



When Your Child Gets Kicked Out of School: School Expulsions

Expulsions and the Law

Minnesota law gives students important rights when they are being expelled from public school. Every public school has to have a discipline policy that is “prevention-oriented.” In other words, the policy must focus on finding problems and trying to deal with them before discipline happens. Schools must also follow the state’s discipline law, called the Pupil Fair Dismissal Act.

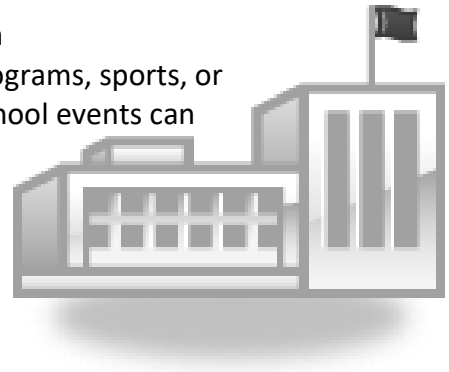


If your child has a disability or is getting special ed services, additional rules apply to the school. For more information call the Minnesota Disability Law Center at (612) 332-1441 or 1(800) 292-4150.

When can a student be disciplined?

A student can be disciplined for any of the following reasons:

- **Breaking school rules**
School boards make rules that students must follow. The rules must be clear, and the school must show that the student knew about the rules. Usually, the rules are in the student/parent handbook.
- **Significantly disrupting the rights of others to an education**
Students are not allowed to disrupt classes, after-school programs, sports, or other school functions. A student who disrupts school or school events can be disciplined.
- **Being a danger to yourself or others or school property**
Students are not allowed to do things that put themselves or others in danger, or that damage property. Examples include fighting, hitting, throwing or breaking objects, and threatening to hurt others or yourself.



In all cases, the behavior leading to the discipline must have been willful (or on purpose) in order for the student to be disciplined.

It is really hard to challenge school suspensions or get them removed. So, it is a good idea to talk with the school to figure out ways that suspensions or other discipline may be avoided in the future. This could be things like, more help for the student, better communication with parents, or different ways of dealing with the behavior.

What is expulsion?

Expulsion is one type of discipline a school can use against a student who breaks the rules. A student who is expelled may not attend their school or any school in the district for up to 12 months. Usually, students are only expelled for very serious offenses or for repeat offenses.

The most common reasons students are expelled in Minnesota are:

1. bringing weapons to school
2. having illegal drugs, and
3. fighting (assault)

Your student/parent handbook may say what type of discipline is used for different rules that are broken. Read the handbook carefully. Your student should not be expelled if the rule they broke does not list expulsion as one of the punishments.

What are the student's rights when the school wants to expel?

Students have many important rights when they are facing expulsion. An expulsion may not be legal if the school does not make sure that the student is given these rights:

- **Notice:** Before the school can expel a student, the school must give the student and the parent or guardian a written notice about the school's plans to expel. The notice must have:
 - the facts about what happened
 - a list of witnesses the school plans to call at the expulsion hearing
 - what the witnesses will say at a hearing
 - the time, date, and place of the hearing
 - what the rights of the student and/or parent are for the hearing
 - a description of what the school did to try to prevent the expulsion
 - how to get a list of free and low-cost attorneys
 - a copy of the Pupil Fair Dismissal Act attached to the notice



If any of these are not in the notice, parents should ask for them.

- **Right to a Hearing:** A student cannot be expelled without a hearing, unless the student and parent sign a form waiving (giving up) the hearing. The school may try very hard to get you to sign this kind of waiver. But remember- the hearing is the student's chance to present their side of the story and to make sure that the school has followed the rules that it has to follow. ***Always speak to a lawyer before signing anything.***
- **Right to Legal Representation:** You have the right to have someone represent you and your child at the hearing. The school will have a lawyer at this hearing and so should you. ***The school must tell the parent about free or low-cost legal help for these hearings. Call a lawyer as soon as possible.***

- **Preparing for the Hearing:** You have the right to look at your child’s school records before the hearing, to present evidence and witnesses at the hearing, and to cross-examine school witnesses.
- **Right to a Speedy Hearing:** The hearing must take place within 10 days of the school sending the notice of expulsion. If you or the school has a good reason for needing more time, that deadline can be extended for up to 5 days.



