

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



**VICTIM
RIGHTS
LAW CENTER**

TEXAS

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.

ISSUE DATE: JUNE 2025

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

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. Expulsion is required if the conduct qualifies, under the Texas Penal Code, as one of these crimes: sexual assault, aggravated sexual assault, indecency with a child, or continuous sexual abuse of a young child. An actual charge, conviction, or delinquent adjudication is not required to trigger mandatory expulsion.

Removal to a disciplinary alternative education program (DAEP) is required if the conduct does not qualify as one of the crimes listed above but does qualify as a felony under the Texas Penal Code. Again, an actual charge, conviction, or delinquent adjudication is not required to trigger mandatory DAEP placement. Suspension is permitted (but not required) if the conduct does not qualify as any of the crimes mentioned above, but does violate the local school board's student code of conduct.

Q&A 1. SOURCES:

TEC 37.007 (a)(2) ...[A] student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property: ... engages in conduct that contains the elements of the offense of: (A) ... sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code; ... (D) indecency with a child under Section 21.11, Penal Code; ... (I) continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code....

TEC 37.006 (a)(2) ...[A] student shall be removed from class and placed in a disciplinary alternative education program ... if the student: ... commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property: (A) engages in conduct punishable as a felony; ...

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

TEC 37.005 (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct ... as conduct for which a student may be suspended.

QUESTIONS AND ANSWERS

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

A.2. Up to three school days.

Q&A 2. SOURCES:

[TEC 37.005](#) (b) A suspension under this section may not exceed three school days.

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

A.3. An expulsion or removal to a DAEP can last up to one year, but can be extended beyond one year if the school shows: (1) the offending student is a safety threat to others at school; or (2) extension is in the offending student's best interest.

Q&A 3. SOURCES:

[TEC 37.009](#) (a) ...[T]he campus behavior coordinator ... shall order the placement of the student for a period consistent with the student code of conduct... The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(d) ...The period of the placement [in a disciplinary alternative education program] may not exceed one year unless, after a review, the district determines that: (1) the student is a threat to the safety of other students or to district employees; or (2) extended placement is in the best interest of the student...

(h) ...The period of an expulsion may not exceed one year unless, after a review, the district determines that: (1) the student is a threat to the safety of other students or to district employees; or (2) extended placement is in the best interest of the student...

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 sexual assault of another student that did not occur on school property or at an off-campus school-sponsored activity if the conduct qualifies, under the Texas Penal Code, as sexual assault or aggravated sexual assault. An actual charge, conviction, or delinquent adjudication for sexual assault or aggravated sexual assault is not required to trigger discretionary expulsion.

Removal to a DAEP is required for sexual assault of another student that did not occur on school property or at an off-campus school-sponsored activity if: (1) a court or jury finds that the offending student committed a felony sex offense; or (2) the offending student receives a deferred prosecution for a felony sex offense (meaning the case is dismissed because the offender agrees to fulfill certain conditions); or (3) the school superintendent reasonably believes the offending student committed an act that qualifies as a felony sex offense under the Texas Penal Code.

Removal to a DAEP is permitted (but not required) for sexual assault of another student that did not occur on school property or at an off-campus school-sponsored activity if: (1) the school superintendent reasonably believes the offending student committed an act that qualifies as a felony other than a felony sex offense under the Texas Penal Code; and (2) the offending student's presence at school threatens the safety of others or disrupts the educational process.

QUESTIONS AND ANSWERS

Q&A 4. SOURCES:

TEC 37.007 (b)(4) A student may be expelled if the student: engages in conduct that contains the elements of any offense listed in [TEC Section 37.007] Subsection (a)(2)(A) [including sexual assault and aggravated sexual assault] ... against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property....

TEC 37.006 (c) ...[A] student shall be removed from class and placed in a disciplinary alternative education program ... based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- (1) the student receives deferred prosecution ... for conduct defined as: (A) a felony offense in Title 5, Penal Code [includes felony sexual assault and other felony sex offenses]; ...
- (2) a court or jury finds that the student has engaged in delinquent conduct ... for conduct defined as: (A) a felony offense in Title 5, Penal Code [includes felony sexual assault and other felony sex offenses]; ... or
- (3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as: (A) a felony offense in Title 5, Penal Code [includes felony sexual assault and other felony sex offenses]....

