



# OLR RESEARCH REPORT

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## **EXPULSION FOR CONDUCT OUTSIDE OF SCHOOL**

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You asked what authority a local school board has to expel a student from school for conduct off school grounds. You were especially interested in whether a school board may expel a student for a sexual assault that occurs away from school.

### **SUMMARY**

Connecticut's school expulsion law provides for both mandatory and discretionary expulsions for out-of-school conduct ([CGS § 10-233d](#) (a) (1) and (2)). School boards must expel students for carrying a weapon, or selling or distributing illegal drugs, whether the activity occurs on or off school grounds. For other types of conduct, including sexual assault, a school board has the discretion to expel a student from school.

In order to impose a discretionary expulsion for out-of-school conduct, the law requires a school board to show that the student's actions not only violate a publicized school policy but are also "seriously disruptive of the educational process." In 1998, the Connecticut Supreme Court construed the latter phrase to mean that, to warrant expulsion, the out-of-school conduct must (1) have a direct connection to the school's operations and (2) "markedly interrupt or seriously impede" the school's daily operations.

Within these requirements, a school board may expel a student who has been convicted of an out-of-school sexual assault. Shortly after the Supreme Court ruling, a hearing officer upheld the Trumbull Board of Education's expulsion of a high school student convicted of sexually

assaulting another student at an unknown location outside of school. The hearing officer found that, based on the facts of the case, allowing the convicted student to attend school would severely disrupt the educational process in the school.

## **STATUTORY EXPULSION CRITERIA FOR OUT-OF-SCHOOL CONDUCT**

### ***Mandatory Expulsion***

State law requires a local or regional board of education to expel a student for engaging in the following conduct outside of school: (1) carrying certain weapons without a permit or using such a weapon to commit a crime or (2) selling or distributing, or trying to sell or distribute, illegal drugs ([CGS § 10-233d \(a\)\(2\)](#)). The weapons covered by the mandatory expulsion law are:

1. ***Firearms*** - any weapon that can expel a projectile by explosive; a firearm frame, receiver, muffler, or silencer; or any destructive device, which includes explosives, incendiaries, and poison gases (18 USC 921);
2. ***Deadly Weapons*** - one from which a shot can be discharged, a switchblade or gravity knife, billy, blackjack, bludgeon, or metal knuckles ([CGS § 53a-3\(6\)](#));
3. ***Dangerous Instruments*** - something that, under the circumstances in which it is used, can cause death or serious injury, including an attack dog or a vehicle ([CGS § 53a-3\(7\)](#)); and
4. ***Martial Arts Weapons*** - a nunchaku, kama, kasari-fundo, octagon sai, tonfa, or Chinese star ([CGS § 53a-3\(21\)](#)).

### ***Authorized Expulsions***

The law allows a school board to expel a student for out-of-school conduct if the conduct both (1) is “seriously disruptive of the educational process” and (2) violates a publicized school board policy. In deciding whether conduct seriously disrupts the educational process, the law allows a board to consider whether, among other things, (1) the incident happened close to a school; (2) other students from the school or a gang were involved; (3) the conduct involved violence, threats of violence, or illegal use of weapons; (4) injuries occurred; or (5) alcohol was used ([CGS § 10-233d \(a\) \(1\)](#)).

## **1998 CONNECTICUT SUPREME COURT RULING**

In addition to the statutory requirements, a 1998 Connecticut Supreme Court ruling also affects a school board's authority to expel a student for out-of-school conduct that does not require a mandatory expulsion. The ruling turned on the meaning of the statutory standard that the student's conduct be "seriously disruptive of the educational process."

The case involved a Thomaston High School senior, Kyle Packer, who was driving through the town of Morris when a police officer pulled him over for failing to wear his seat belt. The officer saw a marijuana joint in the car's ashtray and searched the entire car, finding two ounces of marijuana and drug paraphernalia in the trunk. Packer was arrested and the Morris Police Department notified his high school as required by law. The school held an expulsion hearing at which the principal testified that Packer's conduct had seriously disrupted school because other students had become aware of the arrest, a known drug dealer was arrested with Packer, and teachers had expressed concern about the situation.

