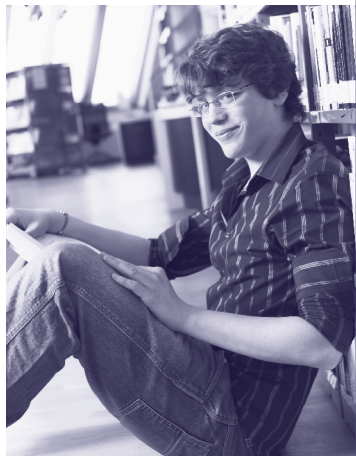




What every parent needs to know

Discipline in Public Schools



A handbook for parents with children in elementary and secondary public schools in the state of Washington

Office of the Education Ombudsman
June 2008 edition



TeamChild®

TeamChild is a non profit agency that was founded in 1995 to work directly with youth who were involved in or at risk of involvement in the juvenile justice system. TeamChild provides civil legal representation and advocacy to help youth secure appropriate educational services, mental health & medical evaluation and treatment, safe and stable living situations, and other community based supports. TeamChild currently has offices in King, Pierce, Snohomish, Spokane and Yakima counties. TeamChild also provides a wide range of community legal education and training statewide for lawyers, advocates, families and youth. For more information about TeamChild, visit www.teamchild.org.

Office of the Education Ombudsman

The Office of the Education Ombudsman (OEO) is an agency within the Governor's Office that provides information regarding elementary and secondary public education, promotes family and community involvement in schools, helps resolve problems between families and educators, and makes recommendations to public officials.

OEO promotes equity in education and the academic success of all students attending elementary and secondary public schools in Washington State.

All of OEO's resources and services are free and available Monday through Friday from 8 am to 5 pm. For consultation over the phone with an Education Ombudsman or to receive resource materials about other education issues, call toll-free **1-866-297-2597**. Interpreter services are available in over 100 languages. For additional information, visit OEO's website at www.waparentslearn.org.

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This publication is an adaptation of portions of the manual, *Make a Difference in a Child's Life: A Manual for Helping Children and Youth Get What They Need in School*, written and produced by TeamChild in partnership with Casey Family Programs. For a copy of the *Make a Difference* manual, visit www.teamchild.org or call TeamChild at (206) 322-2444.

This publication provides basic information on education law in Washington State. While it provides information about the law, it is not legal advice, and is not in any way intended to be a substitute for legal advice or representation. If you need legal advice, please contact a lawyer who can look at the specifics of a particular situation and apply the law.

Keep in mind that laws change and that the law explained in this publication may have changed since it was written. Consult with an attorney who knows this area of law to make certain that it is still valid.

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Discipline in Public Schools

The 3 Most Important Things to Remember about Discipline

- ◆ Students have a right to an education, even if they misbehave at school.
- ◆ Students have a right to challenge schools if the punishment for misbehavior is not fair or if there is a disagreement about what happened.
- ◆ Students have a right to due process.

I. Introduction

Schools must make sure that students have a chance to tell their side of the story and voice an opinion about whether the punishment is fair.

Every child and young person has a right to education. The right to education is an important one that is protected by Washington's laws. Along with those rights, students have responsibilities, including following rules. If rules get broken, school districts can impose punishment to try to correct the behavior or to prevent it from happening again. Schools must make sure that students have a chance to tell their side of the story and voice an opinion about whether the punishment is fair. This publication gives information about the ways that a school district can try to correct or punish behavior. It also has tools for you to challenge discipline when it's not fair or right for your child.

The laws and policies cited in this publication can be found at the Office of the Education Ombudsman's website at www.waparentslearn.org.

II. How and Why Students Can be Disciplined



Where you can have an impact

Schools can be quick to discipline, suspend or expel students who break the rules.

Understanding the rules and showing an interest in your child's education are good ways of keeping problems from happening.

Take time to talk with your child and help him or her make good decisions about what is worn or brought to school.

What are my child's responsibilities at school?

