

If you're 60 or over, call your local legal aid office:

Eastern CT	800-413-7796	Western CT	800-413-7797
Hartford Area	860-541-5000	Bridgeport Area	800-809-4434
Stamford Area	800-541-8909	New Haven Area	203-946-4811

If you're under 60, call SLS for help:



Statewide Legal Services
1-800-453-3320
860-344-0380

Search our website for help:



www.ctlawhelp.org

EDUCATION

LEGAL SERVICES

SELF-HELP SERIES

School Expulsion: What is the process? What can you do?

October 2016



We offer free legal help in many areas, including

- welfare,
- SNAP (food stamps),
- divorce,
- child support,
- domestic violence,
- bankruptcy,
- special education,
- nursing home care,
- health insurance,
- eviction,
- foreclosure,
- and more.

See the reverse side for more about legal services.

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:

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

Who decides to expel a student?

Usually, the Board of Education will hold a hearing so a decision can be made about whether or not to expel a student. At the hearing, a person or group of people will listen to what happened and make the decision to expel based on reports from

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

The person or people making the decision at the hearing will usually be

- a neutral *hearing officer* such as someone from the community who doesn't work for the school district, or
- a neutral *hearing board* of three or more members of the Board of Education.

When can a Board of Education expel a child?

A student must face expulsion if he or she

- has a gun or other deadly weapon on school grounds or at a school activity,
- uses a firearm or other deadly weapon to commit a crime on or off school grounds, or
- sells (or tries to sell) illegal drugs on or off school grounds.

A student may be expelled if he or she

- breaks a school rule on school grounds or at a school activity,
- is disruptive or puts other people or things in danger on school grounds or at a school activity, or
- breaks a school rule off school grounds in a way that disrupts or prevents other students from learning.

If you're under 60, call us for help:



Statewide Legal Services
1-800-453-3320 or 860-344-0380

Search our website for help:



www.ctlawhelp.org

If you're over 60, call your local legal aid office.

Connecticut Legal Services

www.ctlegal.org

Bridgeport

1000 Lafayette Blvd 203-336-3851
Suite 950

New Britain

16 Main Street 860-225-8678

New London

125 Eugene O'Neill Dr.
Suite 120 860-447-0323

Stamford

20 Summer Street 203-348-9216

Waterbury

85 Central Avenue 203-756-8074

Willimantic

1125 Main Street 860-456-1761

Greater Hartford Legal Aid

www.ghla.org

999 Asylum Avenue
Hartford, CT 06105
860-541-5000

New Haven Legal Assistance Association

www.nhlegal.org

426 State Street
New Haven, CT 06510
203-946-4811

Consumer Law Project for Elders

Free legal assistance to people 60 and over throughout Connecticut who have money/debt problems.

1-800-296-1467

This booklet was produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services of Connecticut. The information in this booklet is based on laws in Connecticut as of 10/2016. We hope that the information is helpful. It is not intended as legal advice. For advice on your situation, call Statewide Legal Services or contact a lawyer.

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Resources

Are you looking for an attorney to represent your child at an expulsion hearing? If you have 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 you information, or refer you to a legal services office or a private attorney at no cost to you.

Yale Law School Legal Services Organization

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

Quinnipiac University School of Law - Civil Clinic

275 Mt. Carmel Avenue
Hamden, CT 06518
203-582-3238

State Office of Protection and Advocacy

60 B Weston Street
Hartford, CT 06120-1551
860-297-4300
1-800-842-7303
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
www.cpacinc.org


Learning Disabilities Association of CT Inc.

999 Asylum Avenue
Hartford, CT 06105
860-560-1711
www.ldact.org

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

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

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

- ✓ **Your child has the right to a hearing before being expelled.** The hearing must be held within 11 school days after he or she has been taken out of school. The only time a hearing can be skipped is if there is an emergency (for example, if the school believes a child is dangerous to himself or others if he stays in the classroom).
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- ✓ **You have the right to get a written notice from the school** before an expulsion hearing. The notice must explain which rule the school believes was broken and what the child did to break the rule. The notice must also tell you the date, time, and location of the hearing as well as how you can get an attorney to represent your child.
 - ✓ **You have the right to bring an attorney with you to the hearing.** Call Statewide Legal Services at 1-800-453-3320 as soon as you think your child might be expelled. If you don't have an attorney, you can bring someone else as an advocate.
 - ✓ **You have the right to explain your child's side of the story** at the hearing. You can bring witnesses with you and show evidence, such as documents that support your case.
 - ✓ **You have the right to question the witnesses** that the school has invited to the hearing.
 - ✓ **You have the right to get copies of the documents that the school will be showing** at the hearing. You can also get copies of written statements by teachers and witnesses. Make sure to ask for a copy of the student's entire school record, as there may be information in it that can help you.

How can I get ready for the hearing?

Expulsion hearings are usually scheduled within 10 or fewer days, so you should start getting ready for the hearing as soon as you get the notice.

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 that the school may use as evidence.

2. Try to talk to the school's witnesses before the hearing so you can find out what they plan to say.

3. Make a list of people who can be your witnesses and help you tell your side of the story. Ask them to come to the hearing and find out what they plan to say. You may also want to find some character witnesses. A good character witness would be an adult from 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 him or her.

If there is a person who you think would be a good witness for your child but that person says they won't come to the hearing, you can ask the hearing officer to send them a *subpoena*. A subpoena is a paper that will require that the witness to go to the hearing. If you want the hearing officer to subpoena a witness, make your request as far in advance as possible. You can use **Sample Letter A** as an example.

4. Plan your strategy for the hearing. Remember that two things will be decided at the hearing:

- if the child broke a school rule and should be expelled, and
- how long the expulsion should last.

