

*Classroom level guidance for teachers, ESAs, paraeducators and other educators
adapted from OSPI's Technical Guide v.10.25.18*

OSPI adopted new student discipline rules on July 30, 2018 as directed in [House Bill 1541](#) (2016). These new rules will be phased in over a two-year period with full implementation starting in the 2019-20 school year. This FAQ focuses on what educators need to know at the classroom level and is *not* intended to provide a comprehensive overview of all the new rules. For more detailed information please consult [OSPI's Technical Guide](#).

These new student discipline rules will almost certainly require districts to update their student discipline policies and WEA encourages WEA members, along with other stakeholders, be involved in this process.

Classroom Exclusions

Starting in the 2018-19 school year, a classroom exclusion is defined as the exclusion of a student from a classroom or instructional or activity area for behavioral violations. [WAC 392-400-023(2) & WAC 392-400-025(2)]

A classroom exclusion does not include actions that result in missed instruction for a brief duration when (1) a teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations, and (2) the student remains under the supervision of the teacher or other school personnel during such brief duration. Brief duration is not defined by the new rules and these are not required to be reported to parents/guardians.

Do the new discipline rules include any new procedures related to classroom exclusions?

- a) Yes. The new rules require parent notification as soon as reasonably possible following a classroom exclusion. See WAC 392-400-335(2). Neither OSPI nor the original law designate who is responsible for notifying the parent and this would be appropriate to address through collective bargaining.
- b) By the 2019–20 school year, school districts will need to develop local grievance procedures for classroom exclusions that students, parents/guardians may use. The new discipline rules provide that grievance procedures adopted by a school district must include an opportunity for the student to share their perspective and explanation regarding the behavioral violation. See WAC 392-400-110(1)(h). For the 2018–19 school year, the current grievance procedure will remain in place. See WAC 392-400-240.

Do the new discipline rules limit a teacher's statutory authority to exclude a student from the classroom?

No. The new rules are consistent with the statutory provision regarding a teacher's authority to exclude a student from the teacher's classroom—including the statutory provision regarding the principal and teacher conferring. See RCW 28A.600.020(2). Many CBAs directly reference this RCW.

The new rules do not prescribe the means by which a principal and teacher confer regarding a classroom exclusion. The rules provide that when a classroom exclusion exceeds the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion. However, the rules do not abridge the maximum duration of time that a teacher may exclude a student under statute.

Districts may adopt discipline policies and procedures regarding the means by which the principal (or designee) and the teacher should confer that, consistent with law, clarify district expectations in accordance with collective bargaining agreements entered into by the district.

Does a classroom exclusion include any instance where a teacher might send a student from the classroom to another location in the school?

No. The new discipline rules includes a formal definition for classroom exclusion, which specifies that classroom exclusions must be in response to behavioral violations. See WAC 392-400-023(2); WAC 392-400-025(2). For example, sending a student with a hallway pass to meet with a counselor for reasons unrelated to a behavioral violation would not constitute a classroom exclusion, whereas taking similar actions in response to a behavioral violation—such as issuing an office discipline referral (ODR) to send a student to the dean’s office—would constitute a classroom exclusion.

Teachers sometimes respond to a behavioral violation by directing the student to leave the classroom so they can have a conversation in the hallway. Would that action constitute a classroom exclusion under the new discipline rules?

No. The new discipline rules clarify that a classroom exclusion does not include actions that result in missed instruction for a brief duration when (1) a teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations, and (2) the student remains under the supervision of the teacher or other school personnel during such brief duration. See WAC 392-400-023(2); WAC 392-400-025(2).

For example, if a student remains under the teacher’s supervision while in the hallway for a brief period of time and the purpose of the conversation is to support the student in meeting behavioral expectations, the teacher’s action would constitute “other forms of discipline” under the new rules. Similarly, if the teacher calls a building administrator to the classroom to have a brief conversation with the student for purposes of reinforcing classroom expectations, that action would not constitute a classroom exclusion.

However, if a teacher directs the student to go into the hallway and leaves the student there unsupervised—or with a para-professional for longer than a brief duration of time—those actions would constitute a classroom exclusion.

