

SCHOOL DISCIPLINE & STUDENTS EXPERIENCING FOSTER CARE

Factsheet

WHERE TO START?

All Schools should have a code of conduct that outlines student actions/behaviors along with the consequences that can be implemented by the school.

- These Codes of Conduct should be publicly available and can usually be found on the school/district's website, and they do vary from district to district.
- There is usually a progressive nature to school discipline. Consequences may escalate if a student has violated a policy more than once or has had multiple different types of incidents. Consequences for certain infractions might be more severe.
- Youth in the U.S. have a right to a Free and Appropriate Public Education (FAPE) and a right to Due Process.



2 Main Types of Discipline: In vs Out of School

IN-SCHOOL

Detention: This can be enforced during a student's lunchtime, recess, before or after school; should never be during class time.

In-school suspensions (ISI): A student is removed from their classroom for a stated period and moved into a different room on campus with school staff for supervision. They are not in their normal classes during this time. They are typically able to work on classwork provided by the teachers.

- For Special Education Students: this is not connected to the Manifestation Determination process. (see Manifestations Determination Hearings section below).

OUT OF SCHOOL SUSPENSIONS (OSS)

Short-term Suspension (STS): A suspension where the student is out of school for 10 or fewer days in a row. Students are not allowed on campus during this time, including all school events such as dances, assemblies, and sporting events.

- They should receive schoolwork to complete while serving this suspension. If they don't receive work while they are out, they can get make-up work upon return and complete it within the school's given timeframe.

Long-Term Suspensions (LTS): When a student is suspended from school for 11+ days in a row. The school must communicate this in writing and a hearing must be held to discuss the length of time. **See Hearing Process and Appeal Process for more information.*

- Education while out of school on LTS
 - Districts and schools should offer an educational opportunity for students to engage in while on Long Term Suspension. This might be an alternative school placement within the district, online self-paced learning, or packets of work students can complete at home.
 - Students with IEPs should be provided with their IEP-related services during this time.
- If a student receives an LTS from one school, another school district can and often will uphold and enforce the consequences of that discipline from the other district. It is always best to be honest and upfront with the new school.

Expulsion: The student is no longer allowed to return to the school or district, permanently. The school must communicate this in writing and a hearing must be held. **See Hearing Process and Appeal Process for more information.*

- Any school district has the right to refuse a student's enrollment who has been expelled from a previous school or is in the process of being expelled. (ARS §15-841.C)
 - Online schools will often deny enrollment based on the nature of the incident related to a previous expulsion.
 - It can be helpful to provide a written statement to a school explaining a bit more about the incident and any support/services the student is now engaging in to show growth.

HEARING PROCESS

- There must be a Long Term Suspension/Expulsion Hearing to decide if and how long a student may be suspended/expelled. The guardian must receive notice of this hearing, typically in writing.
- Typically in the hearing, a hearing officer, an impartial district staff who is well-versed in the school's discipline policies, will review the incident(s) that led to this potential consequence, how the student has been doing in school this year, discuss potential consequences, and any other relevant information. Following this, they will provide a decision for the length of the suspension, typically in writing within 24 hours of this hearing.
- A student and their team are welcome to attend, including their DCS worker, Placement, Family members, CASAs, Counselors, etc. An attorney is also able to join the meeting if the team would like, you will need to notify the district/board if so.
- *If students are facing legal charges related to the incident, courts can request records of LTS/Expulsion hearings, so students may want to be cautious with what they share regarding the incident.

Appeal Process:(LTS & Expulsion)

Students and their Stakeholders can go through an appeal process, as outlined by their school district. This is usually a written response submitted to the school within 5 days. Overall each district has its own appeal process. Information regarding how to appeal should be available online or provided as part of the hearing process.

- Submitting letters or written statements of support may be helpful in the appeal process. These can be collected from a variety of stakeholders in the student's life and from the student themselves to submit collectively.
- These can go over a brief history of the student's life, the unique challenges they will face as a person experiencing foster care if LTS/Expelled, their goals, support/services they have, and anything else relevant.
- With expulsion appeals, there may also be an additional opportunity to speak during the School Board's review.
- Appeals can lead to less time out of school and/or more supportive options offered during that time out of school.

Manifestations Determination Hearings(MDH)

If a student with an IEP or 504 Plan is facing suspension after having been suspended for 10 total days within the same school year (in a row or not), the school must hold an MDH. [34 C.F.R. § 300.530(e)]

- MDHs go over the incident at hand and focus on two questions:
 - Is the student's behavior caused by or does it have a direct and substantial relationship to the child's disability?
 - Was the student's behavior a direct result of the school's failure to implement the student's IEP?
- If the answer to either of these questions is Yes, and agreed upon, then the student is not able to be long-term suspended for this incident at that time. MDHs should be held before the LTS/Expulsion Hearing.

POTENTIAL IMPACTS OF OUT-OF-SCHOOL SUSPENSIONS FOR YOUTH EXPERIENCING FOSTER CARE:

- Placement stability impacted.
- Damage relationships and rapport built with school staff.
- For youth living in group homes, access to adequate study spaces, support from adults, and general access to education is limited.
- Students often aren't allowed to stay home alone during the day which presents challenges to caregivers.
- Mental and behavioral health challenges triggered by the suspension and suspension process.

WAYS TO SUPPORT YOUTH

- Walk through the Hearing and Appeal process together.
- Help them prepare what they will say or write. They could prepare a written statement to be shared at the hearing.
- Come up with a plan for how to support them in completing their school work while suspended.
- Connect with mental health services and other supportive people.
- Districts should have staff dedicated to the school disciplinary process. You could call the district or reach out to the District/School's ESSA Point of Contact for additional support.

ADDITIONAL RESOURCES

- **AZ Disability Law:** disabilityrightsaz.org
- **Education Advocacy Clinic at the University of Arizona** law.arizona.edu/academics/clinics/education-advocacy-clinic
- **Raising Special Kids:** <https://raisingspecialkids.org>
- **FosterEd/NCYL's resource spreadsheet:** <https://youthlaw.org/fostered-compassionate-education-initiative-arizona>

POTENTIAL CONSEQUENCES OF WITHDRAWING FROM SCHOOL BEFORE LTS/EXPULSION HEARINGS

- The new potential school will request a variety of information from past schools including academics and behavior information. Even if a student leaves a school before they finalize disciplinary consequences they may share information about the incident, which could impact the new potential school's willingness to accept the student.
- Due to school enrollment rules, if you are considering new enrollment in a school that is not a "home school" they can deny open enrollment and are not required to enroll.
- If a School Board has received notice of a school's recommendation to expel a student before the withdrawal, they can still hold the hearing (with the student present or not) and decide to expel the student from their district whether the student has been withdrawn or not.

GRADE/AGE-SPECIFIC LAWS

- Schools must meet specific stipulations or a student must have done very specific things for them to be suspended/expelled if the student is under the age of 7. ARS §15-843.K