

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



**VICTIM
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LAW CENTER**

LOUISIANA

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

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 is permitted, but not required, for “immoral or vicious practices”, conduct that injures other students, and “any other serious offense”, each of which arguably could include sexual assault (though the suspension and expulsion statute does not define these terms). Each local school board may use different definitions and standards for these terms. 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.

Expulsion is permitted, but not required, for the same conduct list above, but only if: (1) alternative disciplinary interventions have failed, or (2) the safety of other students and staff is in danger. Expulsion is also permitted if the student is convicted of a felony or incarcerated in a juvenile facility for a felony act.

Q&A 1. SOURCES:

R.S. 17:416 L. Each city, parish, or other local public school board shall maintain and administer student codes of conduct... Codes of conduct shall include progressive levels of minor through major infractions and identify corresponding minor through major interventions and consequences. Before an initial referral for a student's expulsion, codes of conduct shall require the prior administration of interventions in accordance with the minor tiers in the code of conduct, except in instances where ... the underlying incident threatens the safety and health of students or staff. Expulsions shall be reserved for the major tier of behavioral infractions ... when the safety of students and staff has been put in jeopardy.

R.S. 17:416 A.(3)(a) A school principal may suspend from school or suspend from riding on any school bus any student who: ... (v) Is guilty of immoral or vicious practices, or of conduct or habits injurious to his associates.... (xviii) Commits any other serious offense.

R.S. 17:416 B.(1)(a) Any student, after being suspended for committing any of the offenses enumerated in this Section [17:416], may be expelled upon recommendation by the principal...

R.S. 17:416 D.(1) The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which had it been committed by an adult would have constituted a felony may be cause for expulsion....

QUESTIONS AND ANSWERS

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

A.2. Louisiana school discipline laws do not address this question.

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

A.3. An expulsion is for one school semester or longer. However, an expelled student can apply for probationary readmission at any time before the expulsion period ends, unless the student was expelled for conduct that resulted in a criminal conviction or delinquent adjudication.

Q&A 3. SOURCES:

R.S. 17:416 A.(2)(c) Unless otherwise defined as a permanent expulsion and except as otherwise provided by Subsections B and C of this Section, "expulsion" shall be defined as a removal from all regular school settings for a period of not less than one school semester....

R.S. 17:416 C.(2)(d)(i) Any student expelled from school may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city, parish, or other local public school superintendent and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance.... (iii) The provisions of this Subparagraph shall not be applicable to any student found guilty by a court of competent jurisdiction, or adjudicated a delinquent by a court of competent jurisdiction, of a criminal violation of any provision of Title 14 of the Louisiana Revised Statutes of 1950 which is related to the reason for the suspension, unless the judge finds otherwise.

R.S. 17:416 D.(1) The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which had it been committed by an adult would have constituted a felony may be cause for expulsion.... The expulsion ... shall not be for a period of time longer than the student's period of adjudication as determined by the applicable court presiding over the student's criminal matter, and shall run concurrent to the student's period of disposition....

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. Expulsion 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 or incarcerated in a juvenile facility for a felony act.

Q&A 4. SOURCES:

[R.S. 17:416](#) D.(1) The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which had it been committed by an adult would have constituted a felony may be cause for expulsion of the student for a period of time as determined by the board....

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)

QUESTIONS AND ANSWERS

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

A.6. Yes. Most, if not all, school employees must report sexual assault of a child (unmarried, younger than 18, and not emancipated) to the Department of Children and Family Services and law enforcement. Also, any person (including school employees) must report - to an adult protection agency or law enforcement - sexual assault of an adult (18 or older) with a disability who needs assistance with daily living or who is unable to protect themselves. If an adult protection agency receives the report, that agency must notify law enforcement.

Q&A 6. SOURCES:

CHC Art. 609 A.(1)(a) ... [A]ny mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse ... shall report in accordance with Article 610.

CHC Art. 610 A.(1) A reporter shall immediately report suspected child abuse ... in the following ways: (a) To the Department of Children and Family Services if the reporter has reason to believe that the perpetrator is a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not.

(b) To a local or state law enforcement agency if the reporter has reason to believe that the abuse or neglect is being perpetrated by someone other than the individuals provided for in Subparagraph (a)... Abuse or neglect perpetrated on a student by a teaching or child care provider, as defined by Article 603, shall be immediately reported to local or state law enforcement....

E.(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities....

CHC Art. 603 (2) "Abuse" means any one of the following acts that seriously endanger the physical, mental, or emotional health, welfare, and safety of the child: ... (c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following: (i) Any sexual act with any other person.... (iii) Any sexual activity constituting a crime under the laws of this state....

QUESTIONS AND ANSWERS

Q&A 6. SOURCES:

(6) "Child" means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated ... or emancipated by marriage....

(17) "Mandatory reporter" is any of the following individuals: ... (d) "Teaching or child care provider" is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, school resource officer, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides these services to a child in a voluntary or professional capacity.... (k) School coaches, including but not limited to public technical or vocational school, community college, college, or university coaches and coaches of intramural or interscholastic athletics.

R.S. 15:1504 A. Any person ... having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse ... shall report in accordance with R.S. 15:1505.

R.S. 15:1505 A. Reports ... shall be made to any adult protection agency or to any local or state law enforcement agency....

R.S. 15:1506 B. When the appropriate adult protection agency receives a report of sexual or physical abuse, ... the agency shall notify the chief law enforcement agency of the parish in which the incident is alleged to have occurred of such report....

R.S. 15:1503 (2) "Abuse" means the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse....

(3) "Adult" means any individual eighteen years of age or older, or an emancipated minor who, due to a physical, mental, or developmental disability ... is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect, or exploitation....

(13) "Sexual abuse" means abuse of an adult, as defined in this Section, when any of the following occur: (a) The adult is forced, threatened, or otherwise coerced by a person into sexual activity or contact. (b) The adult is involuntarily exposed to sexually explicit material, sexually explicit language, or sexual activity or contact. (c) The adult lacks the capacity to consent, and a person engages in sexual activity or contact with that adult.

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QUESTIONS AND ANSWERS

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

CONDUCT	SUSPENSION OR EXPULSION?	SOURCES
Bullying (including Cyberbullying)	Suspension is permitted, but not required. Expulsion is permitted if (1) alternative disciplinary interventions have failed, or (2) the safety of other students and staff is in danger.	R.S. 17:416 A. (3)(a)(xvii); R.S. 17:416 B.(1)(a)

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