

Teacher Rights and Student Behaviors



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Suspension Law - Definitions

C.G.S. Section 10-233a.

- ❖ Exclusion means “any denial of public school privileges to a pupil for disciplinary purposes.”
- ❖ Removal means “an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety minutes.”
- ❖ In-school suspension means “an exclusion from regular classroom activity for no more than ten consecutive school days, but not exclusion from school...”
- ❖ (Out of School) Suspension “means an exclusion from school privileges or from transportation services only for no more than ten consecutive school days...”
- ❖ Expulsion means “an exclusion from school privileges for more than ten consecutive school days...”

Removal – C.G.S. Section 10-233b

(a) Any local or regional board of education may authorize teachers in its employ to remove a pupil from class when such pupil deliberately causes a serious disruption of the educational process within the classroom, provided no pupil shall be removed from class more than six times in any school year nor more than twice in one week unless such pupil is referred to the building principal or such principal's designee and granted an informal hearing in accordance with the provisions of section 10-233c.

(b) Whenever any teacher removes a pupil from the classroom, such teacher shall send such pupil to a designated area and shall immediately inform the building principal or such principal's designee as to the name of the pupil against whom such disciplinary action was taken and the reason therefor.

ISS – C.G.S. 10-233c

(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend from school privileges a pupil whose conduct on school grounds or at a school sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process or endangers persons or property or whose conduct off school grounds is violative of such policy and is seriously disruptive of the educational process.

In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to: (1) Whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved or whether there was any gang involvement; (3) whether the conduct involved violence, threats of violence or the unlawful use of a weapon, as defined in section 29-38, and whether any injuries occurred; and (4) whether the conduct involved the use of alcohol.

When can OSS be imposed?

C.G.S. Section 10-233(g):

On and after July 1, 2015, all suspensions pursuant to this section shall be in-school suspensions, except a local or regional board of education may authorize the administration of schools under its direction to impose an out-of-school suspension on any pupil in (1) grades three to twelve, inclusive, if, during the hearing held pursuant to subsection (a) of this section, (A) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, or (B) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (i) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (ii) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies, or (2) grades preschool to two, inclusive, if during the hearing held pursuant to subsection (a) of this section, the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence that such pupil's conduct on school grounds is of a violent or sexual nature that endangers persons.

Incident Types (Offenses) that Result in ISS, OSS or Expulsion

- School Policy Violations 66%
- Fighting / Battery 11%
- Physical Verbal Confrontation 9%
- Other (includes Drugs/Alcohol/Tobacco, Property Damage, Sexually Related Behavior, Theft Behaviors, Violent Crimes, and Weapons) 8%
- Personally Threatening Behavior 6%

Restraint Training – C.G.S. 10-236b

Effective July 1, 2015 regarding seclusion and restraints:

No school employee shall use a physical restraint on a student or place a student in seclusion unless such school employee has received training on the proper means for performing such physical restraint or seclusion.

Each local or regional school district shall provide training to school professionals, paraprofessional staff members and administrators regarding physical restraint and seclusion of students. Such training shall be phased in over a period of three years beginning with the school year commencing July 1, 2015, and shall include, but not be limited to (A) an overview of the relevant laws and regulations regarding the use of physical restraint or seclusion on students. Such overview shall be provided by the CSDE to all school professionals, paraprofessional staff members and administrators on or after July 1, 2015, and annually thereafter, in a manner and form as prescribed by the Commissioner of Education.

Restraint Training – Crisis Intervention Team

As it applies to the Crisis Intervention Team, not later than July 1, 2015, and each school year thereafter, each local or regional board of education shall require each school in the district to identify a crisis intervention team consisting of school professionals, paraprofessional staff members and administrators who have been trained in the use of physical restraint or seclusion. Such teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others. Each member of the crisis intervention team shall be recertified in the use of physical restraint or seclusion as required through the training program determined and provided by the district.

Restraint Training Requirements

The new law also requires the creation of a plan to be implemented no later than July 1, 2017, by which each local or regional board of education shall provide school professionals, paraprofessional staff members and administrators with training and professional development regarding the prevention of the use of restraint or seclusion and the proper means of physically restraining or secluding a student, including but not limited to:

- various types of physical restraint or seclusion;
- the differences between life threatening physical restraint and other varying levels of physical restraint;
- the differences between permissible physical restraint and pain compliance techniques; and
- monitoring methods to prevent harm to a student who is physically restrained or in seclusion.