Sample Letter C - Request for Due Process Hearing

[Parent's name]

[Address]

[Telephone number]

[Today's date]

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

Dear _____,

I request an impartial due process hearing concerning my child [child's name], [child's 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 instead of expelling him.

Sincerely,

[Parent's signature]

Sample Letter B - Request for PPT

[Parent's name]

[Address]

[Telephone number]

[Today's date]

[Name of School Principal]

[Address]

Dear _____,

I understand that the school is considering the expulsion of my child, [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]

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. You should also practice what you want 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. On the last page of this booklet, you will find a list of organizations that you can contact for legal information or advice.

Each case will be different, but here are some things to think about before the hearing:

1. You may think the school has the facts wrong and that your child did not break the rules. If this is the case, try to find witnesses or documents that will prove your child's innocence. You will want to convince the hearing officer that your child shouldn't be expelled.

2. You may think your child had a good reason for breaking the rules and that expulsion is too severe of a punishment for what your child did. Try to find witnesses or documents to help show why your child acted the way they did and that his or her behavior was understandable for the situation.

3. You may agree that your child broke the rules and 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. Character witnesses can be very helpful here.

4. You may want to try a couple of 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 lasts for only a short time.

What will happen at the hearing?

While an expulsion hearing is not as formal as a court trial, it is a legal proceeding and it may be the only chance you get 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 be recorded or someone will write down everything that is said.

The hearing officer will listen while each party tells its side of the story and will then decide

- whether or not the child broke the rules,
- whether or not the child should be expelled, and
- how long the expulsion will last.

The school's presentation

The school officials must show enough evidence to prove that expelling the student is reasonable. 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 hearing officer. The witness must be someone who actually saw what happened. For example, the principal cannot tell the hearing officer, "I didn't see what happened, but the teacher told me ____."

A school official will ask questions of the school's witnesses. In addition to having witnesses say what they saw and heard, the school can show documents that support its position, including evidence about your child's past discipline problems.

If the school doesn't have a witness who was actually there when the incident took place and tries to prove its case using *only* written documents, be sure to point this out to the hearing officer.

The student, his or her parents, or their representative may ask questions of (or *cross-examine*) the witnesses after the school official is finished questioning them. 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.

Sample Letter A - Request for Subpoena

[*Parent's name*]

[*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, [*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*]

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 or her as a special education student?

The school can expel a child who is not an identified special education student unless the school knew that the child had a disability. Here are some ways that the school might have known that your child has a disability:

- You told the school about your concerns about your child in writing.
- You asked the school to evaluate your child for special education services.
- Your child's behavior or performance in school showed that he or she needed special education.
- Someone at the school expressed 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 ask for a PPT meeting right away. When you go to the expulsion hearing, show the hearing officer a copy of the letter you wrote asking for a PPT meeting (**Sample Letter B**) and ask for the hearing to be postponed.

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

You should immediately request an expedited evaluation of your child by requesting a PPT. (You can adapt **Sample Letter B** 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 that is 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**.

The student's response

When the school is done presenting its case, it will be your turn to present your child's case. Ask each of your witnesses to come forward to speak about

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

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

Your child is **not required to testify** about what happened, and in some cases, it may be better if he or she doesn't testify. (See the next section about Juvenile Court.)

Once each witness has spoken and any written evidence has been given to the hearing officer, each side may have a chance to make a final statement. This is your chance to briefly explain what you think happened and what you think should happen to your child. Finish by asking the hearing officer not to expel your child 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 behavior directed at the school officials or the board will only add more stress to the situation and could even hurt your child's case.

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 criminal charges for the same incident. Expulsion hearings usually take place before the criminal case is resolved, so the child should be careful not to say anything at the expulsion hearing that could be used later in criminal or juvenile court. The school can expel the child even if the criminal case is still going on and the child hasn't been convicted. **Be sure to talk 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 keep getting an education?

If your child is under age 16, he or she will still be provided an education during the expulsion. This is called an alternative education. Depending on the school district, your child may go to a different school or get individual tutoring at a public location.

If your child is between the ages of 16 and 18 and wants to continue getting an education, alternative education will be offered as long as your child follows any conditions the board may set.

The board **does not** have to offer alternative education to students between the ages of 16 and 18 if the student has been expelled before or the incident involved weapons, drugs.

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 the possession of a firearm or deadly weapon.

Can I stop the expulsion by sending my child to a different 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 the expulsion hearing. In most cases, the new school district cannot refuse to admit your child based on his or her record alone, but it can hold its own expulsion hearing for the incident at the old school.

Can my child be removed from school without going through the expulsion process?

Your child cannot be expelled from school without an expulsion hearing.

Can my child be expelled if he or she is in special education?

Your child cannot be expelled for behaviors that are caused by his or her disability. If the school is considering expulsion, it **must** hold a Planning and Placement Team (PPT) meeting first. Two things need to be decided at this meeting:

- Was the behavior caused by your child's disability?
- Was the behavior caused by the school's failure to put an important part of the IEP (your child's Individualized Educational Plan) into place?

If the answer is **yes** to either of those questions, the team should talk about changing the IEP to fix the problem rather than recommending expulsion. If it is decided that the answer to both questions is **no**, your child could be referred for expulsion.

If your school does not schedule a PPT meeting, use **Sample Letter B** to request a PPT meeting.



Your child cannot be expelled 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.

What if the PPT decides the misbehavior was not caused by my child's 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, you can use **Sample Letter C** to ask for a *due process review* to appeal the PPT decision.

Your child will still be educated until the due process review is completed. However, your child's education may not be at his or her current school.