

# School Expulsion: What Is the Process? What Can You Do?

May 2019

## 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 for **up to one 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.

## 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 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 very important that you go to the expulsion hearing. The hearing will happen even if you don't 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 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.

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 your child's 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

- had 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.

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

- broke a school rule on school grounds or at a school activity,
- were disruptive or put someone in danger on school grounds or at a school activity, or
- broke a school rule off school grounds in a way that prevents other students from learning.

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

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- **A hearing must be held before an expulsion can happen.** The hearing should be held as soon as possible, and it must be held within 11 school days after the first day your child was suspended. If something prevents the hearing from being held within 11 days and there are safety concerns about your child returning to school, the 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 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 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](https://ctlawhelp.org/en/node/733) at 1-800-453-3320 right away to see if you can get free legal help. If you can't get an attorney to represent you, you can bring someone else to the hearing as an advocate.
- **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 to represent you.

Note: 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 give up (or *wave*) 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?

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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,
- a list of the witnesses the school plans to bring to the hearing,
- written statements made by 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](#) 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 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 them. If this person can't come to 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

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 two things will be decided at the hearing:

- whether or not your child broke a school rule and will be expelled, and
- how long the expulsion should last if your child is expelled.

**Each case will be different**, but here are some 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 didn't break the rules and shouldn't 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 combination 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 will last for only a short time.

## What will happen at the hearing?

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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 doesn't 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. **A student should not be expelled on hearsay evidence alone.**

The student, their parents, or their representative can question (or *cross-examine*) the 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 won't help your child's case if you get angry or argue, even if you think someone isn't telling the truth. Rather than argue, you and your witnesses should explain what happened when it is your turn to speak.

## 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 didn't give them to you, or if you didn't get them until the day of the hearing, you should let the decision-maker know.

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. Finish by asking 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 didn't involve a weapon, you can ask the decision-maker to send your child to a special program. If your child completes the special program, they 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).

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

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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 hasn't 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, or in neither.**

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

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**If your child is under age 16**, they will continue to get 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** and wants 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. 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 if the incident involved weapons or drugs.

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

If the expulsion was for the possession of certain kinds of weapons, it 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 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.

## 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

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### 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 didn't 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* and a *Behavior Intervention Plan*. 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, if your child is in special education and they 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 appeal. 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* hearing to appeal the decision. See the booklet, *Special Education: Protecting Your Child, Protecting Your Rights*, for more information.

Your child will be educated until the due process or 504 hearing is completed, but it 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?

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If the school knew (or should have known) that your child has a disability and needs special education services, then they 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.
- 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 Planning and Placement Team (PPT) or 504 meeting before an expulsion hearing is held.

If the school won't 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](#). See the legal aid booklet, *Special Education: Protecting Your Child, Protecting Your Rights*, for more information.

## How can I help my child after an expulsion?

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If your child is eligible for special education, the Planning and Placement Team – 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 doesn't have to be as good or as comprehensive 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.

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



...and save your child from any conditions noted in the expulsion decision, for example, continuing services 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 Letters

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### 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 one to two years' worth of records.*

 [Get PDF](#)

Parent Name

Address

Telephone number

Today's date

Name of School Principal

School Address

To Whom it May Concern:

I am the parent/legal guardian of \_\_\_\_\_ (DOB: \_\_\_\_\_).

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 or 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.*

 [Get PDF](#)

Parent Name

Address

Telephone number

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.*

 [Get PDF](#)

Parent Name

Address

Telephone number

Today's date

Name of School Principal

School Address

Dear \_\_\_\_\_:

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.*

 [Get PDF](#)

Parent Name

Address

Telephone number

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

Dear Sir or Madam,

I request an impartial due process 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 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 as soon as possible. Keep a copy and proof of sending.*

 [Get PDF](#)

Parent Name

Address

Telephone number

Today's date

School District Address

Dear Sir or Madam,

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,

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Parent/legal guardian

This article was produced by [Connecticut Legal Services](#), [Greater Hartford Legal Aid](#), [New Haven Legal Assistance Association](#), and [Statewide Legal Services of Connecticut](#).

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## Get Help From Legal Aid

Age 60+: [Get help from legal aid](#).

Under age 60: [Find legal help or apply online](#).

Not from Connecticut? [Find help in another state](#).

### Get help from 2-1-1

Dial 2-1-1 or go to [211ct.org](https://211ct.org) for help with services in your community.

### Tell us what you think

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