

Appealing an Expulsion Decision

After a child is expelled, parents, tutors and legal guardians have the right to appeal an expulsion decision by a hearing officer. To appeal the decision, you must submit a written appeal letter with five (5) days after the decision is rendered to the appropriate entity for your school or school district:

- for OPSB-operated or OSPD-chartered schools, send the letter to OPSB.
- for RSD-operated or RSD-chartered schools, send the letter to BESE.

If you do not appeal the expulsion decision within five days, that decision will be considered final. Your appeal letter should include the following information:

- Child's Name
- School child attended before expulsion
- Grade level before expulsion
- Date of expulsion hearing
- Indicate that you are requesting a hearing before the entire OPSB or BESE; also state that you will not accept a hearing by Board's designee.
- List any dates and times that you cannot attend a hearing
- Include a telephone number where you can be reached at all times.

While you do not need to explain why are appealing the expulsion, you should at least be thinking about how you will make your case to the school board. For example, was the hearing fair? Did you have enough notice about the hearing in order to prepare? Was there evidence that you did not have at the time that you could now use to help your child? Did the hearing officer refuse to consider evidence you think was relevant?

After Your Appeals

So you have exhausted your administrative appeals, that is, either OPSB or BESE has upheld your child's expulsion. What are your alternatives now? Before taking the next step, you will have several difficult decisions to make. Here are some of your options:

1. Accept the alternative education placement

Your child should have been offered an alternative education placement as soon as he/she was recommended for expulsion. Because most expulsions are for the remainder of the school year, your child should be able to remain in the alternative setting for the remainder of that school year, and then be re-admitted to the school system at the beginning of the next school year.

However, children with special learning needs who have been expelled should not be placed in alternative education placement for more than 45 days. After the 45 days in the alternative setting has elapsed, your child has a right to return to a regular school setting.

2. Challenge the expulsion decision in court

Parents, tutors or guardians have the right to challenge the final expulsion decision by filing a lawsuit in state Civil District Court or in the federal court within ten (10) days.

If you plan to pursue a civil case, it is time to seek legal advice from an attorney, prior to filing your claim. There are downsides to pursuing a court action. First, the legal action may take as much time, if not longer, than the period your child would otherwise be in an alternative educational placement. Second, the route to legal redress is not inexpensive, and you will expend extraordinary time and resources in filing and pursuing your claims in court.

3. Other Alternatives to Seek Justice

The fight for justice may be slow, and often as parent advocates you will be faced with the decision of whether to fight only for your child, or for the benefit of all children. Even though you may not be able to afford the time and expense of a civil action, you may consider filing a federal administrative complaint with the Louisiana Department of Education or the U.S. Department of Education Office of Civil Rights (OCR).

OCR Complaints

The OCR enforces several federal civil rights laws that prohibit discrimination in programs or activities that received federal financial assistance from the Department of Education. Anyone who believes that an educational institution that receives federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, disability, or age, may file a complaint. Keep in mind that the complaint must be filed within 180 days of the discriminatory act.

In filing an OCR complaint, as a parent you must understand that route most likely will not resolve your child's expulsion is just an example of a larger problem involving discrimination against certain classes of students (e.g., special needs students, or students in a racial minority group) you may consider filing this OCR complaint to obtain relief for all children fitting this classification.

For more information, contact OCR's Southern Division office:

Office for Civil Rights, Dallas Office*

U.S. Department of Education

1999 Bryan Street, Suite 1620

Phone: (214) 661-9600 Fax: (214) 661-9587

<http://www.ed.gov/about/offices/list/ocr/index.html>

*this office handles complaints from Louisiana, Arkansas, Mississippi and Texas