TEC 37.006 (d) ...[A] student may be removed from class and placed in a disciplinary alternative education program ... based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

- (1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than ... those offenses defined in Title 5, Penal Code; and
- (2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

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.

Under Texas law, students in second grade or below and students who are unhoused are exempt from suspension unless the suspension is for conduct that: (1) occurred on school property or at a school-sponsored event, and (2) qualifies as sexual assault or aggravated sexual assault under the Texas Penal Code. An actual charge, conviction, or delinquent adjudication is not required. Texas law also provides that students who are age nine and younger are exempt from expulsion. Students who are age five and younger are exempt from removal to a DAEP.

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)

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

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 sex offenses committed on school property or at off-campus school-sponsored activities to law enforcement. Also, school administrators and employees must report – to law enforcement or the Department of Family and Protective Services (DFPS) – a sexual assault (regardless of where it occurs) of any child (younger than 18, unmarried, and not emancipated). Additionally, school administrators and employees must report to DFPS a sexual assault (regardless of where it occurs) of an adult with a disability (18 or older) who is unable to protect themselves if committed by the adult’s caretaker, family member, or anyone else who has an ongoing relationship with the adult. If DFPS receives a report of sexual assault, it must then notify law enforcement.

Q&A 6. SOURCES:

TEC 37.015 (a)(7) The principal of a public or private primary or secondary school ... shall notify ... the police department ... if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property...: ...conduct that may constitute a criminal offense for which a student may be expelled under [TEC] Section 37.007(a) [including sexual assault, aggravated sexual assault, indecency with a child, and continuous sexual abuse of a young child]....

TFC 261.101 (a) A person having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report.... (b) If a professional has reasonable cause to believe that a child has been abused ... the professional shall make a report.... In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers....

TFC 261.103 (a) [A] report shall be made to: (1) any local or state law enforcement agency; (2) the department [Department of Family and Protective Services]; or (3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

QUESTIONS AND ANSWERS

Q&A 6. SOURCES:

TRC 261.105 (b) The department [Department of Family and Protective Services] shall immediately notify ... local law enforcement ... of any report it receives ... that concerns the suspected abuse ... of a child....

TFC 261.001 (1)(E) "Abuse" includes the following acts or omissions by a person: ... sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code....

TFC 101.003 (a) "Child" ... means a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes.

THRC 48.051 (a) [A] person having cause to believe that ... a person with a disability ... is in the state of abuse ... shall report ... to the department [Department of Family and Protective Services].

THRC 48.1522 (a) ...[I]f during the course of the ... investigation of reported abuse, ...a caseworker ... has cause to believe that the ... person with a disability has been abused ... by another person in a manner that constitutes a criminal offense under any law ... the caseworker or supervisor shall: (1) immediately notify an appropriate law enforcement agency....

THRC 48.002 (a)(2)(B) "Abuse" means: sexual abuse of [a] person with a disability, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Section 21.08, Penal Code (indecent exposure) or Chapter 22, Penal Code (assaultive offenses), committed by the person's caretaker, family member, or other individual who has an ongoing relationship with the person.

THRC 48.002 (a)(8) "Person with a disability" means a person with a mental, physical, or intellectual or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is: (A) 18 years of age or older; or (B) under 18 years of age and who has had the disabilities of minority removed.

QUESTIONS AND ANSWERS

Q.7. How do [insert jurisdiction name] school discipline laws address suspension and expulsion for other forms of sex-based or potentially sex-based misconduct?

CONDUCT	SUSPENSION OR EXPULSION?	SOURCES
Public lewdness	DAEP required	TEC 37.006 (a)(2)(F)
Indecent exposure	DAEP required	TEC 37.006 (a)(2)(F)
Nonconsensual intimate image sharing	Expulsion or DAEP permitted but not required	TEC 37.0052 (b)(3)

This project was supported by Grant No. 15JOVW-23-GK-05167-MUMU awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.