



FACT SHEET

SUSPENSION & EXPULSION TOOL KIT

August 2022

This toolkit was developed to assist families and advocates to respond to efforts to suspend or expel students. It applies to all public schools (including charter schools) in Pennsylvania. If a school district or charter school seeks to suspend or expel your child or send them to an alternative education for disruptive youth (AEDY) setting, you may find this toolkit helpful.

I JUST FOUND OUT MY STUDENT MAY BE SUSPENDED – NOW WHAT?

REMEMBER TO:

- Read all papers the school sends you. This includes emails. Make sure you are aware of any meetings or hearings that are scheduled concerning your child.
- Talk with your child and anyone else who might know about what happened.
- If school staff aren't following legal requirements mentioned in this toolkit, point that out. Show school officials this information, if necessary.
- Attend all meetings and hearings that are held for your child. Take notes. Take a friend or someone else with you if you can.
- Make sure that school officials hear your child's side of the story.
- Consult your school's code of student conduct – schools can only punish students if they break rules listed in the code.
- **Tip:** Document and log all phone calls; who called, at what time of day, what did they discuss, did they follow up in writing after the call, what was the result of the call?
- **Most importantly, do NOT agree to anything you do not understand.**

ASK YOUR SCHOOL ADMINISTRATOR:

Is the alleged behavior or statement something my child can be punished for?

If the alleged action does not violate a previously published school rule or item within the school's code-of-conduct, then it is **not** an action the student can be punished for. School officials may punish students for behavior that occurred in school, traveling to and from school, and at school-sponsored activities. In some situations, students can be punished for out-of-school conduct that disrupts school programs when it has a strong connection to school. If the situation involves conduct out of school, ask how the conduct is related to school and how the alleged conduct has substantially disrupted the school.

Was I fully notified by the school?

Schools must provide “due process” before handing down any serious punishments like suspensions or expulsions.

Therefore, the school must:

- Explain to you and your child what they are accused of (in most cases, in writing). This can look different – an incident report, written statement from school staff or your child’s peers, a formal notification of suspension, an email from the school principal, etc.
- Share what the outcomes of the punishment might be.
- Give the student the opportunity to share their side of the story.

What kind and how many days is the potential suspension?

<i>Discipline Type</i>	Due Process Rights	Educational Rights
<i>In-school suspension</i> (<i><10 days</i>)	<ul style="list-style-type: none"> ▪ Informed of reason ▪ Parental notice ▪ Present your side of story 	School must make some provision for student’s education.
<i>In-school suspension</i> (<i>10+ consecutive days</i>)	<ul style="list-style-type: none"> ▪ Written notice with reasons ▪ Informal hearing (meet with school, explain, present, and question witnesses) 	School must make some provision for student’s education.
<i>Out-of-school suspension</i> (<i>1-3 days</i>)	<ul style="list-style-type: none"> ▪ Written notice with reasons ▪ Opportunity to respond 	School must allow child to make up missed work.
<i>Out-of-school suspension</i> (<i>4-10 days</i>)	<ul style="list-style-type: none"> ▪ Written notice with reasons ▪ Informal hearing (with sufficient advanced notice, meet with school, explain, present and question witnesses) 	School must allow child to make up missed work.
<i>Expulsion (out-of-school suspension >10 days)</i>	<ul style="list-style-type: none"> ▪ Written notice with reasons ▪ Formal hearing (officer of the board, witnesses, records) ▪ Appeal to court (within 30 days) 	If parent cannot secure alternate schooling for expelled child, school must provide it after written notification.
<i>Transfer to alternative discipline school</i>	<ul style="list-style-type: none"> ▪ Criteria for “disruptive youth” ▪ Written notice with reasons ▪ Informal hearing (meet with school, explain, present and question witnesses, records) 	Alternative school must provide at least 20 hours per week in academic instruction, provide behavioral supports, and provide plan for return to school within 45 days.

If it is an **in-school suspension for less than 10 days**, you are entitled to:

- Information regarding the reason for the suspension.
- The ability for your child to present their side of the story.
- Receive make-up work for your child (sometimes only upon request).