Students must:

- Attend school and be on time to classes
- Follow school rules
- Behave on the bus and follow the driver's directions
- Show respect to other students and school staff
- Not bring drugs, alcoholic beverages or tobacco products to school
- Not have weapons on school property or carry weapons on the way to and from school. A weapon is anything that can be used to threaten or intimidate people
- Not participate in any gangs or gang-related activity at school. A "gang" means a group of three or more people, with a leader, that regularly plans and acts together to do illegal things. Schools often have policies forbidding students from using gang signals, wearing gang symbols or colors, recruiting gang members, or advertising that they are in a gang.

How does my child know what behavior is expected?

All students, including your child, should receive a copy of the school rules. If your child didn't get one, ask for it from the school office.

Read the school rules together. If they are confusing, ask the school Principal for clarification.

What happens if my child misbehaves at school?

Teachers and school administrators can use a variety of methods to discipline students.

For example, districts can:

- Send a student home early
- Require a conference with the teacher or Principal
- Impose an in-school suspension or detention that separates the student from other students
- Refer the student for outside help such as counseling or a drug and alcohol evaluation
- Immediately remove the student from school on an emergency expulsion
- Suspend the student for a certain number of days
- Expel the student for an indefinite number of days
- Call the police or make a referral to juvenile court if a crime is alleged to have been committed.

III. Limits on Discipline

Are there limits to the discipline that a school district can impose on my child? Yes.

Teachers and other school staff may not verbally or physically abuse students.

All students are also entitled to an opportunity to challenge the punishment.

What is corporal punishment, and is it allowed in schools?

Corporal punishment means intentionally causing physical pain to a student. It has not been allowed in Washington State since September 1, 1994. The ban on corporal punishment does not include situations where a school staff person uses physical force necessary to maintain order or to prevent a student from harming himself or herself, other students, school staff, or property.

IV. Student Rights When Removed from School

What are my child's rights if he or she is kicked out of school?

The school administrator (usually a Principal or Vice Principal) must:

1. Tell your child that he or she will be suspended or expelled;
2. Give reasons for kicking your child out;
3. Explain which rule was broken; and
4. Give your child a chance to tell his or her side of the story.



A student's rights are slightly different depending on what punishment the district proposes. The rest of this publication discusses rights and procedures for challenging:

- A short-term suspension
- A long-term suspension
- Expulsion
- Emergency expulsion.

V. Short-Term Suspension

Where you can have an impact

Challenging a short-term suspension

Ask for an informal conference to talk about the bad behavior.

Work with school staff on ways to prevent the problem behavior from happening again.

What is a short-term suspension?

A suspension for ten school days or less is called a short-term suspension.

What are my child's basic rights if short term suspended?

Schools must try other ways to correct problem behavior before using a short-term suspension.

A student serving a short-term suspension must be allowed to make up missed schoolwork if the suspension will have a substantial effect on grades or prevent the student from getting credit for the course.

Kindergarten to 4th-graders can be short-term suspended for a total of up to 10 days in a term. Students in grades 5 and above can be short-term suspended for a total of up to 15 days in a semester or 10 days in a trimester.

What is the process?

Students have the right to an informal conference with school district administration **before** serving the suspension. The student has a right to give his or her side of the story at the informal conference.

Before the informal conference, the school must give the student an oral or written notice describing:

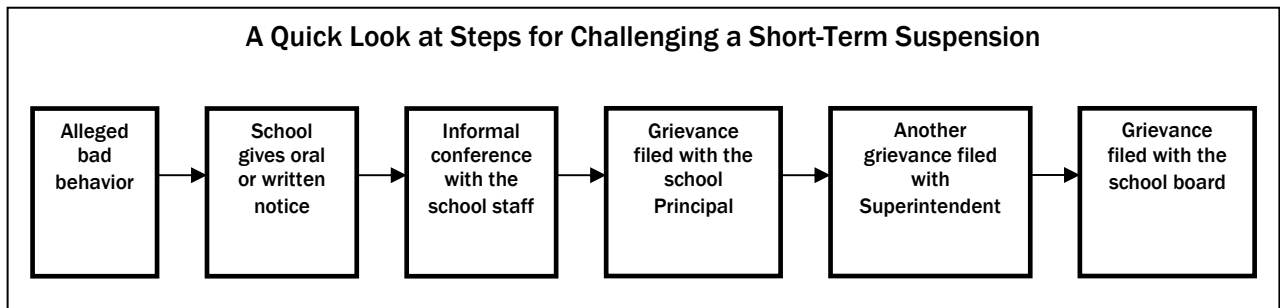
1. The alleged bad behavior.
2. The school district rule that was broken.
3. An explanation of the facts showing that the bad behavior really happened.
4. An explanation of the corrective action or punishment that the school district wants to impose.

