

Parents Legal Guides



School Discipline & Your Child



Connecticut Appleseed
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Access to Education

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Access to Education

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Access to Health Care

School Discipline & Your Child

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School Discipline & Your Child

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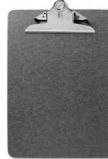
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How to Use This Guide

This guide is a resource for parents on the laws and their rights. It is intended to provide parents with information so they know how to best support their child.

As you read through this guide, you will find terms highlighted in **bold** and you can find the meaning of those terms in the next section, "terms you should know."

You can find helpful checklists by



looking for



And **this** means ideas to remember

Toward the end of the guide you will find sample letters to help you in written communication to your child's school. The final page of the guide contains lists of local organizations and/or sources of support.

Terms you should know

Codes of Conduct: policies created by school districts that list the district's rules for students in school, in activities occurring on school grounds, and on other sites being used for school activities. It is intended to be the document that guides school districts in deciding how to discipline students.

Due Process: the idea that the government must respect all of a person's legal rights. This idea gives individuals a varying ability to enforce their rights against alleged violations thereof by governments. Specifically in education, it requires that a process be established, including hearings, before school disciplinary decisions are made.

Free appropriate public education: a requirement from the Individuals with Disabilities Act that states every child with a disability has a right to a public education at no cost to the parent and the child's education must be individually created to meet the child's needs.

Individualized education program (IEP): A written plan developed at a meeting with the planning and placement team that is a roadmap for a child's education. The IEP must state:

- ⇒ The child's present levels of performance
- ⇒ Measurable annual goals and short-term objectives aimed at improving the child's educational performance
- ⇒ Instructional activities and related services needed for the child to achieve the stated goals and objectives.
- ⇒ The reasons for the child's educational placement

Individuals with Disabilities Education Improvement Act (IDEIA): A federal law that provides children with disabilities an equal opportunity to receive a free appropriate public education.

Manifestation Determination Review: discussion regarding whether the student's behavior was caused by the disability

Placement: program that a child is put into, once they are determined to be eligible for special education services

Planning and Placement Team: team that includes the parent/guardian, special education teacher, regular education teacher (if appropriate), a Child Study Team member, case manager, a representative of the school district, and anyone else the parent/guardian or school district wishes to bring. Based on information from evaluations and the parent, this team determines the special education services for the child.

Zero tolerance: the school's policy allows for automatic and severe punishment of students, for infractions ranging from a mere threat to the possession of a weapon on school grounds.

Discipline Laws in Connecticut

Overview

High profile cases of violence in public schools over the past decade have led to the development of “zero tolerance policies.”

“Zero tolerance” means the school’s policy allows for automatic and severe punishment of students, for infractions ranging from a mere threat to the possession of a weapon on school grounds. Because of public concern in the wake of school shootings, some school district boards of education have adopted zero tolerance policies to send a “getting tough” message.

Even though these policies are called “zero tolerance” policies, the reality is that school administrators and boards of education consider other factors when disciplining a student and so the policies are not really “zero tolerance.” The exception to this is when a student is in possession of a firearm.

In addition to “zero tolerance” policies, most school districts also have Student Codes of Conduct, which list the district's rules for students in school, activities occurring on school grounds, and on other sites being used for school activities.

The Codes of Conduct not only lists the rules that students are expected to follow, but also the consequences for misbehavior. In general, codes provide information on the school district's expectations for:

- ⇒ Attendance
- ⇒ Respect for people and property
- ⇒ Dress codes
- ⇒ Technology usage
- ⇒ Student publications and activities
- ⇒ Student records
- ⇒ The right to appeal discipline decisions

In Connecticut, the options to discipline students are:

- ⇒ Removal from the classroom for a fixed period of time that cannot exceed 90 minutes
- ⇒ In-school suspension where the student may not attend their regular class, but stay in study hall or a quiet room
- ⇒ Out-of-school suspension where the student cannot attend school for more than ten days
- ⇒ Expulsion where the student may not attend school for a year

Summary of Non-Expulsion School Discipline Options

Type of Discipline	Maximum Length	Formal or Informal Hearing
Removal from Classroom	No more than 90 minutes. Maximum of 6 times in any school year.	No, unless removal exceeds length restrictions. Then an informal hearing and referral to the principal are required.
In-School Suspension	No more than twice in one week. No more than 5 consecutive school days (as of January 1, 2009, no more than 10 consecutive days).	Informal hearing required.
Out-of-School Suspension	No more than 15 times in a school year. No more than 50 days in a school year.	
	No more than 10 consecutive school days.	Informal hearing required, except in emergencies.
	No more than 10 times in any school year.	Parents must be informed within 24 hours of suspension
	No more than 50 days in one school year.	

