

***Does a student who has been expelled have the right to an education?***

Even after expulsion, students under 17 must be provided an education. Once a student has been expelled, it becomes the parent's responsibility to provide the required education by, for example, placing the student in another school, getting a tutor, or setting up some other educational program approved by the school district's superintendent.

But if the parents give the school district written evidence that they have been unable to arrange an educational program for the expelled student, the school district has the responsibility to provide for the child's education. This does not necessarily mean the student will be readmitted to the school but could include, for example, home instruction.

When a disabled student is suspended or excluded from school or moved to another placement, school officials must still provide the student a free, appropriate public education, in accordance with an IEP.

***Can schools use corporal punishment on children?***

Pennsylvania law forbids physical punishment of a student unless allowed by guidelines set by the local school board. Even then, only reasonable punishment may be used. Punishment which causes injury is not reasonable. If physical punishment is allowed under school board guidelines, all parents must be told of this.

Except in very limited circumstances (for example, self-defense), corporal punishment may not be used if a student's parents tell the school that they do not wish it used.

***Where can I get more information?***

For more information about suspension and expulsion from school, contact the Special Education Consult Line at 1-800-879-2301 or CONNECT at 1-800-692-7288.



# Student Rights Suspension & Expulsion

Public Information Pamphlet #26

*What procedures must a school follow to suspend a child from school?*

*What procedures must a school follow to expel a child?*

*Can children with disabilities be suspended or expelled from school?*

*Does a student who has been expelled have the right to an education?*

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REMEMBER. The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

*Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.*

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# Student Rights Suspension & Expulsion

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■ **EDUCATION IS** a very important right for every child. Every child between birth and age 21 has the right to a free and appropriate public education. To exclude a child from school is a serious loss for the child, the family, and society.

Because education is so important, schools must follow certain procedures before a child is excluded. Longer exclusions from school require more detailed and complex procedures.

## ***What procedures must a school follow to suspend a child from school?***

A suspension is an exclusion from school for one to 10 consecutive school days.

To suspend a student for up to three days, the school must tell the student the reasons for the suspension and give the student a chance to tell his or her side of the story.

To suspend a student for more than three days, the school must provide the student an informal hearing. Students have the following rights when involved in an informal hearing:

- Both the student and his or her parent(s) or guardian must receive written notice of the reasons for the proposed suspension.
- The notice must state where and when the hearing will be held and allow a reasonable time to prepare for it.
- The student or the student's attorney has the right to ask questions of (**cross-**

**examine**) any witnesses who are present at the hearing.

- The student also has the right to speak and present witnesses and other evidence.

Even if suspended, a student may make up exams and work missed, within guidelines set by the school board.

Before an in-school suspension, the student must be informed of the reasons and given an opportunity to respond. If an in-school suspension lasts more than 10 consecutive school days, the student and the student's parent(s) or guardian must be offered an informal hearing with the principal on or before the 11th day.

## ***What procedures must a school follow to expel a child?***

An expulsion is an exclusion from school for more than 10 days. To expel a child from school, the school district must provide the student a formal hearing.

Students have the following rights when the school district conducts a formal hearing:

- To have an attorney. Although it is not required, it is a good idea to have one.
- To obtain the names of witnesses against the student and copies of any of their written statements.
- To request that witnesses against the student come in person to the hearing to answer questions or be cross-examined.
- To speak and present witnesses and other evidence for the student's side.
- To have a record (for example, a tape recording) made of the hearing.
- To have a hearing held within a reasonable time.
- To have a public hearing if the student or parent asks for one; otherwise, the hearing will be private.

- To appeal a decision against the student in court.

## ***Can children with disabilities be suspended or expelled from school?***

For children with mental retardation, any proposed exclusion from school is considered a change in placement. If the school believes the student's behavior is severely dangerous, the school district must contact the state Division of Compliance for permission to change the child's placement. The parent(s) or guardian must be given advance notice of the exclusion and of their right to challenge it through the special education hearing and appeal process.

For a student with a disability other than mental retardation, the laws about suspension and expulsion are too complicated to summarize in this brochure. If your child is in special education and the school district is suspending the child frequently (more than 10 school days), you should consider doing all of the following:

- Contact an attorney or parent advocacy group for assistance.
- Ask the district in writing to convene the Individualized Education Program (IEP) team to discuss a behavior management plan for the student.
- Call the Special Education Consult Line at 1-800-879-2301 for information about how the laws apply to your child's situation.
- Get information from CONNECT at 1-800-692-7288 about your child's disability and your right to a pre-hearing conference, mediation, or a due process hearing.