

FAQs: Exclusionary School Discipline Laws Impacting K-12 Student Survivors



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ALASKA

INTRODUCTION

When a student is sexually assaulted at school, they and/or their parents/guardians/caregivers may want and expect the school to suspend or expel the student who harmed them. The reality is that in many jurisdictions, school discipline laws limit or prohibit suspension and expulsion in many circumstances. Attorneys and legal advocates who serve these survivors need to prepare them for this possibility.

This FAQ provides legal advocates and civil attorneys with a starting point for researching jurisdiction-specific school discipline laws that impact K-12 students (elementary, middle, and high school) who have been sexually assaulted by another student. We include legal citations so that you can read more about the laws and make sure they are current.

This FAQ is intended as a summary of relevant laws and may not include every relevant law. It is not legal advice. Legal advocates and civil attorneys who need 1:1 consultation or support can reach out to VRLC at TA@victimrights.org.

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QUESTIONS AND ANSWERS

Q.1. Is a school permitted or required to suspend or expel a student who sexually assaults another student on school property or at an off-campus school-sponsored activity?

A.1. Suspension or denial of admission is permitted (but not required) if a student is convicted of a felony AND the student's presence at school would be harmful to other students' welfare or education.

Also, suspension or denial of admission is permitted (but not required) for behavior that is "inimicable" (meaning harmful) to other students' welfare, safety, or morals. Alaska's school discipline laws do not define the term "inimicable behavior". This term arguably could include sexual assault. However, each local school board may use different definitions and standards for "inimicable behavior". This means attorneys and advocates should consult the published code of student conduct of the local school board that governs the school attended by the offending student.

Q&A 1. SOURCES:

AS 14.30.045 A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes: ... (2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school; ... (5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

Q.2. How long is a suspension for sexual assault?

A.2. Alaska's school discipline statutes and regulations do not address this question.

QUESTIONS AND ANSWERS

Q.3. How long is an expulsion for sexual assault?

A.3. Alaska's school discipline statutes and regulations do not address this question.

Q.4. Can a student be suspended or expelled for sexually assaulting another student if the sexual assault did not occur on school property or at an off-campus school-sponsored activity?

A.4. Suspension or denial of admission is permitted (but not required) for a sexual assault that did not occur at school or a school-sponsored activity if the student is convicted of a felony AND the student's presence at school would be harmful to other students' welfare or education.

Q&A 4. SOURCES:

AS 14.30.045 A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes: ... (5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

Q.5. Are certain students exempt from suspension or expulsion for sexual assault?

A.5. Yes. Under federal law, a student with a disability who has a 504 Plan or an Individualized Education Program (IEP) is exempt from an expulsion or a suspension lasting longer than 10 school days in a row if the misconduct (including sexual assault) was caused by the student's disability or the school's failure to implement the student's 504 Plan or IEP. However, this exemption does not apply if the misconduct involved serious bodily injury or if the student is substantially likely to injure themselves or others in the future if they stay in school. In those cases, the school can move the student to an alternative school for up to 45 school days at a time.

QUESTIONS AND ANSWERS

Q&A 5. SOURCES:

[U.S. Dep't of Ed. Office for Civil Rights Fact Sheet on Student Discipline Under Section 504 of the Rehabilitation Act of 1973](#) (issued July 19, 2022);

[U.S. Dep't of Ed. Office of Special Education and Rehabilitative Services Q&A on IDEA's Discipline Provisions](#) (issued July 19, 2022)

Q.6. Is a school required to report incidents of sexual assault to law enforcement?

A.6. Yes. Most school employees and some volunteers must report sexual assault of any child (younger than 18) to the Department of Family and Community Services and to law enforcement. Also, most school employees must report sexual assault of any adult (18 or older) with a disability or mental health issue who is unable to take care of themselves to the Department of Health. The Department of Health may share the report with law enforcement.

Q&A 6. SOURCES:

[AS 47.17.020](#)(a) The following persons who, in the performance of their occupational duties, their appointed duties ..., or their volunteer duties ..., have reasonable cause to suspect that a child has suffered harm as a result of child abuse ... shall immediately report the harm to the nearest office of the department and, if the harm appears to be a result of a suspected sex offense, shall immediately report the harm to the nearest law enforcement agency: ... (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools; ... (9) volunteers who interact with children in a public or private school for more than four hours a week....

[AS 47.17.290](#) (2) "child" means a person under 18 years of age; (3) "child abuse or neglect" means ... sexual abuse, sexual exploitation ... of a child under the age of 18 by a person under circumstances that indicate that the child's health or welfare is harmed or threatened thereby....

QUESTIONS AND ANSWERS

Q&A 6. SOURCES:

[AS 47.24.010](#) (a) ...[T]he following persons who, in the performance of their professional duties, have reasonable cause to believe that a vulnerable adult suffers from ... abuse ... shall ... report the belief to the department's vulnerable adult centralized intake office: ... (16) an educator or administrative staff member of a public or private educational institution.

[AS 47.24.015](#) (c)(2) ... If the department has probable cause to believe that the vulnerable adult is in need of protective services, the department or its designee may refer the report made to the department under [AS 47.24.010](#) to a police officer for criminal investigation....

[AS 47.24.900](#) (2)(B) “abuse” means sexual assault ... (21) “vulnerable adult” means a person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, is unable to meet the person's own needs or to seek help without assistance.

Q.7. How do Alaska school discipline laws address suspension and expulsion for other forms of sex-based or potentially sex-based misconduct?

CONDUCT	SUSPENSION OR EXPULSION?	SOURCES
Bullying and Harassment	Suspension or expulsion is permitted, but not required.	AS 14.33.200(b)

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