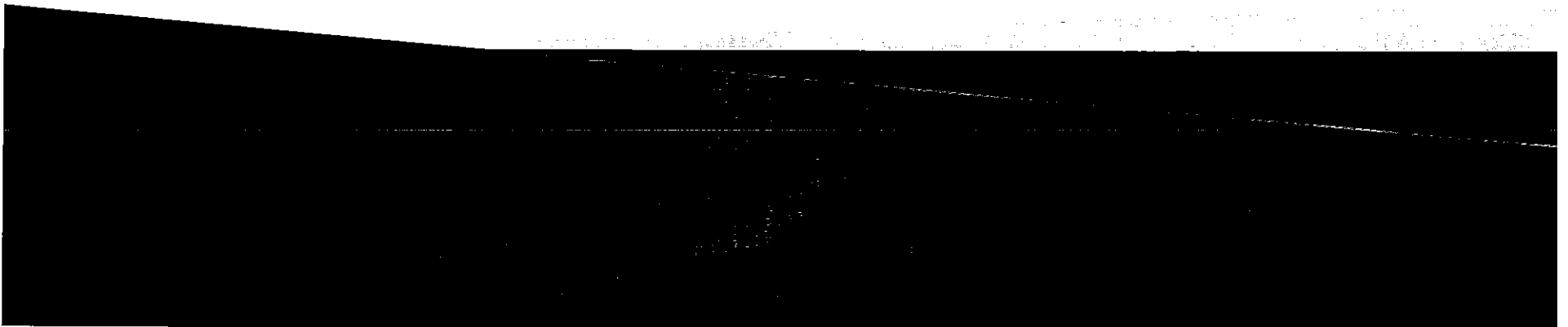


# School Discipline: Suspensions and Expulsions

August 2, 2017

Attorney Agata Raszczyk-Lawska  
Connecticut Legal Services

Managing Attorney, Children at Risk Unit



# Connecticut Legal Services, Inc.:

## Who We Are and What We Do

- ▶ Private, nonprofit law firm
- ▶ 6 offices in Connecticut
- ▶ Assist very low-income people with non-criminal legal issues
- ▶ Areas of representation include family law and domestic violence, housing and homelessness, public benefits, and education cases

# Resources: CT Legal Services Children at Risk Unit

- ▶ Children's legal aid attorneys work with families, CSSD, and schools, to ensure that students receive an appropriate education
  
- ▶ Advocacy may include advice or representation:
  - PPTs;
  - 504 meetings;
  - Written SDE Complaint or Mediation; and
  - Expulsion hearings.
  - Other civil legal issues related to the student's family situation.