If the suspension is going to last more than one calendar day, the district must provide written and/or oral notice to the student's family.

What if my child is still unhappy with the short-term suspension after an informal conference?

Students and their families can file a grievance with the school Principal. A grievance is a statement of why the student is unhappy with the short-term suspension. The Principal must hold an informal conference to try to resolve the grievance. During the conference, the Principal can ask questions of the student, the student's parent or guardian, and the school staff involved in the matter.

If a student or his or her family is still unhappy after the grievance conference, another grievance can be filed with the Superintendent and then a third with the school board. Further challenge of the short-term suspension would most likely need to occur in court.



VI. Long-term Suspension

Where you can have an impact

Challenging a long-term suspension

Request a hearing as soon as you receive a notice. Timelines are very short, in this case three school business days. If you miss the timeline, you may lose your chance to challenge the suspension.

Put the hearing request in writing.

Deliver it to the school or board office, whichever is specified in the notice.

Keep a copy of your request. Ask the person receiving it to stamp or write the date and his or her initials on your copy.

Expect the hearing to be scheduled within three days.

What is a long-term suspension?

An exclusion from school for a definite period of time that lasts more than 10 school days in a row is a long-term suspension (LTS).

What are my child's basic rights if long-term suspended?

The nature and circumstance of the rule violation must warrant a long-term suspension. This means that the punishment must be appropriate for the bad behavior.

The school must first try other ways to address the behavior, unless the rule violation is "exceptional misconduct." Exceptional misconduct is a category of bad behavior that can be punished more harshly. School districts should have a list of what falls into the exceptional misconduct category. If it is not listed in your school rules, ask the school district for a copy.

Students in Kindergarten through 4th grade cannot be given long-term suspensions.

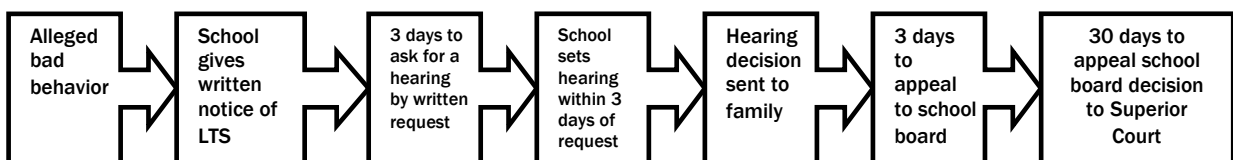
Students in 5th grade or above cannot be given a long-term suspension if it will cause a loss of academic grades or credit for more than one semester or trimester during the same school year.

Students have three school business days to request a hearing to challenge the long-term suspension.

What is the process?

- Schools must give written notice to you and your child before imposing the long-term suspension.
- The notice must be delivered in person or by certified mail.
- The notice must:
 - Be in the predominant language of your family
 - Describe the things your child is supposed to have done wrong
 - Identify the rule that was broken
 - Describe the punishment
 - Explain the right to a hearing, how to request a hearing, and the timelines for making a request.

A Quick Look at Timelines for Challenging a Long-Term Suspension



VII. Expulsion

Challenging an expulsion

Request a hearing as soon as you receive a notice. Timelines are very short, in this case three school business days. If you miss the timeline, you may lose your chance to challenge the expulsion.

Put the hearing request in writing. Deliver it to the school or board office, whichever is specified in the notice. Keep a copy of your request. Ask the person receiving it to stamp or write the date and his or her initials on your copy.

Expect the hearing to be scheduled within three days.

What is an expulsion?

An expulsion is an exclusion from school for an undefined period of time. An expulsion can also include a denial of admission to or entry onto property owned, leased, rented, or controlled by a school district.

What are my child's basic rights if expelled?

The nature and circumstance of the rule violation must warrant the harshness of an expulsion. Expulsions are usually used for very serious violations of school rules.