State regulations do not define “brief duration” but OSPI recommends evidence-based behavioral interventions and strategies that generally don’t exceed five minutes. See OSPI’s Technical Guide, F6, for more information.

Does a classroom exclusion include exclusions from recess?

No. A classroom exclusion concerns exclusions from curricular instructional or activity areas. A classroom exclusion does not include exclusions from recess, lunch, transportation, or extra-curricular activities. However, the action of excluding a student from going to class in response to a behavioral violation that occurred during recess or lunch would constitute a classroom exclusion.

While Washington laws do not prohibit school districts from excluding students from recess in response to behavioral violations, research demonstrates that limiting physical activities can increase problem behaviors.

Is a classroom exclusion different from an in-school suspension?

Yes. When a student is excluded from being in or going to class in response to an alleged behavioral violation and remains within school, such actions would constitute either a classroom exclusion or an in-school suspension. However, although classroom exclusion and in-school suspension both always occur within school, they are procedurally and categorically different. A school cannot administer in-school suspension without first providing the student prior notice regarding the behavioral violation, explanation of the evidence, explanation of the suspension, and an opportunity for the student to provide explanation. See WAC 392-400-250; WAC 392- 400-450. If a school administers a classroom exclusion and decides to exclude the student from the classroom beyond the balance of the school day, while allowing the student to remain in the student’s current school placement, the school must provide notice and due process for an in-school suspension. See WAC 392-400- 330(3)(a).

Generally, a classroom exclusion is related to the exercise of a teacher's statutory authority under RCW 28A.600.020(2), whereas an in-school suspension is primarily related to an administrative decision. How each school district delegates authority to administer classroom exclusions or in-school suspensions may vary.

Suspensions

Is the statewide definition for suspension different under the new discipline rules?

Yes. The new definition for suspension no longer includes the "balance of the immediate class period" (the measure for defining "suspension" in the prior rules) as a standard for determining whether an exclusionary action constitutes a suspension.

The new definition clarifies that a suspension is a denial of attendance "in response to a behavioral violation" and clearly states that a suspension is categorically as well as procedurally different from a classroom exclusion, expulsion, or emergency expulsion. See WAC 392-400-023(16); WAC 392-400-025(14). The new definitions section that becomes effective for the 2019–20 school year makes it clear that suspension includes out-of-school and in-school suspensions—while further clarifying what due process procedures apply for each type of suspension.

School districts may not suspend a student without first providing the student due process. Before a school can send a student home for a behavioral violation, the school must hold an informal hearing with the student. State law, under the prior and new discipline rules, prohibits a school district from sending a student home or telling a parent to keep a student at home for behavioral violations without the benefit of an informal hearing.

Do the new discipline rules retain grade-level protections that limit the use of suspensions for Washington's youngest learners?

Yes. The new discipline rules retain longstanding provisions that limit the total number of short-term suspension days a student in grades K–4 or grades 5–12 may receive during any single semester or trimester. The rules also continue to prohibit the use of long-term suspension for students in grades K–4. See WAC 392-400-245(3); WAC 392-400-260(5); WAC 392-400-435(3); WAC 392-400-440(4).

Are there other changes in the new discipline rules regarding the use of suspensions?

Yes. Starting in the 2019–20 school year, the new rules require school districts to first attempt one or more other forms of discipline to support the student in meeting behavioral expectations before administering a short-term or in-school suspension. See WAC 392-400-435(1). For long-term suspensions and expulsions, the new rules require school districts to at least consider other forms of discipline to support the student in meeting behavioral expectations. See WAC 392-400-440(1); WAC 392-400-445(1). Therefore, by the start of the 2019–20 school year, school districts must eliminate any zero-tolerance approaches in local discipline policies and procedures that would require a mandatory suspension in response to any behavioral violation.

For more information on out-of-school, in-school, or long-term suspensions, please consult [OSPI's Technical Guide](#).

Expulsions

Is the statewide definition for expulsion different under the new discipline rules?

Yes. The new definition for expulsion that becomes effective July 1, 2019 clarifies that an expulsion is a denial of admission to the student's current school placement in response to a behavioral violation. See WAC 392-400-025(7).