Students with disabilities have additional rights if an expulsion is happening or being proposed. For more information, call the Minnesota Disability law Center at (612) 332-1441 or 1(800) 292-4150.

What happens after the hearing?

The hearing usually happens in front of a hearing officer, who is like a judge. The hearing officer makes a recommendation to the school board which has to be “served” on the school board and the parents within 2 days of the hearing. The school board makes the final decision whether to expel the student. That decision must be made at a meeting held within 5 days after the school board gets the recommendation.

Find out when the school board meets. If the hearing officer recommends expulsion, the student and parent can go to the meeting and ask the school district not to expel or to shorten the length of the expulsion. The school board must make its final decision in writing and must give clear reasons for its decision.

If you don’t agree with the school board’s decision, you can appeal. The decision should include information on how to appeal.

What happens if the student is expelled?

- **Length of Expulsion:** Expulsion means that the student is not allowed to go to the school for up to 12 months. The school board can expel the student for less than 12 months, but it is illegal for a student to be expelled for more than 12 months. If a gun or firearm is brought to school, a school can expel for at least 12 months.
- **Alternative Education:** Schools still have to educate expelled students. Expelled students have a right to get “alternative educational services.” This may be things like enrollment in an Alternative Learning Center (ALC) or schooling at home that is supervised by a teacher. The services must be designed to make sure that the student keeps making progress towards graduation and to prepare the student for coming back to the school after the expulsion is over.



- **Enrolling in Other Districts:** If a student has been expelled, they are not automatically stopped from going to school in a different school district. The school district that expelled them cannot expel them from other districts. A different school district can only keep an expelled student from enrolling through a procedure called exclusion. Exclusion requires notice and a hearing much like the requirements for expulsion talked about above in this fact sheet. Exclusion can't last past the end of the school year.

Are there other options for students facing expulsion?

Schools may offer you a deal or alternative to expulsion. For example, a school might ask you to agree to withdraw your child from school. This is sometimes called an “agreement in lieu of expulsion” or an “expulsion hearing waiver.” Or they may ask you to agree to an administrative transfer which means your child is moved from one school in the district to another in the same district.

Some of the benefits that a deal may include are:

- The school agrees to take anything about the proposed expulsion off the student’s record.
- The school agrees to provide some educational services.
- You can move ahead with an educational plan faster than going to an expulsion hearing.



Some of the risks of making a deal are:

- you would give up your right to a hearing and possibly give up some legal claims
- access to education help and services might be limited
- you may have trouble finding a school for the student

It is best to talk to a lawyer before accepting an offer, and to think about the terms of the offer carefully.

What should I do to keep my child in school?

If your student is facing expulsion, keep these tips in mind:

- *Ask the school for help early.* The school might be able to offer more help and services. These things might prevent a problem in the future and might stop a student’s behaviors from getting worse.
- *Talk to a lawyer.* Find a lawyer at www.lawhelpmn.org/providers-and-clinics or from the list of free and low-cost lawyers that the school must give you.

- *Keep copies of everything you get.* Keep a written record of all phone conversations, notices, and mail from the school and school district. Make sure everything has the date, time, and the person you spoke to. Make copies of everything you give to the school.
- *Know your rights.* The rights you have that are listed in this fact sheet are based on what is called your constitutional right to due process. It is important that you know them, and that you insist that they are followed.
- *Make sure that your child gets alternative educational services.* Students are usually suspended first and then expelled. The school has to start giving educational services after the 5th day of suspension. Make sure this happens, and work with the school to make sure that they are doing enough to help the student make educational progress.



Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

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