# Data in Connecticut

## Sanction Counts, Trend

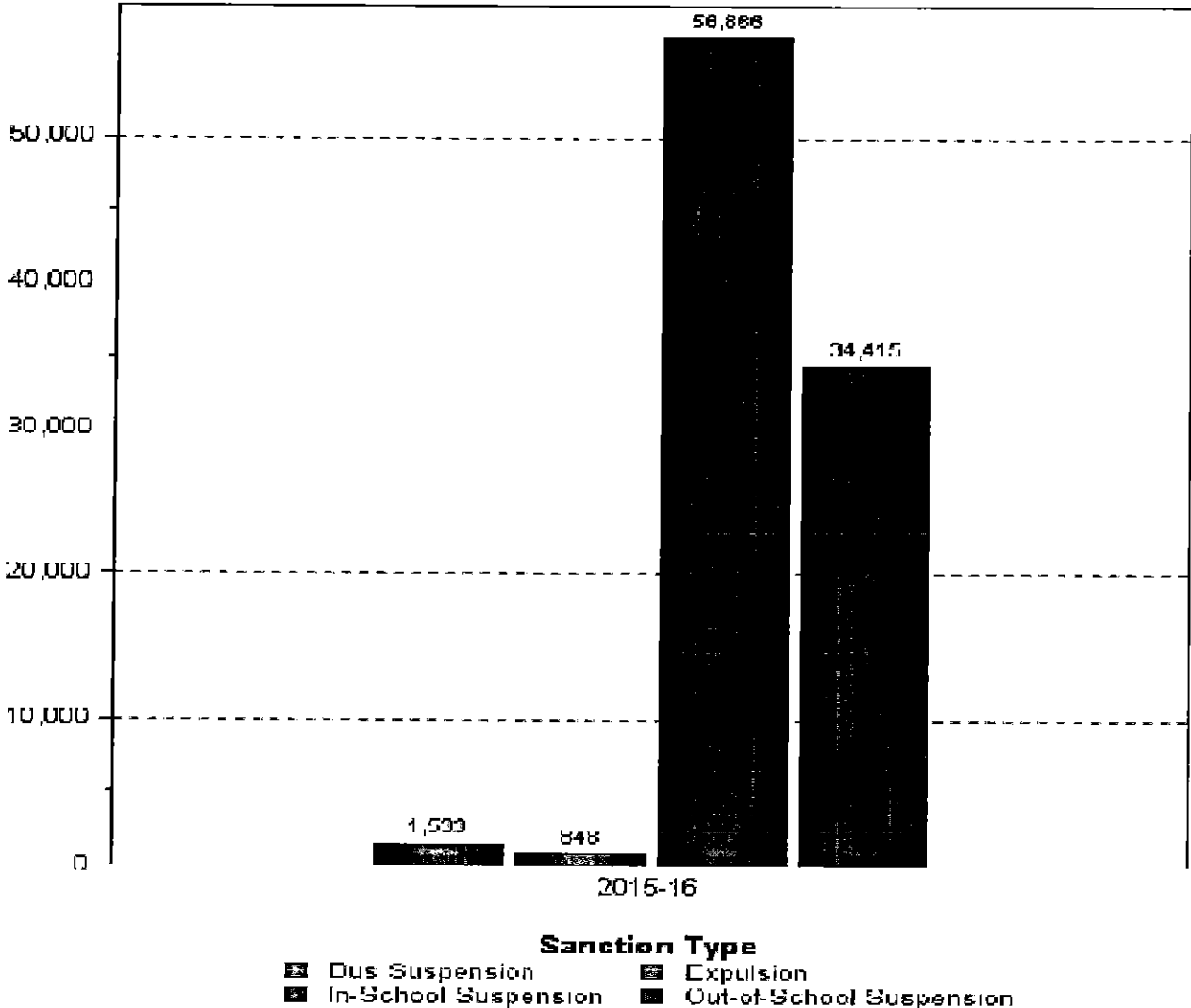
### State of Connecticut

		Year				
State	Sanction Type	2011-12	2012-13	2013-14	2014-15	2015-16
State of Connecticut	In-School Suspension	75750	72812	63568	58638	56866
State of Connecticut	Out-of-School Suspension	43655	41132	40648	37701	34415
State of Connecticut	Expulsion	1010	954	939	849	848
State of Connecticut	Bus Suspension	1121	1322	1218	1490	1533

<http://edsight.ct.gov/>

Do not reproduce or use without  
written permission from CLS.

# Sanction 2015-16: State of Connecticut



<http://edsight.ct.gov/>

Do not reproduce or use without written permission from CLS.

# Suspension Defined

- ▶ In School: any exclusion (>90 minutes) from regular classroom activity
- ▶ Out of School: any exclusion from school privileges or from transportation for no more than 10 consecutive days
- ▶ All student suspensions must be served in-school unless the administration determines that the student poses “such a danger” to persons or property or will cause “such a disruption” of the education process that out-of-school suspension is warranted.

# Expulsion Hearings

- ▶ Expulsion hearings are administrative
- ▶ Decision is made by Hearing Officer or Board of Education members
  - The hearing is bifurcated (expellable offense/punishment)
  - No right to appeal
  - If offense is found to be expellable offense:
    - Some offenses are discretionary
      - Expel up to 1 calendar year
    - Some are mandatory
      - Expel for one year but may be modified (unless possession of firearm/dangerous weapon)

# Discretionary or Mandatory ?

## Discretionary

- ▶ School may request expulsion hearing if:
- ▶ On school grounds/at school-sponsored activity, conduct is:
  - (1) violative of a publicized school policy;
  - (2) seriously disruptive of the educational process; OR
  - (3) endangers persons or property
- ▶ Off school grounds student engaged in conduct that is:
  - (1) violative of publicized school policy, AND
  - (2) seriously disruptive of the educational process
    - Markedly interrupts or severely impedes the day to day operation of a school
    - Conduct cannot be seriously disruptive solely because it violates a school policy