Removal from Class

Teachers are allowed to remove a student from class when the student causes a disruption from the education process.

When classroom removal occurs, the teacher must send the student to a designated area and let the principal know the name of the student and what has occurred.

Your rights in Class Removal

If your child is removed from the classroom, they have the right to an informal hearing if they are removed from the class more than six times in a school year or twice in a week.

Suspension

Overview

Principals are authorized by law to suspend a student whose conduct at school or school grounds violates zero tolerance or Student Code of Conduct policy, disrupts the educational process, or endangers people or property. Some of the factors that are considered in suspending a student are:

- ⇒ How close to a school the incident occurred
- ⇒ Gang involvement
- ⇒ Whether the conduct involved violence, threats of violence or the unlawful use of a weapon
- ⇒ Whether any injuries occurred
- ⇒ If the conduct involved the use of alcohol

An important thing to note is that if the student acted in a way that endangered people or property or violated school policy while waiting for transportation to/from school, the principal can have their transportation services suspended.

Your Rights During the Suspension Process

If you are suspended, you have the right to...

- ⇒ An informal hearing by the school administration, where the student will be told the reasons for the disciplinary action and given an opportunity to explain the situation

Note: The only exception is in an emergency situation, where a hearing will be held as soon as possible after the suspension

- ⇒ Not be suspended more than ten times or a total of fifty days in one school year without a formal hearing
- ⇒ Have an opportunity to complete any classwork that was missed during the suspension including exams or tests
- ⇒ Have the record of suspension expunged if you graduate from high school

Expulsion

The Expulsion Process

A student cannot be expelled from school unless he or she first receives a formal hearing before the board of education, or an impartial hearing board, as determined by the board of education. The local school board creates written rules and regulations that decide the expulsion process. These written rules and regulations are typically included in the school district's policy.

Facing expulsion? Get a copy of your districts policies and procedures by using the sample letter on page 23.

Generally, a hearing will begin with the school board representative going over the procedures for the hearing, including the rules of evidence for the hearing and what could be the results of the hearing.

The school representative and the student representative will then each make an opening statement. The school then presents its case, including all witnesses and the student's representative can cross-examine any witnesses. The student then presents his or her case,

including all witnesses, and the school representative can cross-examine any witnesses. There may also be questions from the board or panel for witnesses on both sides.

School districts vary immensely in the level of formality in their hearings. Some school districts follow a very formal structure, whereas others treat the hearing more like a meeting. If the school district is not following a formal structure, you may need to remind the hearing officer of your desire to make an opening and closing statement and of your right to cross-examine all witnesses.

Your Rights During the Expulsion Process

If you are facing expulsion, you have the right to...

- ⇒ A hearing to determine whether you should be expelled.
- ⇒ A hearing held within 10 school days after the date the principal determines you committed any of the acts listed in the school board's policy.
- ⇒ Written notice of the expulsion
- ⇒ Written notice of an expulsion hearing sent to the student within a reasonable time. The notice should include:
 - The date and place of hearing
 - Statement of specific facts
 - Copy of the school board policy related to student discipline
 - Notice of the opportunity for the student or parent to appear in person and be represented by an attorney.

- ⇒ Students and Parents have a right to inspect and get copies of all the documents that will be used at the hearing.
- ⇒ Question and confront witnesses who testify at the hearing, evidence presented, and oral/documentary evidence.
- ⇒ Receive the decision within 24 hours.

If you believe that you did not receive reasonable notice, you may object to the hearing and request a continuance. However, it still means that your child will remain out of school until the hearing is rescheduled.

Formal Hearings

Formal hearings typically take place if your child is facing expulsion; however, they are used if your child is suspended for more than fifty days in one school year.

