

PREPARING FOR A SCHOOL TRIBUNAL

ADVOCATING FOR STUDENTS IN
SCHOOL DISCIPLINARY HEARINGS



GEORGIA APPLESEED™
Center for Law & Justice

Steps for Advocates

FOR CHILDREN FACING LONG-TERM SUSPENSION OR EXPULSION FROM SCHOOL

Before a school suspends or expels a child for over 10 days, the school must hold a School Disciplinary Hearing (sometimes called a Tribunal). The school must provide the child's legal guardian written notice of the Tribunal. The written notice must explain how the child broke the school's discipline code and the date and time of the Tribunal. The school does not have to provide the child with an attorney, but the child can have an attorney at the Tribunal if you find one who will help.

If you learn that a child may be suspended for a period of over 10 days, follow the steps below.

Step One:

Request support from Georgia Appleaseed

- If the child is in foster care, immediately request assistance for legal representation in the school disciplinary hearing by completing the form at www.ReferralGAA.org.
- If the child is not in foster care, review this guide and other resources to prepare for the hearing.

Step Two:

Communicate with the school, and keep things in writing

- Do not sign a waiver giving up the child's right to a Tribunal without first discussing other discipline options with the school (like community service or a behavior contract). Speak to an attorney if possible. Foster parents and case managers **do not** have the legal authority to sign a waiver for a child in foster care.
- Ask the school to consider options other than suspension or expulsion. Ask the school for mediation, community service, or a behavioral contract instead of removing the child from the classroom. Look to the school's code of conduct for disciplinary options that do not remove the child from school.
- After you talk to school employees, send them an e-mail with the important facts from your conversation. Save these emails. If the child is in foster care, also send the emails to the child's case manager, Education Support Monitor, and any of the child's other adult advocates.
- For more time to prepare, consider requesting a continuance. If a school gives you a continuance, it will reschedule the Tribunal for a later date. Try to reschedule the hearing as soon as possible.



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Step Three:

Gather information

- Ask the school by email to send you all information about the child's education. Ask the school for the child's education records, disciplinary history, and any Individual Education Program (IEP), Behavior Intervention Plan (BIP), or 504 Plans. Request all evidence about the discipline incident the school may have like videos, written statements, or a statement made by the child.
- Speak to the child to hear their side of the story and ask the child what they think the consequence should be (if any).
- Collect information to present at the hearing, such as:
 - Evidence of the child's positive traits, like letters from coaches or teachers, good grades, or accomplishments with sports or other activities.
 - Evidence explaining why the incident happened. Was the child bullied? Did something trigger the child? Was the child acting in self-defense?
 - Evidence that this was the child's first offense.
 - Evidence that the child and any other involved student(s) have already resolved the conflict.
 - The school's suspension and expulsion rates. Visit [DisciplineDataGeorgia.org](https://www.discipline-data.org) to see the school's history of removing students. You can check how often the school suspends children of a certain race, children with disabilities, or children living in poverty.

Step Four:

Request a Manifestation Meeting (or "MDR") if appropriate

- If the child has a diagnosed or suspected disability, or has an IEP, ask the school to have a Manifestation Meeting before the Tribunal. View our *Preparing for a Manifestation Meeting* guide for more information.

Step Five:

Know the child's rights

- The child has the right to remain silent. The child does not have to make a statement about the incident. In fact, it is often better for the child not to talk about the incident at the Tribunal or with any school officials. If the child has pending criminal charges related to the incident, reach out to a defense attorney for help.
- The school does not have to provide your child with an attorney, but the child can have an attorney at the Tribunal if you find one who will help.
- Ask the school to send the child's schoolwork for the time between the school incident and the Tribunal. Tell the school that it must schedule the Tribunal for no later than ten days from the day of the incident so the child does not fall behind in school.

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Step Six:

Attend the Hearing

- At the hearing (Tribunal), there will be representatives from the school and a hearing officer who runs the Tribunal. The hearing officer will start the Tribunal and explain what is going to happen. If you have any questions during the Tribunal, you can ask the hearing officer to explain. The Tribunal will be in two phases.
 - In **Phase One**, the hearing officer will determine, based on the evidence, whether the child violated specific rules in the school's code of conduct. In Phase One, you should speak and ask questions of any of the school's witnesses. You can present your own evidence showing that the child did not violate the discipline code, or that the child acted in self-defense.
 - If the officer finds that the child violated specific rules, **Phase Two** of the hearing will consider what consequence is appropriate. In Phase Two, you will speak the most.
- Talk about the child's positive character traits and any improvements in behavior the child has shown.

- Explain what may have caused the child's behavior. Was the child being bullied? Was the child having a difficult day because they had been triggered?
- Ask the school to consider consequences other than removing the child from school. Ask for mediation, community service, or a behavioral contract instead of expulsion or suspension.
- Explain why suspension or expulsion is not the right consequence for the behavior issue.

Step Seven:

Consider appealing the Tribunal decision

- If you think the school made an unfair decision at the hearing, you can file a notice of appeal with your local Board of Education, as long as you do so within twenty (20) days of the hearing officer's Tribunal decision. You can also reach out to Georgia Legal Services Program, or Atlanta Legal Aid Society, to request help with filing an appeal.

For more information on how to advocate for a child in a Tribunal, search for and request a *Tribunal Representation Manual* from Georgia Appleseed at www.GaAppleseed.org.

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