Are there other changes in the new discipline rules regarding the use of expulsions?

For long-term suspensions and expulsions, the new rules require school districts to at least consider other forms of discipline to support the student in meeting behavioral expectations. Therefore, by the start of the 2019–20

school year, school districts must eliminate any zero-tolerance approaches in local discipline policies and procedures that require a mandatory suspension or expulsion in response to any behavioral violation other than firearms violations. See WAC 392-400-435(1); WAC 392-400-440(1); WAC 392-400-445(1).

For more detailed information about expulsions, please consult [OSPI's Technical Guide](#).

Educational Services

Can a school district deny a student educational services in response to a behavioral violation?

No. School districts are expressly precluded by statute from suspending the provision of educational services when imposing suspension or expulsion. See RCW 28A.600.015(5), (8). The new discipline rules require school districts to provide students the opportunity to receive educational services that enable the student to (1) continue to participate in the general education curriculum, (2) meet the educational standards established within the district, and (3) complete subject, grade-level, and graduation requirements. See WAC 392-400-610(1)(a).

The new discipline rules also provide that, as soon as reasonably possible after administering a suspension or expulsion, school districts must provide written notice to the student and parents about the educational services the district will provide. This notice must include a description of the educational services that will be provided, and the name and contact information for the school personnel who can offer support to keep the student current with assignments and course work. See WAC 392-400-610(2).

Starting in 2019, school districts must adopt policies that, among other things, describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to follow for the provision of educational services under the new rules. See WAC 392-400-110(i).

Does a school district have to ensure that suspended or expelled students are provided in-person contact with school personnel who are responsible for supporting the student's educational progress or coordinating the delivery and grading of course work?

No. The new discipline rules do not mandate in-person contact between school personnel and suspended or expelled students. The methodology that school districts use to provide the support and coordination required under the new rules is left to the discretion of local school personnel. However, the new discipline rules do not preclude school districts from adopting policies and procedures that require in-person contact.

Reengagement Process

What is the reengagement process?

State law requires school districts to meet with the student and parents to develop a reengagement plan. The meeting must be held within twenty days and no later than five days before the end date of a long-term suspension or expulsion. Additionally, the state's new discipline rules provide that the meeting must be held sooner if the family requests an early meeting. See RCW 28A.600.022; WAC 392-400-710.

The reengagement process must involve the family in the development of a culturally responsive plan that is "tailored to the student's individual circumstances" to support the student's successful return to school. When developing the plan with the family, school districts are required to consider:

- The nature and circumstances of the discipline incident;
- The student's cultural histories and contexts, family norms and values, and community resources;
- Shortening the length of the suspension or expulsion;
- Academic and nonacademic supports to aid the student's academic success; and
- Supports that the student, parents, or school personnel may need to prevent a similar incident from happening again

Do the new rules require school districts to convene a reengagement meeting for short-term suspensions?

No. Consistent with statute, reengagement meetings and plans are required for long-term suspension or expulsion. See RCW 28A.600.022. However, nothing in the new rules precludes a school district from holding a reengagement meeting for short-term suspensions.

Additional Considerations

How do these new rules address issues of disproportionate discipline and equity?

Washington laws require school districts to involve students, parents, families and the community when developing and updating local discipline policies. Therefore, parents and families should have a voice in setting school behavior expectations, categories of behavioral violations, and appropriate discipline practices. Parents and families who are interested in providing input on a school district's discipline policies and procedures should consider attending a school board meeting or contacting the district superintendent to learn more about how to get involved. See RCW 28A.320.211.

Starting in the 2019–20 school year, school districts will be required to use disaggregated discipline data when reviewing and updating discipline policies and procedures with families to (1) monitor the impact of the district's policies, procedures, and practices; and (2) update district policies and procedures to ensure fairness and equity in the administration of discipline. See WAC 392-400-110(2).

Do the new discipline rules apply to students receiving special education services?