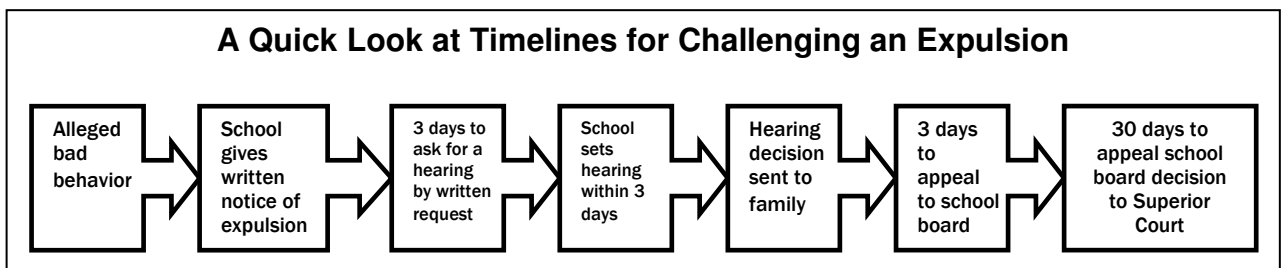
The school must try other ways to address the behavior first, unless other ways have been tried and failed or there is good reason to believe that other forms of corrective action or punishment wouldn't change the student's behavior.

Expelled students can ask to be readmitted at any time. See Section XII in this publication, which talks about petitioning for readmission.

Students have three school business days to request a hearing to challenge the expulsion.

What is the process?

- Schools must give written notice to you and your child before imposing the expulsion.
- The notice must be delivered in person or by certified mail.
- The notice must:
 - Be in the predominant language of your family
 - Describe the things your child is said to have done wrong
 - Identify the rule that was broken
 - Describe the punishment
 - Explain the right to a hearing, how to request a hearing, and the timelines for making a request.



VIII. Emergency Expulsion

What is an emergency expulsion?

An immediate removal from school for an indefinite period of time is an **emergency expulsion**.

What are my child's basic rights if emergency expelled?

Districts can expel students on an emergency basis when there is good and sufficient reason to believe that a student's presence would be unsafe to him/herself or to others. Districts can also order an emergency expulsion if a student's presence presents an immediate and continuing threat of substantial disruption to the education process.

Emergency expulsions have no definite ending time. They continue until the school district says that the "emergency" is over or until a hearing officer changes it as a result of a hearing.

What is the process?

- Schools must give written notice to you and your child.
- The notice must be hand-delivered or sent by certified mail within 24 hours of the expulsion.
- In addition to the written notice, the school must try to notify you and your child by telephone or in person as soon as reasonably possible.
- The written and oral notice must:
 - Be in the predominant language of your family
 - Describe the things your child is said to have done wrong
 - Identify the rule that was broken
 - Describe the punishment
 - Explain the right to a hearing, how to request a hearing, and the timelines for making a request.

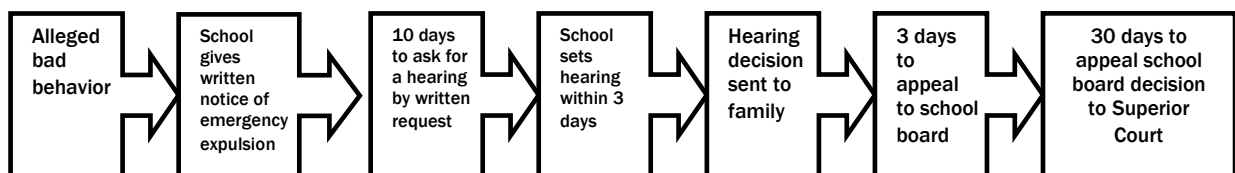
Where you can have an impact

Challenging an emergency expulsion

Make a written request for a hearing as soon as you receive a notice. Timelines are very short, in this case within ten school business days after receiving the notice.

If you miss the timeline, you may lose your chance to challenge the emergency expulsion.

A Quick Look at Timelines for Challenging an Emergency Expulsion



IX. Discipline Hearings

What should I know about discipline hearings?

A discipline hearing is an opportunity for your child to challenge the claims that he or she did something wrong. Even if your child admits to the wrongdoing, the hearing can be used to make sure that the punishment is fair.

When will it be scheduled?