# Mandatory Expulsion Hearing

- ▶ School must request expulsion hearing if:
  - On school grounds or at a school sponsored activity a student
    - Possessed a firearm, deadly weapon, dangerous instrument or marital arts weapon
  - Off school grounds
    - Possessed a firearm without a permit,
    - Possessed and used firearm, weapon or instrument in commission of crime
  - On or off school grounds
    - Offered for sale or distribution a controlled substance

# Expulsions, cont'd.

- ▶ Evidence of past disciplinary problems may be considered in determining the length of an expulsion and nature of the alternative educational opportunity to be offered;
- ▶ A board may shorten the length of, or waive the expulsion period, of any pupil expelled for the first time *and* who has never been suspended, *except* for a pupil expelled based on possession of a firearm or deadly weapon, and provided the pupil successfully completes a board-specified program and meets any other conditions required by the board. (Programs must be at no cost to parent or pupil)

# Expulsions, cont'd.

- ▶ Notice of expulsion and the conduct for which the student was expelled must be included on the pupil's cumulative educational record.
- ▶ Notice, except for notice of an expulsion for students in grades 9–12, inclusive, based on possession of a firearm or deadly weapon shall be expunged if the student graduates from high school; or
- ▶ May be expunged before graduation if expulsion statute was shortened or waived, or if warranted at the time the student completes a program or meets any other conditions required by the board

# Expulsions, cont'd.

- ▶ Whenever a student withdraws from school after notification of a hearing but before completion of the hearing, notice must be included on the cumulative records; and hearing must be completed and a decision rendered.
- ▶ If the student enrolls in another district, student must not be excluded from school in the new district pending completion of the hearing unless an emergency exists; but new district has the authority to suspend the student or to conduct its own expulsion hearing.

# Expulsions, cont'd

- ▶ Expelled students may apply for early readmission to school at discretion of the board; decision shall be at the discretion of the superintendent.
- ▶ Readmission may be contingent of conditions

# Changes to Expulsion Laws

- ▶ Effective August 15, 2017:
- ▶ Expulsion notices must—
  - Be sent at least five business days before the hearing (unless emergency)
  - Include information concerning the parent's and pupil's legal rights and concerning legal services provided free of charge or at a reduced rate that are available locally and how to access such services;
  - Any pupil has the right to be represented by an attorney or other advocate;
  - Parents have right to postpone hearing for up to one week to allow time to obtain representation, except that in an emergency, such hearing shall be held as soon after the expulsion as possible.

# Changes to Expulsion laws, cont'd.

- ▶ Effective August 15, 2017:
- ▶ Any pupil under sixteen who is expelled shall be offered an alternative educational opportunity, which shall be equivalent to alternative education with an individualized learning plan.
- ▶ Participation in alternative educational program is not mandatory; parent will not be subject to mandatory attendance laws of 10-184.

# More new laws on Expulsion

- ▶ Effective August 15, 2017:
- ▶ If a pupil is expelled for possession of a firearm, or deadly weapon, dangerous instrument, or martial arts weapon, boards must report the violation to the police, or, for students in technical high schools, to the state police;

# More new laws re expulsions

- ▶ Students who committed an expellable offense, but who were not expelled, and who seek to return to school after participating in a diversionary program or having been detained in a juvenile detention center, CJTS, or any other residential placement, may not be expelled for additional time.

# New Rules re expulsions for controlled substances

- ▶ Effective August 15, 2017:
- ▶ Boards **MUST REFER** Pupils expelled for the sale or distribution of a controlled substance, as defined in (9) of Section 21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under Sections 21a-277 and 21a-278, **TO AN APPROPRIATE STATE OR LOCAL AGENCY FOR REHABILITATION, INTERVENTION OR JOB TRAINING, OR ANY COMBINATION THEREOF, AND INFORM THE AGENCY OF ITS ACTION.**

# New Laws: Alternative Education

- ▶ Students between 16 and 18 being expelled for the first time who want to continue education shall be offered an alternative educational opportunity if they comply with the conditions established by the board;
- ▶ Alternative educational opportunity may include, but is not limited to, placement of a student who is at least 17 in an adult education program, and no withdrawal of school under 10-184 is required.
- ▶ Board must count the expulsion of a pupil when under sixteen years of age for purposes of determining whether an alternative education opportunity is offered; BUT, boards may offer an alternative educational opportunity even when it isn't required.

