

Student Discipline Rules Questions & Answers

A Technical Guide

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A. OSPI Student Discipline Rule Making

A1. Why does the Office of Superintendent of Public Instruction (OSPI) write rules related to discipline?

The Office of Superintendent of Public Instruction (OSPI) has the responsibility and statutory authority from the Washington State Legislature to write and adopt rules on a variety of subjects, including student discipline. Washington's discipline rules were first adopted over four decades ago. OSPI has broad statutory authority to adopt rules prescribing the substantive and procedural due process guarantees of students—including discretionary decision-making authority to develop due process procedures that adequately protect the interest of students. The statutes authorizing OSPI to adopt discipline rules are RCW [28A.600.015](#); RCW [28A.600.020](#).

A2. What is OSPI's process for adopting discipline rules?

OSPI's process for adopting rules is governed by Washington's Administrative Procedure Act (APA), [Chapter 34.05 RCW](#).

When OSPI needs to update rules quickly in response to new legislation, the agency can use the emergency rule or expedited rulemaking processes in the APA. For example, after the Legislature passed [House Bill 1541](#) in March 2016, OSPI used an expedited process to ensure the rules for student discipline aligned with new legislation by the start of the 2016–17 school year.

For all other rules, OSPI begins with a formal announcement that the agency is considering developing a new rule, amending an existing rule, or repealing an entire rule or sections of a rule. Next, OSPI publishes proposed rules along with information about how the public can provide comments. After considering all public comments, the agency may either (1) adopt the proposed rules with minimal changes or (2) substantively revise the proposed rules. If OSPI makes substantial revisions to the initially proposed rules, the agency is required to publish the revised proposed rules and solicit additional public comment. When the agency adopts final rules, the rules typically become effective 31 days after filing, unless specified otherwise.

OSPI initiated formal rule making process related to the state's discipline rules on November 1, 2016. Following a period of extensive study and stakeholder engagement, which included a reconvening of the [Student Discipline Task Force](#) between October 2016 and January 2017, OSPI filed proposed rules on September 6, 2017. After three public comment periods, including eight public hearings held around the state, OSPI adopted final student discipline rules on July 30, 2018.

A3. Where can someone find Washington's discipline rules?

The Washington Administrative Code (WAC) contains all rules that have been adopted in Washington. OSPI rules are found under Title 392 WAC and the student discipline rules are under [Chapter 392-400 WAC](#).

OSPI's [Student Discipline](#) webpage includes a link to the discipline rules under Chapter 392-400 WAC, as well as links to other laws and additional information.

A4. Will OSPI revise the discipline rules again?

The agency will update the discipline rules in response to any legislative enactments that necessitate a change to the rules.

B. Student Discipline Rules General Questions

B1. Do OSPI's discipline rules apply to all K–12 students in Washington's public schools?

Yes. Washington law requires every school board to adopt school district discipline policies and procedures that are consistent with OSPI rules for student discipline. See RCW [28A.600.010](#).

B2. Are there other laws that apply to how school districts administer discipline?

Yes. In addition to the discipline rules proscribed by OSPI, school districts must ensure that local policies and procedures are consistent with all applicable federal and state legal requirements.

Federal legal requirements include, but are not limited to:

- [Goss v. Lopez](#) (1975)— the U.S. Supreme Court decision that established the minimum level of due process that must be afforded students facing a suspension of up to ten school days;
- The [Every Student Succeeds Act](#) (2015)—which, among other provisions, requires school districts receiving certain federal funds to “support efforts to reduce the overuse of discipline practices that remove students from the classroom” (ESSA, Section 1112(b)(11));
- Part B of the [Individuals with Disabilities Education Act](#)—that, among other things, provides additional discipline protections to students with disabilities who are receiving special education services; and
- [Section 504 of the Rehabilitation Act of 1973](#) and [Title VI of the Civil Rights Act of 1964](#)—which prohibit discrimination based on disability, race, color, and national origin in programs or activities that receive Federal financial assistance.

State laws include, but are not limited to:

- [Chapter 392-401 WAC](#), regarding the state definition for absence and reasons for excused absences—including provisions regarding absences during suspension or expulsion;
- RCW [28A.300.042](#), regarding the collection, reporting, and disaggregation of student-level discipline data; and
- Chapters [28A.640](#) and [28A.642](#) RCW and [Chapter 392-190 WAC](#)—which prohibit discrimination in Washington public schools based on sex, race, creed, religion, color, national origin, sexual orientation including gender expression or identity, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

B3. Are the discipline rules adopted by OSPI in conflict with state statutes regarding student discipline?