If it is an **in-school suspension for 10 days or more OR an out-of-school suspension for up to 10 consecutive days**, you are entitled to:

- An **informal hearing** to meet with the school.
 - At the hearing, all relevant information about the event for which the student may be suspended should be discussed. Parents, students, and school officials should discuss ways by which future offenses might be avoided.
- Receive **written** notice with reasons for the suspension, and with sufficient notice of the time and place of the hearing, which should take place within the first 5 days of the suspension.
- Question any witnesses present at the hearing and bring your own witnesses.
- For more information on suspensions, consult our [Suspensions in Pennsylvania fact sheet](#).

If it is an **out-of-school suspension for over 10 days**, also known as an **expulsion**, you are entitled to:

- A **formal hearing** within 15 school days (also called expulsion hearing, superintendent’s hearing, or a hearing before the board) and with at least 3 days’ notice of the time and place.
 - NOTE: Schools cannot keep students out of school for more than 10 days. If the school is attempting to extend the suspension beyond 10 days, they need to either:
 - Request an extension from a hearing officer (This is NOT someone who works at the school!) OR
 - Receive parental consent to keep the student out longer.
 - If you do NOT consent, put this in writing. Send an email after a meeting or phone call that documents this disagreement.
 - Unless the student is found to be a safety threat, they shall return to class, even when facing expulsion. If they are not prohibited from being in their regular classroom, the student is entitled to remain in class pending findings from the hearing.
- Notification of the charges sent by certified mail.
- A copy of the expulsion policy with notice that legal counsel may represent the student and that explains procedures of the hearing.
- Know the names of witnesses being called against your student, and copies of the statements of those witnesses.
- Request that the witnesses appear in person and answer questions or be cross-examined.
- Have your child testify and present witnesses on behalf of your child.
- A copy of the written or audio recording of the hearing.
- For more information on expulsions, consult our [Expulsions in Pennsylvania fact sheet](#).

If a school district or charter school is suggesting your child be placed at an **Alternative Education for Disruptive Youth (AEDY) program**, you are entitled to:

- A **transfer hearing** within five days of out-of-school discipline where you may argue why your child should not be moved to an AEDY program.
 - Under PA law, students can only be placed in AEDY programs for a short period of time to achieve behavioral goals. Once these goals are met, presumably within 45 days or less, a child must transition back into the traditional school setting.
 - Only middle and high school students may be sent to AEDY programs.
 - Even if the school moves your child immediately, you still have the right to a hearing.
- Knowing the time and place of the hearing in advance with sufficient time for you to prepare.
- A notice in writing explaining why the school wants to move your child to an AEDY placement.
- Ask questions about whether the program meets all the requirements under the law and your child's needs.
- Ask whether the school has exhausted all other options before seeking to transfer your child.
 - Schools are required to use other supports and services to help your child succeed in school before recommending an AEDY program.
- For more information on AEDY or how to challenge those decisions, see our fact sheet [here](#).

If your child has an IEP or 504 plan, has a manifestation determination review been triggered?

In many cases, yes. If a school wants to suspend a student with an IEP for more than 10 days in a single school year, the school must have a manifestation determination review to determine if the student's behavior was a manifestation of the student's disability – that is, whether it was caused by, or had a direct and substantial relationship to the disability, or the direct result of the school's failure to follow the student's IEP. If so, the student cannot be suspended or expelled. Additionally, the IEP team must then conduct a **functional behavioral assessment** or revise a child's **positive behavior support plan**. If it is determined that the behavior is not a manifestation, you have the right to request a special education hearing to challenge that determination.

CALL:

If a student is facing suspension or a disciplinary transfer, call the School Discipline Advocacy Services (SDAS) to see if a law student advocate can provide assistance at 215-204-8812.

If a student is facing an expulsion, call an attorney right away. ELC can connect you with one if you call our Helpline at 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA).

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit www.elc-pa.org/contact or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.