him/her.

Sincerely,

Parent/legal guardian

How to Get Help from Legal Aid

Contact Statewide Legal Services

www.slsct.org

1-800-453-3320 or 860-344-0380

SLS provides free advice to low-income people who have legal problems in Connecticut. For some legal problems, they may send you to another legal aid program or to a volunteer attorney.



Need help with a housing problem?

If you are facing eviction or losing your housing subsidy, you may have the right to a free lawyer. Call 1-800-559-1565 or go to www.EvictionHelpCT.org.

Contact your local legal aid office:

Connecticut Legal Services

www.ctlegal.org

Bridgeport

203-336-3851

1000 Lafayette Blvd.

New Britain

860-225-8678

16 Main St.

New London

860-447-0323

125 Eugene O'Neill Dr.

Stamford

203-348-9216

1177 Summer St.

Waterbury

203-756-8074

85 Central Ave.

Willimantic

860-456-1761

1125 Main St.

Greater Hartford Legal Aid

www.ghla.org

999 Asylum Ave., Hartford

860-541-5000

New Haven Legal Assistance Association

www.nhlegal.org

205 Orange St., New Haven

203-946-4811

Consumer Law Project for Elders

1-800-296-1467

Help with money and debt problems for people 60+.

Do you know your rights?

Go to www.CTLawHelp.org for free legal information.



For more information, go to www.CTLawHelp.org/expulsions

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