Preparing for the Hearing

1. Collect and review information about the events that led up to the expulsion.
2. Bring an advocate or a family member/friend for support.
3. Consider hiring an attorney to represent you at the hearing. If money is a problem, go to the local resources section on page 33 for information on free or low-cost legal representation.
4. Prepare a list of arguments you want to make at the hearing that have to do with school-related issues. Remember, anything that is said at the hearing, by parents, students, school administrators, or other witnesses is considered public record and can be referred to in later hearings or in court.
5. Think about what witnesses you would like to call to help you advocate for your child. Because of the due process right from the 14th Amendment of the Constitution, you are allowed to call your own witnesses and ask questions of anyone involved with the hearing.
6. Decide if you want the hearing to be open or closed to the public. The hearing is not open to the public, unless you request that the board of education or panel do so.
7. Review the school's Code of Conduct and policies to determine if your school complied with all of its responsibilities. Schools are typically required to meet with a parent when a child first begins having difficulty, and so one approach is for a parent to try to prove that the school did not attempt to help the child before the incident occurred.

At the hearing

1. Do not be afraid to disagree with school staff or administrators.
2. Do not agree to, or sign any recommendations by the School Board unless you and your child agree with them.
3. Consider thinking about the outcome of the case overnight before coming to an agreement.
4. Speak with your child before and after the hearing, and find out how they feel about the hearing and what he or she wants.
5. Make sure a complete transcript is made of the hearing, not simply a secretary's summary. The transcript may be referred to at a later date. You can also tape or video record the hearing.
6. At the end of the hearing, your child should make a about why they want to go back to school. If your child does not have a good academic record, he or she should address the school board or panel and explain why circumstances will be different if they are not expelled and can return to school.
7. Students are less likely to be expelled if they can convince the panel that they will be respectful and take advantage of the opportunity to attend school.

Checklist - Things to Bring to Hearing

- Witnesses who have first hand knowledge of the events related to the expulsion hearing.
- School Code of Conduct & School Zero Tolerance Policy.
- Outline of the events leading up to the expulsion hearing.
- Outline of all the reasons why your child should not be expelled.
- Questions for each person you expect to be at the hearing and for witnesses you plan on bringing to the hearing.
- Documentation of conversations related to the expulsion hearing.
- Any written correspondence related to the expulsion or the incident leading to the expulsion hearing.
- An attorney or advocate, if possible.

Things to Remember During the Hearing

- Try to stay calm. Do not react with anger to questions or comments made.
- Documentation of conversations related to the expulsion hearing.
- Bring everything on the "Things to Bring to Hearing Checklist".
- Explain the progression of events .
- State why your child should not be expelled.
- If you don't understand something ask for clarification.
- Use the witnesses and documents to verify your child's side of the story and your argument.
- Tape the expulsion hearing.
- Take your time, do not let others rush you.
- Make a closing statement explaining why your child should not be expelled.

After the Hearing

After a hearing, the board panel or hearing officer may make one of the following recommendations:

1. Not to expel
2. Expel for a defined period of time
3. Suspended Expulsion

1 Not to Expel

If the recommendation is not to expel, the process stops at this point and the student is allowed to return to school. Even if the student is not expelled, they may be transferred to another school in the District, although such circumstances are rare.

2 Expel for a Defined Period of Time

The school board or panel can recommend expulsion. If the board accepts this recommendation the student will no longer be able to attend any of the district schools, and will be unable to participate in any on or off school grounds activities.

Alternative educational opportunities may be offered to any pupil expelled for the first time that is between the ages of sixteen and eighteen and wants to continue their education. Boards of education are not required to offer alternative educational opportunities to any student who is expelled because of conduct that put people into danger.

3 Suspended Expulsion

A suspended expulsion means that the student is technically and legally expelled, but is being allowed to attend school on a "probationary status."

Since the student is technically expelled, the district can immediately invoke the expulsion if there is another infraction without another hearing. Suspended expulsions are good alternatives to a formal expulsion because the student is permitted to return to school immediately and is typically entitled to participate in all activities, curricular and extra-curricular, so there is no loss of academic instruction.

What are my options if I don't agree with the expulsion?

Appeals: There is no statutory right of appeal in student expulsion hearings. However, if there is an underlying constitutional, or other state or federal violation, courts may consider such allegations.

Readmission: The most common avenue is to apply for early readmission to school. Readmission decisions are at the discretion of the board of education. The school board may delegate authority for readmission decisions to the superintendent of schools for the school district. The board or superintendent may condition such readmission on specified criteria.