Such plan shall be implemented not later than July 1, 2017, and shall include a provision to require the training of all school professionals, paraprofessional staff members and administrators in the prevention and proper means of physically restraining or secluding a student not later than July 1, 2019, and periodically thereafter as prescribed by the Commissioner of Education.

Restraint Training (cont.)

No school employee shall use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.

Contrast this restraint language from other statutory language that allows teachers to use reasonable physical force. Pursuant to C.G.S. Section 53(a)18-(6), “[a] teacher or other person entrusted with the care and supervision of a minor for school purposes may use reasonable physical force upon such minor when and to the extent he reasonably believes such to be necessary to (A) protect himself or others from immediate physical injury, (B) obtain possession of a dangerous instrument or controlled substance, as defined in subdivision (9) of section 21a-240, upon or within the control of such minor, (C) protect property from physical damage or (D) restrain such minor or remove such minor to another area, to maintain order.”

Do I need to restrain?

Nothing in the statute requires a teacher to enter into a restraint with a student. Training does not translate to a mandate to restrain; even the crisis intervention team is not mandated to restrain. Specifically, it indicates that the crisis team is to respond to any incident in which the use of physical restraint or seclusion may be necessary.

Workers' Compensation Basics

- Any physical injury that arises out of and in the course of a teacher's employment.
- The injury can be caused by the work injury but also, the work injury could exacerbate or aggravate an otherwise non-work related pre-existing condition. As long as the work injury is a substantial factor in the need for treatment, it qualifies as a work-related injury.

Workers' Compensation - Reporting

- Any time an injury, whether accidental or intentional, teachers should file a First Report of Injury with their Human Resources Department AND a incident report with their school nurse.
- Filing of reports put insurance carrier/WC Chairman's office on notice of assaults and injuries happening in the school/district.

Indemnification of Teachers Assaulted 10-236a

- 1. The assault has to occur within the scope of the teacher's employment in the discharge of his/her duties.**
- 2. The assault has to be an intentional act.**
- 3. The teacher shall receive his/her full salary while absent from work as a result of the injury, less any Workers' Compensation monetary award.**
- 4. The teacher shall receive his/her full salary for a court appearance in connection with such assault.**

East Hartford's Reported Assaults of Public School Personnel (Source: CT SDE ED166)

Count of Times a Victim Was Reported:

2014-15	15 (certified staff); 6 (substitutes and other staff)
2013-14	6 (certified staff); 6 (substitutes and other staff)
2012-13	19 (certified staff); 6 (substitutes and other staff)
2011-12	17 (certified staff); 1(substitutes and other staff)
2010-11	7 (certified staff); 6 (substitutes and other staff)

All incidents that result in the following are required to be reported:

- In-school suspension
- Out-of-school suspension
- Bus suspension
- Expulsion

In addition, all "serious" incident and incidents involving Alcohol, Drugs or Weapons must be reported regardless of the type of sanction imposed. This means that if anything is listed in the Weapon Involvement or Substance Involvement field the incident must be reported. All Bullying Incidents must be reported.

Manchester's Reported Assaults of Public School Personnel (Source: CT SDE ED166)

Count of Times a Victim Was Reported:

2014-15	12 (certified staff); 12 (substitutes and other staff)
2013-14	24 (certified staff); 25 (substitutes and other staff)
2012-13	10 (certified staff); 8 (substitutes and other staff)
2011-12	17 (certified staff); 7(substitutes and other staff)
2010-11	12 (certified staff); 9 (substitutes and other staff)

All incidents that result in the following are required to be reported:

- In-school suspension
- Out-of-school suspension
- Bus suspension
- Expulsion

In addition, all "serious" incident and incidents involving Alcohol, Drugs or Weapons must be reported regardless of the type of sanction imposed. This means that if anything is listed in the Weapon Involvement or Substance Involvement field the incident must be reported. All Bullying Incidents must be reported.

If You Are Assaulted

- What constitutes an assault?
 - Any unwanted physical contact
 - e.g., biting, spitting, pushing, punching, etc.
 - Does the age of the child matter?
 - Does the child's intent to harm matter?
 - Civil law (no) versus criminal law (usually)
- Avoid responding physically if possible
- Record everything in writing ASAP
 - Include time of day, others present, extent of injury, photos, etc.

