



OKLAHOMA

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.

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

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 conduct that violates a school rule. Each local school board has its own student code of conduct that governs suspension and lists the types of conduct that warrant suspension. That 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 is a possible consequence for sexual assault.

Oklahoma school discipline laws do not address expulsion. However, if a student is found delinquent or convicted in court of rape, attempted rape, a lewd or indecent act with a child, or an attempted lewd or indecent act with a child, then a school is permitted (but not required) to place that student in an alternative setting. Also, in that case, the school must make sure that the offending student does not contact or come within the general area of the survivor student while at school.

Q&A 1. SOURCES:

[O.S.A. tit. 70 § 24-101.3](#). A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school.... Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall ... provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options....

C. 1. Students who are guilty of any of the following acts may be suspended out-of-school by the administration of the school or district: a. violation of a school regulation....

F. 1. No public school of this state shall be required to provide education services in the regular school setting to any student who has been: a. adjudicated as a delinquent for an offense defined as a violent crime in [Section 571 of Title 57 of the Oklahoma Statutes](#), b. convicted as an adult of an offense defined as a violent crime in [Section 571 of Title 57 of the Oklahoma Statutes](#)....

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Q&A 1. SOURCES:

2. The school in which a student as described in paragraph 1 of this subsection is subsequently enrolled may elect to not provide education services in the regular school setting.... Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to the student at a district school facility, the school shall notify any ... victims of the student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided the victim notifies the school of the victim's desire to refrain from contact with the offending student.

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

A.2. A suspension can last up to two semesters.

Q&A 2. SOURCES:

[O.S.A. tit. 70 § 24-101.3](#). B. 2. ... [N]o out-of-school suspension shall extend beyond the current semester and the succeeding semester....

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

A.3. Oklahoma school discipline laws do not address expulsion.

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?

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A.4. A school is permitted (but not required) to place a student in an alternative school setting for sexual assault that did not occur on school property or at an off-campus school-sponsored activity if the student is found delinquent or convicted by a court of rape, attempted rape, a lewd or indecent act with a child, or an attempted lewd or indecent act with a child. Also, in that case, the school must make sure that the offending student does not contact or come within the general area of the survivor student while at school.

Q&A 4. SOURCES:

[O.S.A. tit. 70 § 24-101.3](#). F. 1. No public school of this state shall be required to provide education services in the regular school setting to any student who has been: a. adjudicated as a delinquent for an offense defined as a violent crime in [Section 571 of Title 57 of the Oklahoma Statutes](#), b. convicted as an adult of an offense defined as a violent crime in [Section 571 of Title 57 of the Oklahoma Statutes](#)....

2. The school in which a student as described in paragraph 1 of this subsection is subsequently enrolled may elect to not provide education services in the regular school setting.... Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to the student at a district school facility, the school shall notify any ... victims of the student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided the victim notifies the school of the victim's desire to refrain from contact with the offending student.

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....

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A.5. 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. Every school employee must report - to law enforcement - sexual assault of a student committed by a person responsible for the student's health, safety, or welfare, such as a school employee, parent, custodian, guardian, foster parent, or any adult that lives with the student.

Q&A 6. SOURCES:

[O.S.A. tit. 10A. § 1-2-101](#). B.2. a. Every school employee having reason to believe that a student under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services and local law enforcement....
b. Every school employee having reason to believe that a student age eighteen (18) years or older is a victim of abuse or neglect shall report the matter immediately to local law enforcement.

[O.S.A. tit. 10A. § 1-1-105](#). 2. "Abuse" means harm or threatened harm to the health, safety, or welfare of a child by a person responsible for the child's health, safety, or welfare, including but not limited to ... sexual abuse, or sexual exploitation....

b. "Sexual abuse" includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child.

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Q&A 6. SOURCES:

c. "Sexual exploitation" includes but is not limited to allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child....

53. "Person responsible for a child's health, safety, or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes.

Q.7. How do Oklahoma 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 cyber-bullying)	Suspension is permitted but not required.	OAC 210:10-1-20 (c)(10)(A)(vii)

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