No. The discipline rules augment state statutes regarding student discipline in a manner that is consistent with OSPI's statutory authority to adopt discipline rules.

For more information on OSPI's statutory authority to adopt discipline rules, refer to A1.

B4. Do OSPI's discipline rules require school districts to adopt the exact same discipline policies and procedures?

No. OSPI's discipline rules establish uniform *minimum* due process requirements for student discipline in school districts. However, school districts may adopt policies and procedures setting forth expectations that provide additional procedural protections for students.

The discipline rules augment statutory provisions that require school districts to consult with school district staff, students, parents, families, and the community when developing and reviewing district discipline policies and procedures. See RCW [28A.320.211](#); RCW [28A.600.020](#)(3).

B5. Do OSPI’s discipline rules promote the use of progressive discipline when a student is referred to the office for the same behavioral violation on more than one occasion?

No. One purpose of OSPI’s discipline rules is to ensure school districts administer discipline in ways that respond to the needs and strengths of students, support students in meeting behavioral expectations, and keep students in the classroom to the maximum extent possible. See WAC [392-400-010](#)(5). OSPI’s discipline rules, state menu of best practices for behavior under RCW [28A.165.035](#), and discipline training developed in accordance with RCW [28A.415.410](#) support the use of graduated discipline systems that include proactive, instructional, and supportive approaches to student behavior. To the extent that “progressive discipline” involves escalating the severity or length of exclusionary actions in response to repeated behavioral violations of the same nature, such actions would be inconsistent with OSPI’s discipline rules. See WAC [392-400-020](#)(2).

Regardless of whether the behavioral violation is a first offense or repeated offense, before administering a classroom exclusion, short-term suspension, or in-school suspension, the school district must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations. See WAC [392-400-435](#)(1). Similarly, before deciding whether any suspension or expulsion and the length of a suspension or expulsion is warranted, the school district must consider the student’s individual circumstances and the nature and circumstances of the behavioral violation. See [WAC 392-400-430](#)(2).

For more information on graduated discipline systems and instructional approaches to behavior, see [Key Elements of Policies to Address Discipline Disproportionality: A Guide for District and School Teams](#) as well as OSPI’s [Behavior Menu of Best Practices and Strategies](#).

For more information on best practices and other forms of discipline, refer to section D.

B6. Do OSPI’s discipline rules prevent school districts from using suspension or expulsion?

No. Consistent with state statutes as well as research and best practices, OSPI’s discipline rules provide that school districts may use suspension or expulsion only as a last resort. OSPI’s statutory authority to prescribe rules governing the procedural and substantive due process guarantees of students in schools is constrained by other statutes governing student discipline. For example, limitations on the maximum length of a suspension or expulsion and limitations on the types of behavior for which a district may consider long-term suspension or expulsion are established in statute. See RCW [28A.600.015](#)(6); RCW [28A.600.020](#)(6).

For more information about state guidance on best practices for behavior, refer to OSPI’s [Behavior Menu of Best Practices and Strategies](#).

B7. Do OSPI’s discipline rules require school districts to suspend or expel a student for certain behaviors?

No. With the exception of a firearm violation under federal law, school districts are not required to suspend or expel students for any behavioral violation. State law explicitly encourages school districts to consider alternative actions before administering suspension or expulsion. See RCW [28A.600.015](#)(7).

OSPI’s rules require school districts to first attempt one or more other forms of discipline to support the student in meeting behavioral expectations before administering a short-term or in-school suspension. For long-term suspensions and expulsions, the rules require school districts to at least consider other forms of discipline to

support the student in meeting behavioral expectations. Therefore, school districts may not adopt any zero-tolerance approaches in local discipline policies and procedures that require a mandatory suspension or expulsion in response to any behavioral violation other than firearms violations. See WAC [392-400-435\(1\)](#); WAC [392-400-440\(1\)](#); WAC [392-400-445\(1\)](#).

B8. Are OSPI's discipline rules at odds with efforts school districts are making to ensure all students are safe in school?