# Alternative Education, cont'd.

- ▶ Guidelines for Alternative Education
- ▶ [www.sde.ct.gov/.../guidelines\\_for\\_alternative\\_education\\_settings.pdf](http://www.sde.ct.gov/.../guidelines_for_alternative_education_settings.pdf)

## Right to Alternative Education

- ▶ Special rules for special education students:
  - Receive an appropriate program with “Modified FAPE”
  - Setting must be determined by the PPT and district must enable the student to continue making progress on IEP

# Discipline and Special Education

Special education (IDEA) students may be suspended or expelled, but are entitled to significant discipline protections not available to regular education students.

# Discipline and Special Education

BOE may remove special education student to an alternative educational setting or through suspension for:

- Not more than ten *consecutive* school days and
- Not more than ten school days in the same year for separate incidents of misconduct, if constitutes a “change in placement”

# “Change in Placement” Requires Manifestation PPT

- ▶ Removal for more than 10 consecutive school days;
- ▶ Or, removal for more than 10 cumulative school days and the removals are a pattern
- ▶ If the removal constitutes a change in placement, then the district must have a “manifestation determination”

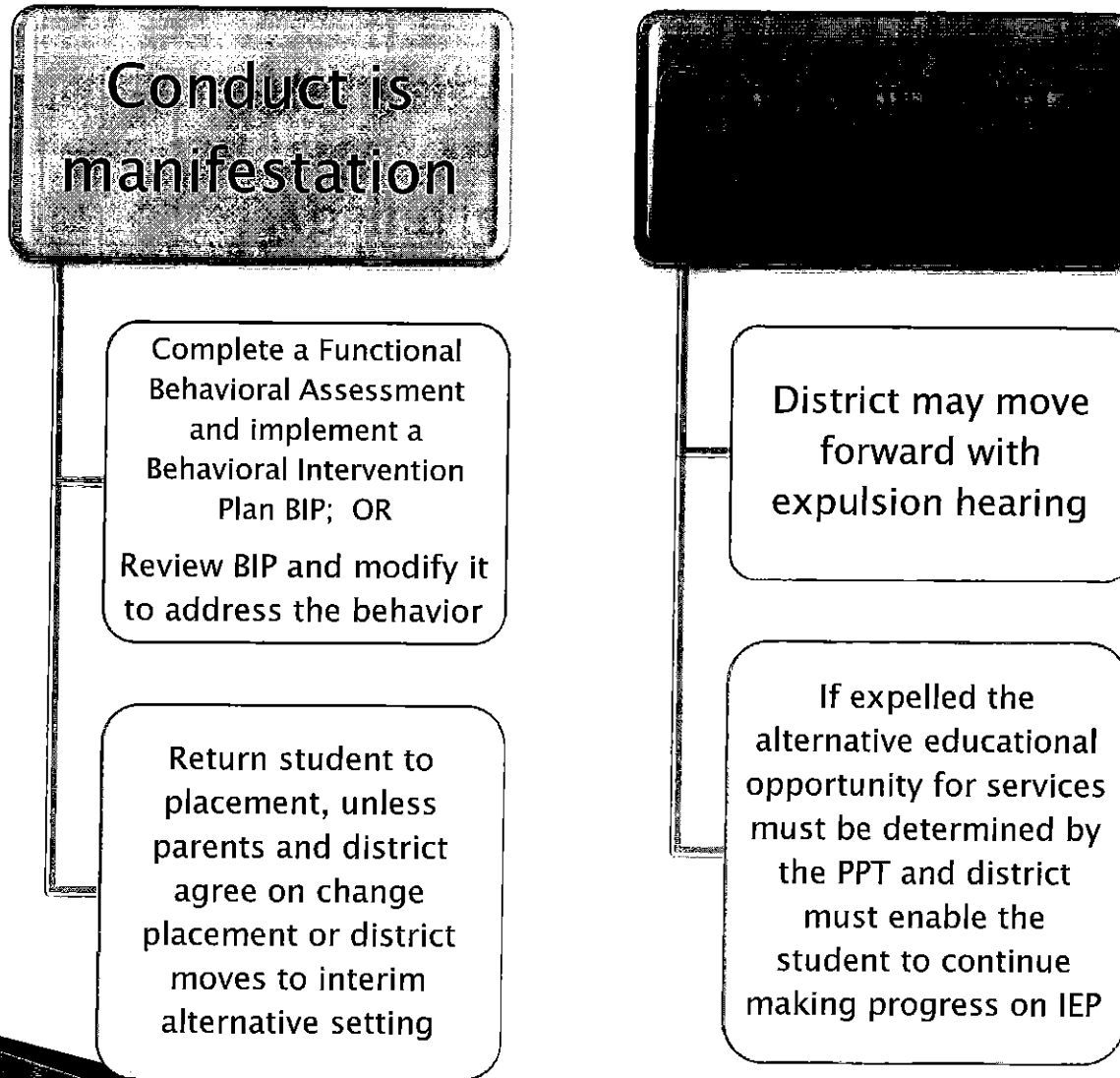
# Manifestation PPT

- required when a student with a disability is subject to a disciplinary change in placement (School Expulsion).
- must occur within *10 days* of the decision to change student's placement.
  - PPT determines if the conduct:
    - was caused by, or had a direct and substantial relationship to, the child's disability; or
    - was the direct result of the local educational agency's failure to implement the IEP
  - PPT must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents.

# What happens if the Behavior is a Manifestation?

- ▶ If behavior is a manifestation of a disability, the IEP Team shall—
  - conduct a functional behavioral assessment (FBA), and implement a behavioral intervention plan (BIP)
  - if a BIP has been developed,
    - PPT reviews BIP and modifies it to address the behavior; and
    - Returns student to the placement from which the student was removed, unless the PPT agree to a change of placement.
  - EXCEPTION - 45 Day Interim Alternative Education Placement
    - The PPT may unilaterally remove a student to an IAE if the behavior involves bringing or having a weapon or drugs, on school premises or a school function or
    - Inflicting serious bodily harm while on school premises /at a school function

