



Standing Up For Students Who Get In Trouble

More volunteer lawyers needed to handle expulsion hearings

By **CHRISTIAN NOLAN**

The past decade has seen the emergence of “zero tolerance” policies in public schools. A student who brings in drugs or alcohol automatically faces expulsion. Same goes for a kid who brings in a knife or other weapon.

In fact, more than 1,200 schoolchildren get expelled from Connecticut schools every year. But before anyone gets kicked out, they have the right to a hearing with an attorney representing them.

Low-income students are often represented by legal services attorneys. But the rapid rise in expulsion hearings – attributed largely to “zero tolerance” policies – has far exceeded the capacity of legal services agencies to handle such cases.



Attorney Melanie Starks, of Connecticut Legal Services, said many parents are unaware that expulsion proceedings involve a formal hearing rather than a simple meeting with school officials.

A few years ago, Connecticut Legal Services and the New Haven Legal Assistance Association teamed up to form the Pro Bono Expulsion Project, with the idea of recruiting and training private practice attorneys to handle hearings.

“We simply didn’t have attorneys able to

handle the number of expulsion hearings that were happening and the number of referrals we were getting,” said Catherine Holahan, an attorney with Connecticut Legal Services in New Britain.

“We’re concerned about children’s situations getting blown out of proportion,” Holahan continued, “resulting in children being excluded from school when there’s more effective interventions in the school setting.”

For example, she said she recently represented an 8-year-old boy facing expulsion for stabbing another student. It sounded severe on its surface, but she said the boy had used a thumb tack from a Pokémon poster.

With legal representation, she said, a child can perhaps escape expulsion, or at least the duration can be limited. But there’s still not enough help to go around. Since the project began in 2006, it has received 115 applications from families with low enough incomes to qualify for legal aid. Of those, 59 cases were taken on by volunteer attorneys.

In all, said Holahan, there are about 25 active volunteers and they can handle only about half as many cases as that the legal aid agencies would like. And so on March 9, the Connecticut Bar Association is offering a training session from 9 a.m. to 1 p.m. at the offices of Wiggin and Dana in New Haven for interested volunteer attorneys.

Parental Confusion

Melanie Starks, another CLS attorney who coordinates the training, said parents are often unsure how to handle the expul-



Connecticut Legal Services attorney Catherine Holahan said lawyers can often persuade school officials that there is a more constructive punishment then expelling a child from school.

sion hearings. She said some are unaware that this is a formal hearing rather than a meeting with school officials to discuss the incident. Some parents, she said, don’t even bother to attend.

If they do go, Starks said, they find the hearings intimidating and are often unsure of what to say.

With an attorney present, Holahan said, the child’s side of the story is better presented to hearing officers and boards of education. The lawyer can explain not only what happened during the incident in question but also discuss any underlying problems affecting the child. “The attorney can help negotiate a resolution and resolve it in a way that the family might not have been able to do on their own,” said Holahan, regional director

for CLS's Children-at-Risk Unit.

Attorney Thomas B. Mooney, who heads up Shipman & Goodwin's School Law practice in Hartford, often represents school districts in expulsion hearings and agrees that students are better served with a lawyer making their case for them.

"If counsel is available it's a good thing because any important legal process causes anxiety," said Mooney. "The most important thing to convey to the board is that the kid has learned his lesson," added Mooney.

Erin Shaffer, a New Haven Legal Assistance attorney who also trains the pro bono lawyers, said those being expelled are disproportionately low-income students from urban settings and who often have learning disabilities. Their disability is often the

reason for the rule-breaking behavior; that point, Shaffer said, is better explained to a hearing officer or board of education by an attorney.

"Obviously the goal is fewer expulsions," said Shaffer, "but if expelled, then reducing the period of the expulsion."

The stakes can be high. In cases involving older students, the expulsion hearing might be their last chance to catch a break before ending up on the streets for good. That's why attorneys at expulsion hearings try to sell school officials on alternative forms of discipline. These include community service-type programs "that would allow [the student] to think about the incident and how they would make a different choice the next time," said Holahan. "It makes it more meaningful rather

than just excluding a child from school altogether and not addressing the issue."

Starks said the expulsion hearings normally last an hour or two and are more like an administrative law hearing than a trial. Attorneys representing children sometimes contact the school board's lawyer to negotiate, but, like any other case, the opposing side may not be amenable to that.

The legal services lawyers said in addition to the children, younger attorneys may also benefit from handling such hearings, especially those whose jobs may not give them trial experience. "It's really good for new associates," said Starks, "who want to get to head up a case on their own, interview the family, do discovery, [the types of things] that oftentimes associates don't get to do." ■