

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



**VICTIM
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MISSOURI

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: MISSOURI

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. Yes, suspension or expulsion is permitted (but not required) under certain conditions:

- (1) Suspension is permitted if the student is charged with, convicted of, or pleads guilty to a felony.
- (2) Without a felony charge or conviction, suspension or expulsion is permitted if: (a) the sexual assault is disruptive to the school environment or students' morale; or (b) the offending student's presence at school poses a threat of harm to themselves or others.

Also, alternative disciplinary measures are encouraged before using suspension or expulsion.

Q&A 1. SOURCES:

RSMO 167.161 Subsection 1. The school board of any district... may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. In addition to the authority granted in section 167.171, a school board may authorize, by general rule, the immediate removal of a pupil upon a finding by the principal, superintendent, or school board that the pupil poses a threat of harm to such pupil or others, as evidenced by the prior conduct of such pupil.

RSMO 167.161 Subsection 2. The school board of any district... may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law...

RSMO 167.164 Subsection 1. ...School districts are encouraged to provide an in-school suspension system and to search for other acceptable discipline alternatives prior to using suspensions of more than ten days or expelling a student from the school....

QUESTIONS AND ANSWERS

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

A.2. Up to 180 school days.

Q&A 2. SOURCES:

[RSMO 167.171](#) Subsection 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days....

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

A.3. Missouri school discipline statutes and regulations do not address this question. However, the Missouri Department of Elementary and Secondary Education's student discipline webpage states that an expulsion is indefinite.

Q&A 3. SOURCES:

[Missouri Department of Elementary and Secondary Education's Student Discipline Webpage](#) – What is the difference between a suspension and an expulsion? ...An expulsion generally means that the student is removed from school for an indefinite period of time until the student is reinstated by the local board of education.

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. Yes, suspension is permitted, but not required, for a sexual assault that did not occur at school or a school-sponsored activity if the student is charged with, convicted of, or pleads guilty to a felony.

QUESTIONS AND ANSWERS

Q&A 4. SOURCES:

[RSMO 167.161](#) Subsection 2. The school board of any district... may suspend a pupil upon a finding that the pupil has been charged, convicted or pled guilty in a court of general jurisdiction for the commission of a felony criminal violation of state or federal law...

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)

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QUESTIONS AND ANSWERS

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

A.6. Yes. School administrators must report criminal sex acts committed on school property or at off-campus school-sponsored activities to law enforcement. Also, most, if not all, school employees must report sexual assault (regardless of where it occurs) of any child (younger than 18) to the Missouri Children's Division (MCD). MCD is permitted to share the report with law enforcement. School employees must also report sexual assault (regardless of where it occurs) of any adult (18 or older) with a disability who is unable to protect themselves to the Department of Health and Senior Services (DHSS). DHSS must share the report with law enforcement if the adult is at risk of serious physical harm.

Q&A 6. SOURCES:

RSMO 160.261 Subsection 2. ...The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes... committed on school property... on any school bus... or while involved in school activities.: ...(5) Rape in the first degree... (16) Rape in the second degree... (20) Child molestation... (22) Sexual misconduct involving a child... (23) Sexual abuse in the first degree....

RSMO 210.115 Subsection 1. When any... teacher, principal or other school official,... or other person with responsibility for the care of children has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse ..., that person shall immediately report to the division.... As used in this section, the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

RSMO 210.116 The division may share any records, information, and findings with... law enforcement agencies... upon a reasonable belief that such information is needed to protect a child from abuse or neglect or to assist such agency in providing child welfare services.... Identifying information may be shared only if the children's division reasonably believes the receiving entity will prevent the unauthorized dissemination of the information contained therein.

QUESTIONS AND ANSWERS

Q&A 6. SOURCES:

[RSMO 210.110](#) ...[T]he following terms mean: (1) “Abuse”,... sexual abuse... inflicted on a child other than by accidental means.... (4) “Child”, any person, regardless of physical or mental condition, under eighteen years of age....

[RSMO 192.2405](#) Subsection 1. (2) The following persons shall be required to immediately report or cause a report to be made to the department... any person with the responsibility for the care of an eligible adult who has reasonable cause to suspect that the eligible adult has been subjected to abuse or neglect or observes the eligible adult being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

[RSMO 192.2420](#) Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall: (1) Investigate or refer the report to appropriate law enforcement or state agencies....

[RSMO 192.2400](#) ...[T]he following terms mean: (1) “Abuse”, the infliction of physical, sexual, or emotional injury or harm... by any person...; (6) “Eligible Adult”,... an adult with a disability, as defined in section 192.2005, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests....

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