Once a hearing is requested, the school district must schedule it within 3 school business days. If you need to, ask the school district for more time to prepare or to find an attorney.



Who will make decisions at the hearing?

A hearing officer appointed by the school district will make a decision after listening to your child and the district give their sides of the story. The hearing officer can be an employee of the school district but cannot be someone who is also a witness. This means that the hearing officer can't be someone who took part in the original decision to suspend or expel the student.

What can I expect at the hearing?

The hearing can be formal or informal depending on how the hearing officer wants to handle it. The hearing is tape-recorded. Usually, the district will go first and present documents, witnesses, and reasons why your child should be punished. You and your child will also get an opportunity to present documents, witnesses, and reasons why your child should not be punished in the way proposed by the district.

The hearing officer may make a decision at the end of the hearing or wait to send it in writing. Even if the decision is given orally, the hearing officer must also send a written decision to your and your child. Hearing officers must make decisions about emergency expulsion hearings within one school business day after the hearing.

What can I do to prepare for a discipline hearing?

- See the Office of the Education Ombudsman's publication on *How to be an Education Advocate*. The Section on hearings has many helpful hints about how to prepare for a hearing.
- Look at the school district's evidence. Before the hearing, you have a right to review the information that the school district plans to present. Ask for it.
- Prepare your case by figuring out where you disagree with the district—think about whether you agree with the facts and the fairness of the punishment. Is there another explanation of what happened?

Where **YOU** can have an impact

Although sometimes it is helpful to have an attorney for school discipline hearings, it is not necessary. You can be a strong advocate for your child. Discipline hearings are informal, and provide an excellent opportunity not only to challenge whether your child did what the school says he or she did, but also whether the punishment is appropriate. Districts will often reduce disciplinary sanctions when people supporting the student work with the district to develop a plan for re-entry into school.

- Bring documents and witnesses to the hearing. They should support your side of the story or your proposal for corrective action. Make 3 copies of the documents you want to present—one copy for the hearing officer, one copy for the school district, and one copy for you to use. Write out questions that you want to ask your witnesses.
- Think of what school district witnesses might say (or not say) at the hearing. You have a right to ask them questions. You also have the right to question the people accusing your child of bad behavior.
- Bring a lawyer if you can. Students and their families have a right to be represented by legal counsel.

What if we lose the hearing?

You will receive a written hearing decision. It will tell you whether you won or lost the case. Read it and decide if you want to have another decision-maker review it. This is called an appeal. Both parents and students have a right to appeal a hearing officer's decision. **The appeal must be requested within 3 school business days of receiving the hearing officer's decision.** The hearing decision should give you instructions about when and how to appeal.

Appeals are heard by the School Board, and sometimes an Appeals Council designated by the School Board.

A meeting will be set up within 10 school business days of the request for an appeal. You and your child should be given the opportunity to present your case. The School Board or an Appeals Council will decide whether to study the record and make its own decision, hear further argument, or hear the case *de novo* (basically start all over again). Further appeal would be to Superior Court.

X. Behavior Charged as a Crime**Can the school district call the police if my child gets in trouble?**

Yes.

Schools can report crimes committed by students.

What if the incident is filed as a crime?

If the misconduct at school is referred to juvenile court and is charged as a crime, your child will have either a public defender or other criminal defense attorney to represent him or her. Be sure to encourage your child to talk to his or her defense attorney to determine how the school discipline case might affect the criminal case. For example, it may not be a good idea for your child to make statements in a school discipline hearing if the criminal matter has not yet been resolved. Those statements could be used against your child in the criminal case.

The defense attorney should also be made aware of any disabilities that might impact whether your child should be charged or not. For example, if your child has a very low I.Q., the court may decide that it isn't right to take the case through the juvenile court process.

XI. Education While Suspended or Expelled

Does my child have a right to educational services during a suspension or expulsion if my child is in general education?

Maybe.

Students have a constitutional right to education in Washington. While it has not yet been decided by a court of law, you should argue that under Washington's Constitution, students are entitled to some kind of alternative schooling while suspended or expelled. Ask the school district for alternative education for your child.



