

Get Ready for the Changing Landscape of Expulsions

Education Law Notes

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By Melinda Kaufmann

The legislature, this year, put in place significant changes relative to the expulsion of students which will supposedly go into effect on August 15, 2017. Assuming that the legislature leaves intact these changes during the 2017 legislative session, Districts will need to update their policies and programs in advance of the 2017-2018 school year.

Expulsion Hearing Process

Districts will now be required to provide parents with a minimum of five (5) **business** days' notice prior to an expulsion hearing. The parent also has a right to have the hearing postponed for up to one week to allow time for the parent to get an advocate. The only exception is "if an emergency exists." This may often result in the student returning to school prior to the expulsion hearing being held because a student can only be suspended for up to ten (10) consecutive school days.

In addition to information about available free and low cost legal representation (which is already required by law), expulsion notices must now contain information concerning the parent/guardian and student's general legal rights. The statute now explicitly provides that a student may be represented by an attorney or a non-attorney advocate at the expulsion hearing, although this was a right that had been previously recognized as basic due process by most school districts.

A student who committed an expellable offense who is seeking to return to school having participated in a "diversionary" program, and who has not yet been expelled, must be allowed to return to school and the district may not seek to expel the student. A similar provision already exists for students seeking to return to school after having been detained in a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement

Alternative Education During the Expulsion

The Act eliminates the exception to providing an alternative education for students between the ages of 16 and 18 who committed certain drug and weapons violations and now requires an alternative education for **all** students through age 18.

pullcom.com  @pullmancomley

BRIDGEPORT
203.330.2000

HARTFORD
860.424.4300

SPRINGFIELD
413.314.6160

WAKEFIELD
401-360-1533

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203.254.5000

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Perhaps the most impactful change (educationally and fiscally) is that children under the age of sixteen (16) must be provided an alternative education during expulsion that includes:

1. 180 school days per year, and a minimum of 900 hours total per year (which is an average of five (5) hours of instruction per day); and
2. Each student must have an individualized learning plan

This revision presents a significant increase over what had been the norm. Children between the ages of sixteen (16) and eighteen (18), expelled for the first time, who wish to continue their education, must be offered an alternative education that meets the same criteria if he or she complies with the conditions established by his or her local or regional school board. Students age seventeen or older may be placed in an adult education program for purposes of alternative education.

Additional Requirements Related to Weapons and Drugs

The Act expands the school's police reporting requirement for certain offenses. In addition to required reporting for possession of a firearm, it will also be required for deadly weapons, dangerous instrument and marital arts weapons.

If a student is expelled for sale or distribution of a controlled substance, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offer or administer is subject to criminal penalties, the board of education must refer the student to an appropriate state or local agency for rehabilitation, intervention or job training and inform the agency of its action.

Changes to Truancy Statute

The Act also makes changes to the truancy provisions. Effective August 15, 2017, the Act eliminates a child's truancy as permissible grounds for filing a "Family with Service Needs" complaint. It requires that schools with a disproportionately high truancy rate implement (by August 15, 2018) an approved intervention model, to be developed by the Connecticut State Department of Education. The school district will then be required to revise its truancy policy to reflect this intervention model.

School districts need to review and update their policies and programs prior to August 15, 2017 regarding expulsion, discipline and truancy in order to comply with these new provisions. Stay tuned for additional developments. For a full listing and analysis of legislative enactments affecting Connecticut public schools, please feel free to request a copy of the firm's annual legislative summary by contacting Mandy Buckley at mbuckley@pullcom.com.

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