Alternative Education Programs

Alternative programs were created out of the belief there are many ways to educate, and are intended to provide an education for all students.

By law alternative programs must be provided to students **who have been expelled** who are under 16 years old and those between 16 and 18 as long as they comply with the conditions set by their local board of education. They can also be offered to students who do not meet these standards.

Alternative education should only be offered after your child has been expelled. As part of the due process, your child must go through the expulsion hearing before being referred to an alternative school.

The only exception is if a student between 16 and 18 years old is expelled for conduct involving:

- ⇒ Possession of a firearm, deadly weapon, dangerous instrument or martial arts weapon
- ⇒ Selling or distributing controlled substances that is subject to criminal penalties

Types of Alternative Programs

1. One-on-one tutoring program that is generally called homebound instruction. The child is assigned a tutor to provide educational services in the core subjects for two hours per day. The tutor is not required to be a certified teacher. The tutoring can be provided at the student's home or another location, like a library, if the student, school, or tutor request the change in setting.

Students receiving homebound instruction can work on special assignments related to their regular education classes to earn credits or to be promoted to the next grade. Their general education teachers must agree to the assignment and provide the course work and supervision.

2. School-within-a-school that operates a separate, but on campus educational program for suspended, expelled, or chronically disruptive students. Students from different grades work in the same classroom. They attend school for a full day but are excluded from most, if not all, of the general education activities. The course work is assigned and monitored by the students' regular education teachers and the alternative program certified teachers serve as tutors to assist students in completing their classwork.

3. Alternative high schools – Some school districts operate separate alternative high schools which are intended to provide students with an opportunity to earn a GED or diploma as well as provide a transition back to a traditional high school. Each school district operates their alternative high school differently; however, most operate with similar requirements as other high schools within the district to allow a smoother transition for students.

Requirements for Alternative Programs

- ⇒ There are no laws that specifically require a particular curriculum, length of day, or certification of teachers.
- ⇒ Local school boards have established a minimum requirement of two hours a day of one on one tutoring, although it is not the only standard used.
- ⇒ Alternative programs are required to provide instruction in the core subjects of English, math, science, and social studies
- ⇒ School districts are not required to hire certified teachers for alternative education
- ⇒ There are no national standards for alternative education programs. The accreditation process in the New England Association of Schools and Colleges is voluntary.
- ⇒ School districts set most of the regulations for the alternative programs and/or schools within their district

Disabled Students & the Expulsion/ Suspension Process

All students, including students with disabilities, must comply with their school's Code of Student Conduct and can be subjected to discipline for any violation. When students with disabilities violate the Student Code of Conduct or commit acts that are grounds for suspension/expulsion, there are state and federal laws that may come into play.

Under the Individuals with Disabilities Education Improvement Act (IDEIA), the school district must ensure that a free appropriate public education is made available to all eligible children with disabilities. Certain considerations must be made in suspending or expelling students with disabilities. Under both federal and state law, a student with disabilities may not be expelled for conduct that is a caused from their disability.

Many times when a student with a disability commits acts that would normally get them suspended or expelled, schools consider a change of placement. Change of placement happens when the school removes a child from their classroom for more than 10 consecutive schools days or for several times that add up to more than 10 school days. This

includes things such as sending the child to the principal's office, sending the child to the hall, sending the child home, in-school suspension, suspending or expelling the child.

Remember, if it is written in the Individual Education Plan (IEP), it is not a change of placement. For example, if it is written in the IEP that your child can be sent into the hall for disciplinary purposes, then that is not a change of placement.

However schools have the following options to discipline students with disabilities:

First suspension (10 days or less)

The first time a student with a disability is suspended, for 10 days or less.

- ⇒ No educational services need to be provided to the disabled student;
- ⇒ There are no special requirements for special education services to disabled student; and
- ⇒ School cannot treat disabled student differently from non-disabled regarding severity of punishment.

The Next Short-Term Suspension (10 days or under)

If a student with a disability is suspended again for 10 days or less, the school must determine if a change of placement has occurred from the suspensions.