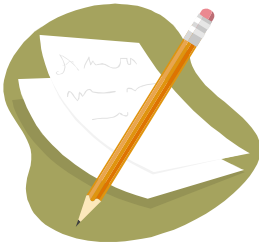
Keep the lines of communication open with the school, so that you can try to avoid the need for school discipline before it is imposed. Know about your child's behavior at school by keeping in touch with teachers and administrators. Whenever there is an incident at school, ask for a meeting to talk about it. This will help you and the school address problem behavior better and also make sure the school is following the rules when imposing discipline. When behavior has been a consistent problem, consider making a special education referral to evaluate your child. This could help determine whether there is a more serious emotional or behavioral disorder impairing your child's ability to learn. Your child may be eligible for help. See the Office of the Education Ombudsman's publication on *Protecting the Educational Rights of Students with Disabilities in Public Schools* for information on special education referrals. Finally, keep all of the documentation you receive about school discipline.

XII. Readmission to School After an Expulsion or Suspension

How and when can my child get back into school after an expulsion or suspension?

There are several ways:

- **Wait** for the time period of the suspension or expulsion to run out
- **Petition for readmission**—ask to be let back into school. Students have a right to petition for readmission at any time before the expulsion or suspension runs out
- Ask for **alternative education**
- Try **enrolling in another school** or district.



What is alternative education and how do I find out if it is offered in my district?

Alternative education means public education provided in a setting or way that is different from the regular public school. Some school districts offer alternative education through re-entry programs, internet or computer learning classes, community colleges, and special schools. An expelled or suspended student can ask the district for an alternative education program during the time that he or she is not allowed to attend the regular public school.

What is a petition for readmission and how is it done?

Students who have been excluded from school can ask to be readmitted into school at any time during the exclusion.

School districts must develop policies regarding readmission requirements. Ask for a copy of the readmission process. If the school district does not have a readmission policy, ask the Principal or Superintendent's office for information. You can ask questions like:

- Where should the petition for readmission be sent?
- What should be included in the petition?
- Who decides whether to approve or deny the petition?
- Will there be an opportunity to speak to the decision-makers?
- Can my child bring people to help make the case for readmission?
- Are there any expectations that my child should try to meet in order to get the petition approved?

School districts are not required to accept all students who petition for readmission prior to the end of a suspension or expulsion. A petition for readmission might be more successful if your child takes special care in putting it together.

How can I make the petition for readmission strong?

1. Gather information about positive things your child has done since the incident, such as:
 - Getting into counseling
 - Completing anger management
 - Participating in drug/alcohol treatment
 - Attending another school program
 - Working
 - Participating in activities with peers—sports, arts classes, camp, etc.
 - Being involved in organized groups—church, scouts, team sports
 - Volunteering and community service.
2. Ask other adults, mentors, and supervisors to write letters of support.
3. Bring supporters to the meeting where the petition for readmission is reviewed.
4. Help your child outline his or her goals, strengths, and interests. Include this information into the petition for readmission.
5. Think creatively about ways that your child could return to school. For example, if the district seems reluctant to grant the petition, try proposing that your child return to school for a probationary period, attend half days, abide by a behavior plan, or get extra support. The district may be more willing to let your child back in gradually or with support.

XIII. Conclusion

Education is critical to a young person's success, and it is a right in Washington. If your child misbehaves or has problems in school, have confidence in him or her and be an advocate. Help your child get back on track and back into an educational program.



Action Points – Discipline in Public Schools

If you feel that you have hit a dead end or you are stuck trying to get help for your child, read this list for ideas about possible steps you can take to move things forward. **Remember, you can be a strong advocate for your child!**

- Read the front and back of all notices.
- Look for and follow instructions for requesting a hearing or conference.
- Act quickly; timelines are short.
- Request a hearing. Prepare by:
 - Gathering records
 - Preparing questions for witnesses
 - Making 3 copies of important documents for the hearing
 - Bringing a lawyer or advocate to the hearing if you can
 - Appealing the hearing officer decision if you disagree.
- Talk to a lawyer to get advice on student rights.
- Talk to your child's public defender if there are criminal charges.
- Petition for readmission by writing a letter to the Superintendent.
- Get outside help to address the problem behavior.
- Help construct creative ways to deal with problem behavior. Suspension/expulsion is just one way, and it might not be the most effective.

