LEGAL MAILBAG – SEPTEMBER 11, 2025

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The "Legal Mailbag Question of the Week" is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors.
Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As an assistant principal of a middle school, I get involved regularly in student disciplinary matters. I know the drill – before I suspend a student, I have to give him or her notice of the accusation against him or her, and I must give the student a chance to give his or her side of the story. After such an informal hearing, I decide whether to impose a suspension or even to escalate the situation to the principal and superintendent for consideration of expulsion.

It didn't take long this year before I had to conduct a pre-suspension hearing. The question was whether one student had threatened to beat up another student. The student who was threatened told his teacher, who then told me about the student's complaint. I interviewed the student who reported the threat, as well as another student who overheard the threat. Then I interviewed the alleged perpetrator, who was singularly unconvincing in his denials. When I told him that he was suspended out-of-school for three days for threatening, however, he went all legal on me.

The alleged perpetrator objected to the suspension, telling me that suspending him under these circumstances would violate his rights because the allegations against him were all hearsay. Moreover, he claimed that, as a matter of due process, he should be able to confront his accusers before I decide whether to suspend him.

I took a school law course when I got my Sixth Year certificate, but that was a while ago. Should I worry about this student's objections or can I just proceed with the suspension?

Signed,
Refresher Needed

Dear Refresher:

You are on solid ground here. The perpetrator is confused about hearsay and has no right to confront the other students before you impose a suspension.

The right to due process before a student is excluded from school was established by the United States Supreme Court in 1975 in the seminal case of *Goss v. Lopez* (U.S. 1975). Before then, educators acted in their *in loco parentis* role and simply excluded students from school as they saw fit, much like a parent is free to discipline a child without first conducting a hearing. In *Goss*, the Court changed the rules to require due process before a disciplinary exclusion of a student. In doing so, however, the Court carefully differentiated between a disciplinary exclusion of up to ten days and a longer exclusion.

For the shorter period of exclusion, the Court held that a student is simply entitled to an informal hearing, and the Connecticut statutes on student discipline describe such informal hearings. Conn. Gen. Stat. § 10-233c provides in relevant part:

> Unless an emergency exists, no pupil shall be suspended without an informal hearing by the administration, at which such pupil shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation,

In your case, you did just that and thereby fulfilled your obligation to provide the student with due process before imposing a suspension.

When you talked with the victim and the bystander, that was not hearsay, but rather it was eyewitness testimony. Hearsay occurs when a judge is asked to rely on a statement of another for the truth of the matter asserted. For example, a statement from the teacher that the student was threatened would be hearsay because she was simply reporting what the student told her, rather than what she saw. Given the informal nature of a pre-suspension hearing, there is no prohibition against an administrator's relying on hearsay before suspending a student. However, that was not the case here because you heard directly from the students involved.

The due process requirements for expulsion hearings are much greater. That is understandable, given that the potential deprivation of school privileges is significantly greater (because an expulsion can last up to one calendar year). Students facing expulsion have the right to notice of charges, the right to be represented by counsel, the right to present witnesses, the right to cross examine (the right to "confront witnesses" the student cited), and

the right to have an impartial decision-maker, *i.e.*, the members of the board of education or a designated hearing officer.

Many years ago, a federal judge in Connecticut ruled that, as a matter of due process, hearsay is not permitted in expulsion hearings because the student cannot effectively cross-examine hearsay. Given that ruling, in prosecuting expulsion cases we generally rely on direct testimony of a witness to the misconduct. However, the courts have been more willing in recent years to allow school officials to offer hearsay testimony in expulsion hearings in lieu of direct student testimony out of concern for their safety. In any event, let's hope that the student you suspended learns from his mistake and is never the subject of an expulsion hearing.