- ⇒ If the suspension is not a change in placement, school personnel in consultation with the child's special education teacher determine the extent of services;
- ⇒ If the suspension is a change in placement, the child's Individual Educational Plan (IEP) Team must determine services sufficient to enable the child to progress in the general curriculum and advance toward achieving IEP goals and objectives. Additionally, a planning and placement team meeting must have a manifestation determination review – a discussion regarding whether the student's behavior was caused by the disability - not later than 10 days after the decision to take the disciplinary action is made; and

- ⇒ If the behavior is a manifestation of the child's disability, the child may not be disciplined with further suspension.

Discipline Recommendation for More Than 10 Days (except for drugs or weapons)

In instances where discipline is required for non-drug or weapon offenses, on the date of the recommendation, school administration should provide written notification and a copy of Parental Rights and Procedural Safeguards in Special Education (PPT) to the parents.

In addition, the following should happen:

- ⇒ Within 10 school days, the PPT meets to conduct a manifestation review to determine whether the student's behavior was caused by his or her disability, and a review of the behavior at issue as it relates to the student's educational plan. If the student's behavior was unrelated to the disability, the administration may determine whether to move forward with a recommendation for expulsion;
- ⇒ The special education and discipline records should be transmitted to individuals deciding whether to impose discipline; and
- ⇒ The disabled student is entitled to educational services through their individualized educational plan (IEP) in the interim so that the student is enabled to progress and advance toward achieving the IEP goals and objectives. One option is homebound instruction.

Drug and Weapon Offenses

Drug and weapon offenses are more severe and treated differently. The school district is permitted to immediately impose a 10 day suspension initially, and follow with a 45 calendar day removal to an Alternative Setting.

Discipline of Students Not Yet Identified as Special Education Students

Even if a student is not yet found eligible for special education services, a student may nevertheless be entitled to protection if the local board had knowledge that the student was disabled before the misconduct occurred. The local board will be considered to have knowledge if:

- ⇒ The parent has expressed concern in writing that the child is in need of special education/related services to: supervisory/administrative personnel or to a teacher of the child
- ⇒ The parent requested that the student be evaluated for special education services
- ⇒ The child's teacher or other staff member expressed specific concern about a pattern of behavior demonstrated by the child, directly to the director of special education or to other supervisory personnel of the agency

The local school board will not be deemed to have knowledge if:

- ⇒ The parent has not allowed an evaluation of the child;
- ⇒ The parent has refused services;
- ⇒ The child has been evaluated and it was determined that the child does not have a disability.
- ⇒ The local board did not have knowledge of the possibility that the student had a disability, the student can be disciplined as if they did not have a disability.

It is important to note that if a parent requests an evaluation during the time period when the student is subject to disciplinary measures, the school district must expedite the evaluation. If the child is subsequently deemed eligible for special education services, the school district must provide special education to the child. However, pending the results of the evaluation, the child remains in the setting determined by school personnel.

Closing

This handbook is provided to help parents and students understand the school disciplinary process in Connecticut. Each school district, and sometimes schools within a district, approach student discipline differently which is why it is important to get copies of your school's written handbooks, memos, policies, and procedures on student discipline.

Its important to remember that if your child is having problems at school, immediately request a meeting with your child's teachers to discuss how to alleviate their concerns before the problems snowball.

Sample Letter: Request for Records for Disciplinary Hearing

[**Date**]
[**Name of School Principal**]
[**Address**]

RE: Notification of Suspension and Request for Record

Dear [**insert name of principal**],

On [**date**], [**student first & last name**] [**date of birth**] supposedly engaged in [**describe behavior**] and I was notified that my child may be subject to additional discipline up to and including expulsion.

I am requesting that you immediately forward to me the names of any witnesses and written statement or other evidence upon which the school district intends to rely in support of any further disciplinary action.

Sincerely,

[**Your Name**]
[**Your Address**]
[**Your Phone Number**]

Sample Letter: Request for PPT

[**Date**]
[**Name of School Principal**]
[**Address**]

RE: [**student name**]

Dear [**Insert name of principal**],

I am writing regarding the above-referenced student, [**child's name**], [**child's date of birth**]. I am requesting the school to schedule an immediate PPT meeting before taking any further disciplinary action. I believe that my child's behavior is a manifestation of his or her disability and request that the PPT consider this information as soon as possible.

[**Insert information about other concerns raised during the current school year about your child's program and progress**]

Please contact me at the [**your phone number**] to schedule a date and time for the PPT meeting.