# Outcome of manifestation PPT



# Unidentified Special Education Students

- ▶ A student not identified for special education may assert rights under IDEA if the school district knew the student was a student with a disability before the behavior occurred that led to a disciplinary action.
- ▶ Caution: Make sure to put request to have student referred to a PPT for eligibility determination in writing!

# Unidentified Special Education Students

- ▶ BOE is deemed to have knowledge when:
  - parent expressed concern in writing to child's teacher or supervisory/administrative personnel that the student is in need of special education and related services;
  - parent requested an evaluation of the child; or
  - teacher or other personnel within the school district expressed specific concerns about a pattern of behavior demonstrated by the child, directly to supervisory personnel of the district.

## Unidentified special education student

- ▶ Exception—district will not be deemed to know that the student is a student with a disability if:
  - the parent has not allowed an evaluation of the student or
  - the student has been evaluated and it was determined that the student was not a student with a disability under this part.

## Discipline and Special Education: IAES

If a special education student is expelled or placed in an interim alternative educational setting, the student shall:

- continue to receive the IEP services he/she needs to continue to make educational progress
- receive, as needed, a functional behavioral assessment, behavioral intervention services, and modifications, designed to keep the behavior from occurring again.

# Discipline & Sec. 504

- Sec. 504 students can be disciplined to the same extent as non-disabled student as long as the discipline is not discriminatory
- 504 has no explicit requirement for manifestation determination, but the Office of Civil Rights has ruled it's necessary
- The requirement for an alternative educational placement under 504 is the same as for regular education students.

# Additional General Resources

State Department of Education – Bureau of Special Education  
(860) 713-6910  
[www.sde.ct.gov](http://www.sde.ct.gov)

State Educational Resource Center (SERC)  
(860) 632-1485  
[www.ctserc.org](http://www.ctserc.org)

CT Parent Advocacy Center (CPAC)  
1-800-445-CPAC (2722)  
[www.cpacinc.org](http://www.cpacinc.org)

Connecticut Network for Legal Aid  
[www.ctlawhelp.org](http://www.ctlawhelp.org)

# Contact Information

Agata Raszczyk-Lawska  
16 Main Street, New Britain  
[arlawska@connlegalservices.org](mailto:arlawska@connlegalservices.org)  
(860) 357-9316