Reporting Assaults

- File reports with:
 - Principal pursuant to C.G.S. Section 10-233g(a) => see next page
 - Be sure to cite statute at top of report
 - **“Intent” of the student is not relevant.**
 - **If you feel assaulted, you WERE assaulted.**
 - Provide a copy of report to school resource officer
 - Follow-up to ensure a copy was filed with local police
 - CEA’s legislative proposal
 - Contact police directly? C.G.S. Section 10-233g(b) => see next page
 - School Nurse
 - Local Association – provide your local with a copy of your 10-233g(a) report but redact any student names

Connecticut Statutes

Sec. 10-233g. Reports of principals to police authority concerning physical assaults upon school employees by students.

(a) Where there is a physical assault made by a student upon a teacher or other school employee on school property or in performance of school duties and such teacher or employee files a written report with the school principal based upon such assault, the school building principal shall report such physical assault to the local police authority.

(b) No school administrator shall interfere with the right of a teacher or other employee of a board of education to file a complaint with the local police authority in cases of threats of physical violence and in cases of physical assaults by a student against such teacher or employee.

Connecticut Statutes

Conn. Gen. Stat. Ann. § 53a-61. Assault in the Third Degree

A person commits assault in the third degree, classified as a Class A misdemeanor, in any of the three ways discussed below:

- **by intending to cause physical injury to a person and causing such injury to the person, or to a third person**
- **by recklessly causing serious physical injury to a person, or**
- **by causing, with criminal negligence, physical injury to another person with a deadly weapon, a dangerous instrument, or an electronic defense weapon.**

If the Student has an IEP

- Request a PPT meeting in writing immediately and include a copy of assault report
 - Were IEP and BIP implemented properly?
 - Is IEP still appropriate?
 - Request needed supports, modifications
 - Is current placement appropriate?
 - Serious bodily harm inflicted?
- If no IEP, should child be referred?

Student: _____ Last Name, First Name
DOB: _____ mm/dd/yyyy
District: _____
Meeting Date: _____ mm/dd/yyyy

Program Accommodations and Modifications - INCLUDING NONACADEMIC AND EXTRACURRICULAR ACTIVITIES/COLLABORATION/SUPPORT FOR SCHOOL PERSONNEL

Accommodations and Modifications to be provided to enable the child:

- To advance appropriately toward attaining his/her annual goals;
- To be involved in and make progress in the general education curriculum;
- To participate in extracurricular and other non-academic activities, and
- To be educated and participate with other children with and without disabilities.

**Sites/Activities Where
Required and Duration**

Accommodations may include Assistive Technology Devices and Services

Materials/Books/Equipment: _____

Tests/Quizzes/Assessments: _____

Grading: _____

Organization: _____

Environment: _____

Behavioral Interventions
and Support: _____

Instructional Strategies: _____

Other: _____

Note: When specifying required supports for personnel to implement this IEP, include the specific supports required, how often they are to be provided (frequency) and for how long (duration)

Frequency and Duration of Supports Required for School Personnel to Implement this IEP include: _____

**Required Supports
for Personnel**

Federal law requires the IEP to include supports that staff might need in order to implement this IEP. With respect to *Frequency and Duration of Supports Required for School Personnel to Implement this IEP*, the following are examples of supports that might be specified in this section: (1) "All staff who will work with [student's name] should receive ten hours of disability-specific training in the area of Autism. This training should be provided during the first two weeks of school by [title, role, or competency area of person providing training]"; (2) "An instructional assistant (paraprofessional) to be provided to assist the teacher of each general education class which the student attends between now and the next PPT scheduled for January 15, 2007"; (3) "The school psychologist will collaborate with [child's name] teacher for 20 minutes per week for the first six weeks of school to cooperatively plan activities which will encourage [child's name] to establish and maintain friendships with classmates"; or (4) "All staff who require [student's name] to complete written assignments or provide [student's name] with support during the completion of written assignments will receive at least 4 hours of training in the use of text to speech and work prediction software. Follow-up support will be provided throughout the school year."

Typically, these supports are in the form of teacher training, paraprofessional support in the classroom or consultation by a special education teacher or related services provider. See page 21 *Responsible Staff and Service Implementer* for a discussion of paraprofessional support.