Sincerely,

[**Your Name**]
[**Your Address**]
[**Your Phone Number**]

Sample Letter: Due Process Hearing Request

[Insert date]
[Name of School Principal]
[Address]

Connecticut State Department of Education
Due Process Unit
Bureau of Special Education
P.O. Box 2219
Hartford, CT 06145

Re: **[student name]**

To whom this may concern:

My name is **[insert name]**, and I am the parent of **[your child's name]**, **[his or her date of birth]**, who currently attends **[Name of School]** in the **[insert name of school district]** school district. I am writing to request a due process hearing.

The issue in dispute is the proposed expulsion of my child from school. The PPT decided that my child's behavior was not a manifestation of his disability. I disagree, and believe the school should change my child's IEP, not expel him.

Sincerely,
[Your Name]
[Your Address]
[Your Phone Number]

Sample Letter: Disciplinary Policy Request

[Insert date]
[Name of School Principal]
[Address]

To whom this may concern:

My name is **[insert name]**, and I am the parent of **[your child's name]**, **[his or her date of birth]**, who currently attends **[insert name of school]** in the **[insert name of school district]** school district. I am writing to request a copy of the school's Student Code of Conduct and Zero Tolerance Policy.

Please mail the manuals to: **[insert address]**

Sincerely,

[Your Name]
[Your Address]
[Your Phone Number]

Sample Letter: Postponing Expulsion Hearing

[*Insert date*]

[*Name of School Principal*]

[*Address*]

Connecticut State Department of Education

Due Process Unit

Bureau of Special Education

P.O. Box 2219

Hartford, CT 06145

Re: [*student name*]

To whom this may concern:

My name is (*insert name*), and I am the parent of (*your child's name*), (*his or her date of birth*), who currently attends (*insert name of school*) in the (*insert name of school district*) school district. I am writing to ask that the expulsion hearing be postponed because (*state reason*).

Please contact me if you have any questions or concerns.

Sincerely,

[*Your Name*]

[*Your Address*]

[*Your Phone Number*]

Sample Letter: Request for Re-Admission

[***Insert date***]

Connecticut State Department of Education
Due Process Unit
Bureau of Special Education
P.O. Box 2219
Hartford, CT 06145

Re: [***student name***]

To whom this may concern:

My name is (***insert name***), and I am the parent of (***your child's name***), (***his or her date of birth***), who currently attends (***insert name of school***) in the (***insert name of school district***) school district.

My child was expelled from (***insert name of school***) on (***insert date***) because (***state reason***). I am writing to ask that my child be re-admitted to school because of the following reason(s):

□ ***State Reasons***

Please contact me at (***insert phone number***) to set-up a meeting regarding this issue at your earliest convenience.

Sincerely,
[***Your Name***]
[***Your Address***]
[***Your Phone Number***]

Resources

Free & Low Cost Legal Representation

Statewide Legal Services (SLS)

Available between 9:00 a.m. and 3:00 p.m. on Mondays, Wednesdays and Fridays, and between 9:00 am and 4:00 pm on Tuesdays and Thursdays

Phone: 1-800-453-3320

Yale Law School Legal Services Organization

P.O. Box 209090, New Haven, CT 06520.

Phone: (203) 432-4800

University of Connecticut Legal Clinic

65 Elizabeth St, Hartford, CT 06105

Phone: (860) 241-4679 or (860) 241-4687

Quinnipiac University School of Law - Civil Clinic

275 Mt. Carmel Ave., Hamden, CT 06518

Phone: (203) 562-3200

Center for Children's Advocacy Hartford High School Clinic

55 Forest Street, Hartford, CT 06105

Center for Children's Advocacy Harding High School Clinic

1734 Central Avenue, Bridgeport, CT

For Parents of Children with Disabilities

State Office of Protection and Advocacy

60 B Weston Street, Hartford, CT 06120-1551

Phone: (860) 297-4300 or 1-800-842-7303

Connecticut Parent Advocacy Center

338 Main Street, Niantic CT 06357

Satellite Office: Fair Haven Community Health Center, 374 Grand Ave., New Haven, CT 06513

Phone: 1-800-445-2722 or 203-776-3211 (Spanish speaking callers)

African & Caribbean American Parents of Children with Disabilities (AFCAMP)

60-B Weston Street, Hartford, CT 06120

Phone: 860-297-4358

Email: afcampa@sbcglobal.net