Key Terms – Discipline in Public Schools	
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appeal	A request for a person or entity (such as the School Board) to review a decision. The appeal is made to the person or entity with authority to change the earlier decision. Usually appeals must be made within a certain time period.
day	In general, a day means a calendar day unless otherwise specified. “Calendar day” means all days, weekdays, and weekends. “School day” means any day, including a partial day, in which students are at school for instructional purposes. “Business day” means Monday through Friday, except for state and federal holidays. Note that in some cases, “business day” includes holidays. What is counted as a day is different under different laws. Be sure to check the definition section of whichever law governs your situation.
discipline	All forms of corrective action or punishment used with students, except a suspension or expulsion from school.
due process of law	A legal concept that ensures that a person will be notified and have an opportunity to be heard before a public entity denies, reduces, or terminates a person's rights.
emergency expulsion	Immediate removal from school or class for an indefinite period of time.
expulsion	Removal from school, class, and sometimes district property for an indefinite period of time.
Hearing Examiner/Officer	The decision-maker in school discipline hearings. The hearing examiner/officer is often an employee of the school district.
long-term suspension	An exclusion from school for more than 10 days.
notice	Notification of action, such as a school district’s suspending a student or changing a special education student’s placement. Depending on the action, notices usually contain information about legal rights to appeal the decision.
petition for readmission	A request to a school district, often made to the superintendent, for a student to return to school prior to the end of an expulsion or suspension.
School Board	The board of directors for a school district. The School Board manages the operation of the school district and has broad power to adopt policies and implement educational programs, activities and services.

Request for District Rules and Policies

Date: _____

To: _____

Dear _____:

I am writing to request a copy of the school district policies regarding the following:

- Rules defining student misconduct and penalties, including exceptional misconduct
- Rules explaining petitions for readmission for suspended or expelled students
- Rules outlining how to make complaints against teachers or administrators.
- Other: _____

I am making this request pursuant to Chapter 28A.600 of the RCW and Chapters 392-400 and of the WAC. Please send these rules and policies to me at:

Phone: _____

Address: _____

Sincerely,

(Signature)

Request for Informal Conference

Date: _____

To: _____

Student _____

Dear _____:

I have some concerns regarding the school's recent discipline of my son or daughter, and I would like to schedule a conference as soon as possible. My concerns are as follows:

I am making this conference request pursuant to Chapter 392-400 of the Washington Administrative Code. Please call me to schedule the conference.

Please contact me at:

Phone: _____

Address: _____

Sincerely,

(Signature)

Request for Discipline Hearing

Date: _____

To: _____

Student _____

Dear _____:

I received the school’s notice of LONG TERM SUSPENSION / EXPULSION/EMERGENCY EXPULSION issued against my son or daughter. I would like to request a hearing under Chapter 392-400 of the Washington Administrative Code in order to contest this action. I understand that I may have a hearing within 3 days of making this request. In order to prepare for the hearing, I request copies of the following documents as soon as possible:

- A list of all witnesses the school expects to call at the hearing
- Copies of all documents the school intends to present at the hearing, including witness statements, statements by my child, and statements by building officials
- Copies of all records in my child’s disciplinary file, including referrals, notices of suspension, notices of expulsion, and any behavior intervention or accommodation plans.

Please call me as soon as possible to arrange for the transfer of these copies to me and the date and time of the hearing.

Please contact me at:

Phone: _____

Address: _____

Unless this is an emergency expulsion, I understand that my child is entitled to remain in school during the hearing process.

Sincerely,

(Signature)

Appeal of Discipline Hearing Decision

Date: _____

To: _____

Student _____

Dear _____:

I am writing to request an appeal to the school board of the hearing officer's decision to issue a LONG TERM SUSPENSION / EXPULSION/EMERGENCY EXPULSION against my son or daughter. Attached is a copy of the hearing officer's decision. I expect to hear from the school board within 10 school business days, with respect to how my appeal will be handled. Please call me as soon as possible if you have any questions regarding this notice of appeal.

Please contact me at:

Phone: _____

Address: _____

Sincerely,

(Signature)



Office of the Education Ombudsman
1110 Capitol Way S., Suite 304, P.O. Box 40004
Olympia, WA 98504

