

Center for Children's Advocacy

University of Connecticut School of Law
65 Elizabeth Street, Hartford, CT 06105

TESTIMONY OF CENTER FOR CHILDREN'S ADVOCACY IN SUPPORT OF RAISED BILL NO. 1060 AN ACT CONCERNING SCHOOL EXPULSIONS FEBRUARY 13, 2007

This testimony is submitted on behalf of the Center for Children's Advocacy, a nonprofit organization based at the University of Connecticut School of Law that provides holistic legal services for poor children in Connecticut's communities through individual representation and systemic advocacy. The Center represents hundreds of poor urban youth at risk of suspensions and expulsions and at risk of dropping out.

I am here today to emphasize the Center's support for Raised Bill No. 1060, An Act Concerning School Expulsions, which aims to provide notice of legal representation to students facing school expulsion. Specifically, this bill would advise the student and his or her parent about the availability of free or reduced rate legal services within the written notice of a pending expulsion. This bill, with virtually minimal costs, would go a long way in providing additional due process safeguards for students at risk of expulsion in Connecticut.

A student subject to expulsion is facing an egregious loss. He or she is at risk of being deprived his or her right to an education. An expulsion is a final decision with no right to appeal and has devastating and severe consequences for the student. Developmentally, it is extremely difficult for a student to be removed from school and isolated from peers. This leads many students to give up hope and eventually to drop out of school permanently.

Students facing expulsion possess general procedural due process rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article First, Section Eight of the Connecticut Constitution. The United States Supreme Court has decided that public school students facing loss of an educational opportunity have procedural due process rights including written notice and a hearing. *Goss v. Lopez*, 419 U.S. 565 (1975). While that case specifically addressed the issue of school suspensions of ten days or less, leaving open the question of the amount of process required for expulsions, the Supreme Court stated that longer suspensions or expulsions "may require more formal due process procedures." *Id.* at 584.

In Connecticut, students have a fundamental right to public education and school expulsion is a deprivation of that right. Connecticut, like many other states, already allows a student to be represented by legal counsel in an expulsion hearing. However, since many students and their families cannot afford to hire an attorney, they are not able to exercise their rights to the fullest extent possible. By



Board of Directors

Kathryn Emmett, JD, Chair
Brett Dignam, JD, Secretary
Richard Klaffky, Treasurer
Peter Arakas, JD
Miriam Berkman, JD, MSW
Deborah Freeman, JD
Constance Belton Green, PhD
Philip Guzman, PhD
Marcia Yulo Howard
Ruth Pulda, JD
Nelly Rojas Schwan, LCSW
Felix Springer, JD
Martha Stone, JD
Preston Tisdale, JD

Advisory Board

John Brittain, JD
Wesley Horton, JD
Elizabeth Morgan
Eileen Silverstein, JD
Stephen Wizner, JD

Executive Director

Martha Stone, JD

informing them that there are attorneys available at no cost (e.g. newly developed Pro Bono School Expulsion Project, sponsored by the Connecticut Bar Association, Connecticut Legal Services, New Haven Legal Assistance, and Statewide Legal Services, informational sheet attached), these students and families will be afforded an important procedural safeguard to minimize the risk of an erroneous deprivation of a student's right to education.

This bill would also help equalize the current unequal balance of power in expulsion proceedings. An expulsion hearing is very much like a trial. At the expulsion hearing, both the student and the school board have a right to explain their side of the story, present evidence and cross-examine witnesses. The school is well equipped to present its case against the student, as it routinely conducts expulsion hearings and typically is represented by an attorney. However, the average parent does not have experience with eliciting witness testimony, cross-examination, and final statements. In addition, the student and her parent are given only ten days notice of the expulsion hearing and bear the responsibility of requesting records. Without an attorney, the student and his or her parent are not able to meaningfully effectuate their due process rights to be heard.

It is important to emphasize that this bill does not guarantee legal representation. It merely informs the parent and student of the availability of such. In balancing the minimal cost of such notice against the gain that will be achieved, it is obvious that Connecticut has the opportunity with this bill to ensure that the children are afforded their constitutionally guaranteed rights. Therefore the Center urges you, for the foregoing reasons, to pass Raised Bill No. 1060, An Act Concerning School Expulsions. Thank you for your time and consideration.

Respectfully submitted,

Meredith Fabiaschi

Meredith Fabiaschi, Law Student Intern

Emily Breon
M.F.

Emily Breon, Esq., MSW
Truancy Court Prevention Project
Center for Children's Advocacy
University of Connecticut School of Law
65 Elizabeth Street
Hartford, CT 06105

PRO BONO **SCHOOL EXPULSION PROJECT**

The Project

- The Pro Bono School Expulsion Project seeks to address the unmet need of legal assistance for low-income students in expulsion hearings. There are state and federal procedural protections for disabled and non-disabled children, yet most of these children -- predominantly low income children -- are unrepresented at these proceedings.
- The Pro Bono School Expulsion Project has trained approximately 40 private attorneys around the state to handle school expulsion cases.

How to Get Help/Referrals

- If you are low income and in need of legal assistance at an expulsion hearing, call Statewide Legal Services (SLS) at (800)-453-3320. SLS will perform an income eligibility intake to ensure that you qualify to receive legal aid services, complete an education questionnaire, provide pro se advice, send out the "School Expulsion" pamphlet, inform you that your case is being referred to the Pro Bono School Expulsion Project, and obtain verbal consent for the potential pro bono referral.
- Once the case is deemed eligible, the case will be given to the SLS pro bono coordinator (John Bozzi) for referral to one of the trained private attorneys.
- SLS is open during the following hours:
 - Mondays & Wednesdays from 9:00a.m. to 3:00p.m.
 - Tuesdays, Thursdays & Fridays from 9:00a.m. to 4:00p.m.

Connecticut Bar Association
Connecticut Legal Services, Inc.
New Haven Legal Assistance Association, Inc.
Statewide Legal Services of Connecticut
(800) 453-3320