

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



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## 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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## 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.** Denial of enrollment or placement in an alternative setting is permitted (but not required) if a student is required to register as a sex offender. Also, expulsion is permitted (but not required) for a violation of the local school board's rules or when the student's presence is harmful to the school's best interest. Iowa's school discipline laws give local school boards broad authority to designate the grounds for suspension and expulsion, and each local school board may set different standards in this area. 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 to find out if suspension and/or expulsion is an option.

### Q&A 1. SOURCES:

[Iowa Code Ann. § 282.9](#) 1. ... [P]rior to knowingly enrolling an individual who is required to register as a sex offender under chapter 692A, but who is otherwise eligible to enroll in a public school, the board of directors of a school district shall determine the educational placement of the individual. Upon receipt of notice that a student who is enrolled in the district is required to register as a sex offender under chapter 692A, the board shall determine the educational placement of the student.... If the individual is denied enrollment in a school district under this section, the school district of residence shall provide the individual with educational services in an alternative setting.

[Iowa Code Ann. § 282.4](#) 1. The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school....

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

**A.2.** Iowa's school discipline laws do not address this question.

## QUESTIONS AND ANSWERS

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

**A.3.** Iowa's school discipline laws 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.** Denial of enrollment or placement in an alternative setting is permitted (but not required) for a sexual assault that did not occur at school or a school-sponsored activity if the offending student is required to register as a sex offender.

### Q&A 4. SOURCES:

[Iowa Code Ann. § 282.9](#) 1. ... [P]rior to knowingly enrolling an individual who is required to register as a sex offender under chapter 692A, but who is otherwise eligible to enroll in a public school, the board of directors of a school district shall determine the educational placement of the individual. Upon receipt of notice that a student who is enrolled in the district is required to register as a sex offender under chapter 692A, the board shall determine the educational placement of the student... If the individual is denied enrollment in a school district under this section, the school district of residence shall provide the individual with educational services in an alternative setting.

## QUESTIONS AND ANSWERS

**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.

### **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.** Most, if not all, school employees must report a sexual offense against any child (younger than 18) to the Department of Health and Human Services. The Department must then notify law enforcement.

## QUESTIONS AND ANSWERS

### Q&A 6. SOURCES:

[Iowa Code Ann. § 232.69](#) 1. The classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child which would be defined as child abuse under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse: ... (4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under section 256.165, school employee who is eighteen years of age or older, or an instructor employed by a community college....

[Iowa Code Ann. § 232.70](#) 3. The oral report shall be made by telephone or otherwise to the department [of health and human services]. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency...

8. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency...

[Iowa Code Ann. § 232.68](#) 1. “Child” means any person under the age of eighteen years. 2.a.(3) “Child abuse” or “abuse” means: The commission of a sexual offense with or to a child pursuant to chapter 709, section 726.2, or section 728.12, subsection 1, as a result of the acts or omissions of the person responsible for the care of the child or of a person who is fourteen years of age or older and resides in a home with the child. Notwithstanding section 702.5, the commission of a sexual offense under this subparagraph includes any sexual offense referred to in this subparagraph with or to a person under the age of eighteen years.

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