Department of Children and Families (DCF)

- Mandated Reporter
- Subject of an Investigation
- Protective Actions

Department of Children and Families (DCF)

2. What must be reported?

- a. Physical/Emotional/Sexual Abuse:
Physical or emotional injury that is inflicted upon a child other than by accidental means.
- b. Physical/Emotional Neglect:
Failure, whether intentional or not, to provide and maintain adequate supervision for the child.

Recognizing Child Abuse and Neglect

The most common way to identify maltreatment is through the child and parent's behavior. Here is a list of the key physical and behavioral indicators of each type of maltreatment. A combination or pattern of indicators should especially alert you to the possibility of maltreatment.

CHILD INDICATORS		CARETAKER INDICATORS	
	Physical Signs	Child's Behavior	
PHYSICAL ABUSE	<ul style="list-style-type: none"> • Unexplained bruises, welts or abrasions <ul style="list-style-type: none"> - in various stages of healing - in shape of object (cord, rope, belt buckle) - human bite marks • Unexplained burns <ul style="list-style-type: none"> - cigarette (on soles, palms, back, buttocks) - immersion (sock or glove-like) • Unexplained broken bones <ul style="list-style-type: none"> - skull, nose, facial structure - in various stages of healing 	<ul style="list-style-type: none"> • reports injury by a parent (or threatened injury) • shrinks from adults' touch • frightened of parents • afraid to go home • withdrawn or aggressive • complains of soreness, moves uncomfortably • wears clothing inappropriate to weather • reluctant to change clothes 	<ul style="list-style-type: none"> • offers vague, illogical, contradictory or no explanation of child's injury • attempts to conceal child's injury • delays, or does not seek, medical treatment for injury when warranted • uses harsh discipline inappropriate to child's age and transgression • has unrealistic expectations of child • significantly misperceives child (e.g. sees child as bad, stupid, different) • misuses alcohol or drugs
SEXUAL ABUSE	<ul style="list-style-type: none"> • torn, stained or bloody underwear • difficulty walking or sitting • pain or itching in genital area • bruises or bleeding in external genitalia • frequent urinary or genital infections • venereal disease, especially in pre-teens 	<ul style="list-style-type: none"> • reports sexual assault by caretaker • reluctant to change clothes • withdrawal, fantasy or infantile behavior • bizarre sexual behavior or detailed sexual knowledge, especially in young children • poor peer relationships 	<ul style="list-style-type: none"> • extremely protective or jealous of child • sexually abused as a child • misuses alcohol or drugs • non-abusing caretaker/spouse is frequently absent from home
EMOTIONAL ABUSE	<ul style="list-style-type: none"> • speech disorders • lags in physical development • failure-to-thrive 	<ul style="list-style-type: none"> • sucking, biting, rocking in older child • antisocial, destructive (and self-destructive) • sleep disorders, inhibition of play • compliant/passive or aggressive/demanding • inappropriately adult or infantile • developmental lags (emotional, intellectual) • attempts suicide 	<ul style="list-style-type: none"> • excessively blames or belittles child • repeatedly ignores or rejects child • treats siblings unequally • seems unconcerned about child's problems • unreasonable demands or impossible expectations without regard to child's developmental capability
NEGLECT	<ul style="list-style-type: none"> • constant hunger, poor hygiene, inappropriate dress • consistent lack of supervision, especially in dangerous activities or for long periods • abandonment 	<ul style="list-style-type: none"> • arrives early at school, stays late, often absent; often falls asleep in class • begs, steals food • constant fatigue, listlessness • says there is no caretaker • shunned by peers 	<ul style="list-style-type: none"> • misuses alcohol or drugs • maintains chaotic home • consistently fails to keep appointments • demonstrates apathy or hopelessness • has mental health problems

To report suspected child abuse or neglect, call the Child Protection CARELINE: 1-800-842-2288 (24 hours a day)

CEA Representation in Child Abuse Cases

1. An abuse allegation against a teacher will be investigated by the DCF, the administration, and possibly the police.
2. Once an allegation is made, the teacher should immediately contact the UniServ Representative. CEA legal representation is provided throughout the proceedings with DCF, provided the teacher is an active CEA member.

