

## **Expulsions in Pennsylvania: Information for Parents and Guardians**

**When Can A Student Be Expelled?** While public schools have wide latitude to create rules, they must follow their own rules. Thus, a school can only expel a student for a violation of a school rule if the school has officially adopted and distributed the rule. School rules should be listed in a published Code of Student Conduct that should be given to all students and parents.

**What Is An Expulsion?** An expulsion is any removal from school for more than 10 days in a row. Expulsions can be for a fixed period (such as a semester or a year) or may be permanent.

**Can A School Keep A Child Out For More Than 10 Days Without an Expulsion Hearing?** No. Sometimes, without holding an expulsion hearing, school officials will simply tell a family to keep their child home until s/he gets a psychiatric evaluation, or meets some other condition. This is illegal if the exclusion lasts for more than 10 school days. (Even if the exclusion is for fewer than 10 days, it is illegal unless the school has held a proper suspension hearing.)

*Note: For students who have an **Individualized Education Program (IEP)** and receive special education and for children who have **504 Plans/Chapter 15 Service Agreements**, the district must follow a different process not described here. Contact the Disability Rights Network (DRN) at 1- 800-692-7443 for more information, or see ELC's fact sheet, School Discipline and Students with Disabilities.*

**Must a School Do Anything Before A Student Can Be Expelled?** The school must hold a “**formal hearing**” before any expulsion. The school must give you at least three (3) days’ notice of the time and place of the hearing. You may request a rescheduling of this hearing if you can show a good reason why you need an extension. The hearing must be held before the school board or before a committee or hearing officer appointed by the board. If a committee or hearing officer hears the case, the full board must then vote on the committee’s or hearing officer’s recommendation.

**Does the Student Have Any Rights at an Expulsion Hearing?** Yes. Before the hearing, the family has the right to get the **names of any witnesses** against the student and **copies of their statements**, and the right to request that any of these witnesses and any school officials involved in the incident be present at the hearing. You should ask the School District for this information in writing and orally as soon as possible so that you can prepare for your hearing.

The family also has the **right to bring a lawyer** to the hearing; **present its own witnesses** and evidence; and **question the school’s witnesses**. A lawyer may be helpful to you at the hearing, though it may cost money to hire a lawyer. Some legal aid organizations may be able to assist you for free if you are income-eligible. You may contact us for more information or for a referral. The hearing **must be recorded**, and the family has a right to get a **copy of the written record** (which will be needed if the family appeals the decision to court) at the family’s expense.

**Advice for the Hearing.** At the hearing, you and your child should explain the circumstances surrounding the misbehavior, and why you believe the school should not expel your child. The hearing usually has **two parts** to it: the first part focuses on the misconduct and whether the child did or did not violate a school rule (known as the “**guilt**” phase of the hearing), and the second part focuses on what the punishment, if any, should be (known as the “**penalty**” phase). This second part could include issues such as attendance, grades, previous discipline actions against the student, and the student as a member of the community. During this second phase, you may want to focus on the child’s age, if the child is young. You

may also want to suggest alternatives to expulsion such as community service or Saturday School. And you may want to state on the record at the hearing that you cannot afford private school and cannot home school your child should the child be expelled.

At the hearing, you may also want to ask what educational services the School District would provide your child if he or she is expelled. (As noted below, the District has the responsibility to educate your child, even if expelled, if he or she is under 17 and if you cannot arrange an alternative program.) If you are dissatisfied with the answer -- for example, if you're told that the district would provide only a few hours of tutoring per week -- you should describe the services that you think your child would need if expelled (for example, placement in some other school setting). Be sure to point out that you're not agreeing with the proposal to expel your child, but simply talking about the services that you believe he or she would need if the expulsion were to take place.

Helpful information to bring to the expulsion hearing may include:

- A letter from a teacher in the school stating his or her opinion that the student is a positive member of the school community. (Of course, if the teacher is willing to come as a witness and testify on behalf of the child, this will also be helpful!)
- Bring someone from the community with you who knows the student (a neighbor, a minister, an employer, etc.) and can serve as a witness in support of the student. A letter from such a person may also be a good idea if the person cannot physically come with you.
- If the student sees a therapist outside of school, either bring the therapist as a witness or bring a letter from the therapist expressing his or her opinion about the right school placement for the student.
- Bring any information that could explain the misbehavior or explain why the student should not be expelled. For example, if the school is wrongly accusing your son of fighting, you could bring letters from classmates who write that your son was not in the fight. If the school is accusing your daughter of "repeated school violations" but never notified you of previous incidents, say so at the hearing. Or, if you have asked to meet with the principal to discuss your child and been ignored, tell the school board this. Bring any written proof you might have (such as a copy of the e-mail you sent to the principal).

Please note that these are only suggestions. You do not need to have all of this information, nor does providing all of this information guarantee a decision in your favor.

**Your Child's Placement While Awaiting the Decision.** Sometimes your child can stay in his or her regular school while awaiting the expulsion decision. If the school determines that the student is a threat to school safety, the student may be kept out of school for more than 10 days in a row before the hearing is held. However, the school must provide the student with alternative education (which can include home study) while the student waits for the hearing to occur. A school *may not* keep a student out of school for longer than 15 school days in any case without a formal hearing unless both the parents and the school district agree otherwise.

**If the Child is Expelled.** If the full school board approves an expulsion decision, you can appeal the decision to the local county Court of Common Pleas. Consult a lawyer about this – and do so quickly, since the appeal must be filed within 30 calendar days. Your lawyer may also be able to get a court order returning the child to school while the appeal goes forward.

**An Expelled Student Under Age 17 Must Continue to Receive an Education.** The parents must arrange for this, either by finding another school (like a private school) or by arranging a program of homeschooling. However, if you are unable to do so, promptly notify the school district or charter school in writing. Then the district or charter school must provide for the child's education.

**If You Move to Another School District After Your Child Has Been Expelled.** If you move to another School District in Pennsylvania, your child should be allowed to enroll in a regular public school. The new School District cannot refuse to put your child in a regular school unless your child was expelled for having a weapon in a public school, in which case the new School District may put the child in an alternative education program for the duration of the expulsion.

*IMPORTANT: ELC's publications provide a general idea of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact us for a referral or contact an attorney of your choice.*