

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



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## ARKANSAS

### 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](mailto:TA@victimrights.org).

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

## 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 expulsion is permitted (but not required) for assault or abuse of another student.

### Q&A 1. SOURCES:

[A.C.A. § 6-18-502](#) (b)(3)(A) Student discipline policies shall include without limitation the following offenses: Willfully and intentionally assaulting or threatening to assault or abuse any student... (c)(1)(A) The school discipline policies shall: Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school, for violations of any of the offenses described in subdivision (b)(3) of this section and for violations of other practices prohibited by school discipline policies.

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

**A.2.** A suspension can last up to 10 days.

### Q&A 2. SOURCES:

[A.C.A. § 6-18-507](#) (a)(4) "Suspension" means dismissal from school for a period of time that does not exceed ten (10) days.

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

**A.3.** An expulsion is longer than 10 days. The Arkansas statute does not specify a maximum time period for expulsion.

### Q&A 3. SOURCES:

[A.C.A. § 6-18-507](#) (a)(2) "Expulsion" means dismissal from school for a period of time that exceeds ten (10) days

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## QUESTIONS AND ANSWERS

**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.** Arkansas school discipline laws do not address this question.

**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.

Also, under Arkansas law, a student in kindergarten through fifth grade is exempt from suspension or expulsion unless the student poses a physical risk to themselves or others or causes a serious disruption that cannot be addressed by alternative interventions.

### 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)

[A.C.A. § 6-18-507](#) (b)(2) The school district shall not use out-of-school suspension or expulsion for a student in kindergarten through grade five (K-5) except in cases when a student's behavior:

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### Q&A 5. SOURCES:

- (A) Poses a physical risk to himself or herself or to others; or
- (B) Causes a serious disruption that cannot be addressed through other means.

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

**A.6.** Yes, schools must report the following incidents to law enforcement:

(1) Principals must report to law enforcement, acts of serious physical violence committed on school property or at off-campus school-sponsored activities.

(2) Most school employees and some volunteers must report sexual assault and other sexual acts defined as “sexual abuse” (regardless of where it occurs) committed against a child (younger than 18) to the Department of Human Services and law enforcement.

### Q&A 6. SOURCES:

[A.C.A. § 6-17-113](#) (a)(1) As used in this section: “Act of violence” means any violation of Arkansas law where a person purposely or knowingly causes or threatens to cause death or serious physical injury to another person...

(b)(1) Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence ... on school property or while under school supervision, the principal or the person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

[A.C.A. § 12-18-402](#) (a)(1)(A) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline [a unit within the Department of Human Services and the Division of Arkansas State Police] if he or she: Has reasonable cause to suspect that a child has: Been subjected to child maltreatment....

(b) The following individuals are mandated reporters under this chapter:

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### Q&A 6. SOURCES:

(22) A full-time or part-time employee of a public school or private school, including without limitation:

- (A) A school counselor;
- (B) A school official;
- (C) A teacher;
- (D) A coach or director of a public or private athletic organization, team, or club; and
- (E) A coach or director of a public or private nonathletic organization, team, or club;

(23) A person who is at least twenty-one (21) years of age and volunteers in a public school or private school:

- (A) As a coach or director of a public or private athletic organization, team, or club; or
- (B) As a coach or director of a public or private nonathletic organization, team, or club;...

(43) A person who is eighteen (18) years of age or older and observes abuse, sexual abuse, or sexual exploitation of a child.

**A.C.A. § 12-18-103** (6) “Child” or “juvenile” means an individual who is from birth to eighteen (18) years of age

(7) “Child maltreatment” means ... sexual abuse...

(20) “Sexual abuse” means: (A) By a person fourteen (14) years of age or older to a person younger than eighteen (18) years of age: (i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion; (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion; (iii) Indecent exposure; or (iv) Forcing the watching of pornography or live sexual activity;

(B) By a person eighteen (18) years of age or older to a person not his or her spouse who is younger than fifteen (15) years of age: (i) Sexual intercourse, deviate sexual activity, or sexual contact; (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; or (iii) Solicitation of sexual intercourse, deviate sexual activity, or sexual contact;

(C) By a person twenty (20) years of age or older to a person not his or her spouse who is younger than sixteen (16) years of age: (i) Sexual intercourse, deviate sexual activity, or sexual contact; (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; or (iii) Solicitation of sexual intercourse, deviate sexual activity, or sexual contact;

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### **Q&A 6. SOURCES:**

(D) By a caretaker to a person younger than eighteen (18) years of age: (i) Sexual intercourse, deviate sexual activity, or sexual contact; (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; (iii) Forcing or encouraging the watching of pornography; (iv) Forcing, permitting, or encouraging the watching of live sexual activity; (v) Forcing the listening to a phone sex line; (vi) An act of voyeurism; or (vii) Solicitation of sexual intercourse, deviate sexual activity, or sexual contact;

(E) By a person younger than fourteen (14) years of age to a person younger than eighteen (18) years of age: (i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion; or (ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion.

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