CEA Representation in Child Abuse Cases (continued)

- 3. If police are involved, referral is also made to a lawyer with criminal law experience. Do not talk to the police officer. Get his/her name and phone number. Inform him/her your attorney will be contacting them. Immediately contact your UniServ rep. If a teacher is convicted of a crime involving child “abuse,” “neglect,” “risk of injury,” “impairing the morals of a child,” or of having sexual intercourse or sexual contact with a student, the State’s Attorney shall notify the Commissioner of Education of such conviction.**

CEA Representation in Child Abuse Cases (continued)

Certain crimes, require mandatory certificate revocation.

4. The teacher should not meet with the DCF, the police, or the administration unless accompanied by an Association representative.
5. The teacher should not discuss the allegations other than with counsel or when authorized to do so by counsel.

Department of Children and Families Administrative Process

1. **DCF investigates allegation of abuse or neglect:**
 - a. **DCF investigator talks to witnesses.**
 - b. **DCF interviews teacher (“alleged perpetrator”) and may review entire personnel file of teacher.**
 - c. **Change in focus is possible during investigation.**
 - d. **45 days to complete investigation.**
 - e. **DCF investigator meets with DCF supervisor to make decision on whether to substantiate based on preponderance of evidence.**
2. **If allegations are not substantiated:**
 - a. **Teacher notified. Name is kept in DCF system for 5 years.**

Department of Children and Families Administrative Process (continued)

3. If allegations are substantiated:

- a. DCF shall notify teacher's employing superintendent of the finding and provide its investigation records.
- b. Teacher shall be suspended with full pay and benefits.
- c. Superintendent shall notify BOE and Commissioner of Education of the reasons. They shall also be given investigation records to review employment and certification status of teacher.
- d. School district may initiate termination proceedings or may wait to see what happens with the DCF administrative process.
- e. If teacher is terminated, the superintendent shall notify Commissioner of Education, who may initiate certificate revocation proceedings.

Department of Children and Families Administrative Process (continued)

4. Regional Review

- a. Upon receipt of initial finding of substantiation, a request for an internal regional review will be made.**
- b. At the same time of its request, a request will be made to have copies of all DCF investigation documents.**
- c. Based upon a review of all DCF documents, a request to overturn the initial substantiation will be made.**

Department of Children and Families Administrative Process (continued)

5. Substantiation Hearing

- a. The hearing is de novo and is conducted under the same evidentiary rules as an administrative appeal.
- b. The “victim” is not permitted to testify.
- c. The only people permitted at the hearing are the hearing officer, teacher, teacher’s legal representative, DCF representative, DCF’s legal representative and the witness who is currently testifying.

Protective Actions

To avoid excessive familiarity, teachers should:

- a. **Maintain a professional distance and demeanor.**
- b. **Avoid being alone with student in and/or out of school.**
- c. **Have no physical contact with students.**
- d. **Avoid spending time with students from previous years.**
- e. **Relate to student as teacher. No teacher nicknames/friendships.**
- f. **Be wary of “troubled” students and those who obsess over you.**
- g. **Not discuss personal life.**
- h. **Not use vulgar language or tell jokes.**
- i. **Not make excessive compliments about student’s physical appearance and should avoid staring at students.**
- j. **Not use students as babysitter/handy person.**
- k. **Not engage in unrelated/excessive texting, emailing, Facebook.**
- l. **Preview all videos to be shown during class or assigned to watch.**

STRATEGIES/NEXT STEPS:

1. **Data Collection**
2. **Report to District and Police**
3. **Unfair Labor Practice Complaint Conn. Gen. Stat. 10-153e**
4. **Negotiate Contract Language**

Sample Proposal: “The Board of Education agrees to provide a safe and healthful environment which includes being free from workplace violence and threats of violence for all employees. No employee shall suffer discrimination, retaliation or discipline as a result of experiencing or reporting an unsafe environment.”

5. **File Grievance**
6. **Lawsuit – Conn. Gen. Stats. §52-217 and §52-572**
7. **Temporary Restraining Order (TRO)? – Arrest?**

STRATEGIES/NEXT STEPS CONT.

- 8. Legislation – Enhanced penalties Conn. Gen. Stats. 53a-61a and 53a-167c**
- 9. Training Managing Aggressive Classroom Behaviors**
- 10. Creates Policies and Standard Operating Procedures**
- 11. Form Follow-up Committees**
- 12. Formal Discussions with Boards of Education**
- 13. Building Community Awareness and Alliances**