Yes. The new rules are intended to establish uniform minimum due process requirements for student discipline in school districts. The rules apply to all students, regardless of whether the students are eligible for special education services. State and federal special education laws, including the Individuals with Disabilities Education Act and its implementing regulations, impose additional requirements on school districts with regard to students with disabilities. See Chapter 392-172A WAC.

Do the new rules require school districts to consider using best practices or other forms of discipline?

Yes. Consistent with statutory requirements, the new rules require school districts to first attempt one or more other forms of discipline before administering classroom exclusion, unless the student's presence poses an immediate and continuing danger to others or an immediate and continuing threat to the educational process. See RCW 28A.600.020(2); WAC 392-400-330(2). Under the new rules, "other forms of discipline" is a specifically defined term that refers to discipline other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior. See WAC 392-400-023(5); WAC 392-400-025(9).

By the start of the 2019–20 school year, school districts must adopt discipline policies and procedures that explicitly "[i]dentify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations." See WAC 392-400-110(1)(e). Starting in the 2019–20 school year, when school districts provide written notice to students and parents regarding a suspension or expulsion, the notice must include "[t]he other forms of discipline that the school district considered or attempted, and an explanation of the district's decision to administer the suspension or expulsion." See WAC 392-400-455(2)(c).

Starting in the 2019–20 school year, the new rules require school districts to first attempt one or more other forms of discipline to support the student in meeting behavioral expectations before administering a short-term or in-school suspension. See WAC 392-400-435(1). For long-term suspensions and expulsions, the new rules require school districts to at least consider other forms of discipline to support the student in meeting behavioral expectations. See WAC 392-400-440(1); WAC 392-400-445(1). Therefore, by the start of the 2019–20 school year, school districts must eliminate any zero-tolerance approaches in local discipline policies and procedures that

would require a mandatory suspension or expulsion in response to any behavioral violation other than firearms violations.

For guidance on best practices in discipline, consult [OSPI's Behavior Menu of Best Practices and Strategies](#).

Do the new rules require districts to suspend or expel students for any specific behavior violations?

With the exception of a firearms violation under federal law, school districts are not required to suspend or expel students for any behavioral violation. State law explicitly encourages school districts to consider alternative actions before administering suspension or expulsion. See RCW 28A.600.015(7). However, starting in the 2018–19 school year, the new rules will also explicitly prohibit a school district from suspending or expelling a student from school for absences or tardiness.

In addition to Washington's new discipline rules, are there any additional federal and state legal requirements school districts must ensure their local policies and procedures align with?

Federal legal requirements include, but are not limited to:

- *Goss v. Lopez* (1975)— the U.S. Supreme Court decision that established the minimum level of due process that must be afforded students facing a suspension of up to ten school days;
- The Every Student Succeeds Act (2015)—which, among other provisions, requires school districts receiving certain federal funds to “support efforts to reduce the overuse of discipline practices that remove students from the classroom” (ESSA, Section 1112(b)(11));
- Part B of the Individuals with Disabilities Education Act—that, among other things, provides additional discipline protections to students with disabilities who are receiving special education services; and
- Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964—which prohibit discrimination based on disability, race, color, and national origin in programs or activities that receive Federal financial assistance.

State laws include, but are not limited to:

- Chapter 392-401 WAC, regarding the state definition for absence and reasons for excused absences—including provisions regarding absences during suspension or expulsion;
- RCW 28A.300.042, regarding the collection, reporting, and disaggregation of student-level discipline data; and New Student Discipline Rules Questions & Answers A Technical Guide This guidance applies to the 2018–19 and 2019–20 school years. Updated 08.13.2018 Page 4
- Chapters 28A.640 and 28A.642 RCW and Chapter 392-190 WAC—which prohibit discrimination in Washington public schools based on sex, race, creed, religion, color, national origin, sexual orientation including gender expression or identity, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

School Discipline Resources:

OSPI Behavior Menu of Best Practices & Strategies: <http://www.k12.wa.us/SSEO/BehaviorMenu.aspx>

OSPI Technical Guide on New Student Discipline Rules:

<http://www.k12.wa.us/studentdiscipline/Rules/pubdocs/TechnicalGuide.pdf>

USED Guidance on school climate and discipline: <https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>