The Supreme Court barred Packer's expulsion because the state's expulsion law, although not unconstitutionally vague as a whole, was impermissibly vague as it applied to the facts of the case. That is, the Court held, the law was too vague as it applied to Packer's situation because he could not reasonably know that he would seriously disrupt the educational process by carrying two ounces of marijuana in his car trunk off school grounds after school hours (*Packer v. Board of Education of the Town of Thomaston* (256 Conn. 89 (1998))).

Despite its conclusion in this particular case, the court pointed out that its ruling did not mean that school boards could not expel students for off-grounds conduct. Rather, the decision requires school officials to show that the out-of-school conduct has a "clear and direct" connection to the school's educational process and that it "markedly interrupts or severely impedes the day-to-day operation of a school" (*Packer*, p. 119).

## **1998 EXPULSION BASED ON CONVICTION FOR OUT-OF-SCHOOL SEXUAL ASSAULT**

Shortly after the *Packer* ruling, another case clarified a school district's authority to expel a student for out-of-school conduct that seriously disrupts the educational process. The second case involved an 18-year-old star athlete at Trumbull High School who was convicted of sexually assaulting another student (age 14) at an off-campus party. The student, Christopher Weiner, was free on bond pending an appeal of his

conviction and sought to return to Trumbull High School for his senior year. The Trumbull school board moved to expel him on the basis that, (1) unlike Kyle Packer, Weiner had been convicted of an act of violence and (2) Weiner's supporters and detractors in the district were very sharply divided, causing serious disruption in the school system.

In ordering Weiner's expulsion, the hearing officer in the case ruled that Weiner's attendance would pose a "serious disruption" at both Trumbull High School and the alternative school Weiner was attending because at least one student refused to attend the program as long as Weiner was there. The hearing officer found that Weiner's conduct (1) violated publicized school board policies and (2) given the disruption and distraction the case produced, was sufficiently connected to the school to seriously disrupt its ongoing operation (*The Administration of the Trumbull Public Schools and Christopher Weiner*, Hearing Officer Decision dated November 6, 1998 (Eagan, Hearing Officer) described in *A Practical Guide to Connecticut School Law, 4<sup>th</sup> Edition*, by Thomas B. Mooney, p. 286).

After the hearing officer's ruling, Weiner's family indicated they would appeal it in Superior Court, but a month later their attorney announced they were dropping the appeal.

## **HYPERLINKS**

The Weiner case and the hearing officer's decision are summarized in the following series of newspaper articles:

- "School Boards Find Ruling on Expulsion is Troubling," Richard Weizel, *New York Times*, September 13, 1998.  
<http://www.nytimes.com/1998/09/13/nyregion/school-boards-find-ruling-on-expulsion-is-troubling.html?scp=2&sq=Christopher+Weiner+Trumbull+High&st=nyt>
- "Judge Says School May Ban Student," *New York Times*, November 10, 1998.  
<http://www.nytimes.com/1998/11/10/nyregion/metro-news-briefs-connecticut-judge-says-school-may-ban-a-student.html?scp=1&sq=Christopher+Weiner+Trumbull+High&st=nyt>
- "A Student's Expulsion for Off-Campus Conduct Offense is Upheld," Richard Weizel, *New York Times*, November 22, 1998.  
<http://www.nytimes.com/1998/11/22/nyregion/a-student-s-expulsion-for-an-off-campus-offense-is-upheld.html?pagewanted=print&src=pm>

- “After Conviction, Student Drops Expulsion Appeal,” New York Times, December 20, 1998.  
<http://www.nytimes.com/1998/12/20/nyregion/metro-news-briefs-connecticut-after-conviction-student-drops-expulsion-appeal.html?scp=4&sq=Christopher+Weiner+Trumbull+High&st=nyt>

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