
Expulsion Part II – Expulsion Hearing

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While I explained the decision making process to expel a student in my last blog piece, today I want to give an overview on how a student can prepare for the expulsion hearing.

So, you are near the end of the 20-day suspension period, and you have just received a notice that the school principal, after completing an investigation, has recommended to the school board that you be expelled. An expulsion hearing is scheduled on the last day of your suspension period. What do you do?

The first thing that you should do is requesting an early resolution meeting with the school board. This meeting is your chance to “settle” before going into a full-blown hearing. At the meeting, you should ask the school board what they think has happened and why the principal has recommended an expulsion. Try to explain what has really happened and why you have reacted the way you did. Focus on how much this suspension/expulsion would have impact on your future education. You should explore the possibility of a record of suspension instead of expulsion. If the school board decides that you are to have a record of suspension, ask them whether it is possible to turn the suspension into a conditional suspension, where the record would be expunged on a certain date if no similar incident occurs before that date.

If you are successful at the early resolution meeting, the school board may ask you to sign a “minutes of settlement”. Be careful about the kind of release the school board would ask for. Sometimes it means giving a release that bars you from initiating any legal procedure relating to the suspension decision against the school board.

If you and the school board are unable to resolve this dispute at the early resolution meeting, you should prepare for the expulsion hearing and start by requesting disclosure. It is every student’s right to obtain full disclosure from school board, so that she can use that information to defend herself in an expulsion hearing.

What disclosure should you ask for? Here is a non-inclusive list:

- The school principal’s investigation report and written reasons as to why the principal has recommended an expulsion.
- Any notes relating to the alleged incident that has lead to the principal’s decision to suspend you. These notes would include violent incident reports, hand-written notes produced by the principal and any other school staff who have witnessed the alleged incident, and witness statements from students who have witnessed the incident.
- Any correspondence between the school staff regarding the alleged incident, including internal e-mail exchanges.
- Any surveillance camera footage of the alleged incident.

- A copy of your IPRC and IEP, if you are a special-needs student.

The disclosure shall be provided in a timely-manner, because you sure are going to need some time to prepare for the expulsion hearing.

Once you obtain the disclosure, review it carefully and compare it with your own version of the alleged incident. Are there any inconsistencies between the school's story and yours? What caused these inconsistencies? Pay careful attention to whether the school principal has thoroughly conducted an investigation after the alleged incident occurred. Did the principal question all witnesses?

As the names of student witnesses will most likely be redacted on the disclosure, you will not be able to identify which student said what. Try to remember who was present at the incident, and figure out whether any of these witnesses can testify for you.

Shortly before the expulsion hearing commences, you would be required to exchange your position, your witness list, and your witness statements with the school board.

Read the school board's witness list and witness statements, and consider how you could counter these statements. State your position clearly. Most of the time, you will be arguing that you should not be expelled because:

- The school has not gotten the whole picture of what happened. You have not done what they said you have done. Or, if you have done any of these things, you had reasons...
- You should not be expelled due to disability-related behavior.
- The principal's investigation was inaccurate.
- The alleged incident occurred outside of the school property, and what happened does not affect the school climate negatively.
- What you have done does not warrant an expulsion, because the principal has not considered all mitigating factors before deciding to recommend the expulsion.

You are probably wondering what I am talking about when I mention "mitigating factors." That, my friends, will be the topic of my next blog piece.

If you wish to find out more about how you can prepare for the expulsion hearing, Justice for Youth and Children, a non-for-profit legal clinic, has some extremely helpful tips here:

<http://jfcy.org/en/blog/category/expulsion-2/>

Contact our office for free legal services if you are facing an expulsion.

This column, written by Sandra Hsia, Staff Lawyer with the Kingston Community Legal Clinic provides general legal information only about current laws. If you need legal advice you should contact a lawyer. If you are living on a low income you may be eligible for free legal help. Contact your local community legal clinic if you need help with income programs, workers' or tenants' rights, consumer problems, or human rights. Call Kingston Community Legal Clinic at 613-541-0777 or visit www.kclc.ca. If have a criminal, family or immigration law problem, contact Legal Aid Ontario at 1-800-668-8258 or visit www.legalaid.on.ca.