No. One purpose of OSPI's discipline rules is to ensure that school districts provide a safe and supportive learning environment for all students. See WAC [392-400-010\(8\)](#). The rules do not limit school districts from taking a range of appropriate actions to respond to threats or aggressive behavior without resorting to suspension or expulsion—including implementing a school-based threat assessment program to evaluate and manage or reduce any potentially threatening student behavior. In accordance with state law, a school-based threat assessment program must prohibit suspension or expulsion based merely on threat assessment referral or performance. See RCW [28A.320.123](#).

As recognized in state and federal laws, school climate can be negatively impacted when school districts overuse exclusionary discipline practices. OSPI's discipline rules are consistent with RCW [28A.600.015\(7\)](#), which provides that, with the exception of firearm violations, school districts are not required to administer suspension or expulsion for any behavioral violation and should first consider alternative actions. The rules are also consistent with the [Every Student Succeeds Act \(ESSA\)](#), which requires state plans to include how the state will support school districts to improve school conditions for student learning, including through reducing the overuse of discipline practices that remove students from the classroom. See ESSA, Section 1111(g)(1)(C)(ii).

Moreover, consistent with state statutes, several provisions in the rules allow the use of exclusionary discipline to address school safety concerns. These provisions include rules governing emergency expulsions (WAC [392-400-510\(1\)](#)), long-term suspensions and expulsions (WAC [392-400-440\(2\)](#); WAC [392-400-445\(2\)](#)), petitions to extend expulsions (WAC [392-400-480](#)), the protection of victims (WAC [392-400-810](#)), and firearm violations (WAC [392-400-820](#)).

For more information on school climate, including strategies for reducing the overuse of exclusionary discipline practices, see the [Behavior Menu of Best Practices and Strategies](#).

For more information about school safety, including information regarding threat assessments, refer to OSPI's [School Safety Center](#) website.

C. Parent and Family Engagement

C1. Do OSPI's discipline rules provide opportunities for parents and families to engage in the discipline process?

Yes. Consistent with statutory provisions regarding parent and family engagement, one purpose of the rules is to ensure school districts engage parents and families in decisions related to the development and implementation of discipline policies and procedures. See RCW [28A.320.211](#); RCW [28A.600.020\(3\)](#); WAC [392-400-010\(3\)](#).

School districts are required to notify parents as soon as reasonably possible about classroom exclusions. See WAC [392-400-335\(2\)](#). School districts are also required to provide an opportunity for parent participation during an initial hearing with the student when the district is considering administering suspension or expulsion. See WAC [392-400-450\(2\)](#).

Several state laws emphasize family engagement strategies and the importance of parent and family engagement. These laws include RCW [28A.165.035](#) (regarding the state menu of best practices and strategies for behavior, which includes “Family Engagement” as a best practice), RCW [28A.415.410](#) (regarding training to support school personnel in implementing discipline policies and procedures), and RCW [28A.415.420](#) (regarding educators gaining knowledge and skills in cultural competence). OSPI’s discipline rules specify that the rules must be construed in a manner consistent with those laws, among others. See WAC [392-400-020](#).

C2. Do OSPI’s discipline rules include considerations for culturally and linguistically diverse students and families?

Yes. One purpose of the rules is to ensure that school districts implement culturally responsive discipline policies and procedures that provide opportunity for all students to achieve personal and academic success. See WAC [392-400-010](#)(2).

OSPI’s discipline rules define “culturally responsive” to align with the meaning of “cultural competency” under state laws pertaining to educator performance standards. According to state law, school districts are encouraged to provide opportunities for all school and school district staff to gain knowledge and skills in cultural competence, including in partnership with their local communities. See RCW [28A.415.420](#); WAC [392-400-025](#)(3).

The discipline rules also clarify that language access requirements under federal and state laws apply to parent notification and communications related to discipline procedures.

C3. Will parents and families have opportunities to provide input on local district discipline policies and procedures?

Yes. Washington laws require school districts to involve students, parents, families and the community when developing and updating local discipline policies. Therefore, parents and families should have a voice in setting school behavioral expectations, categories of behavioral violations, and appropriate discipline practices. Parents and families who are interested in providing input on a school district’s discipline policies and procedures should consider attending a school board meeting or contacting the district superintendent to learn more about how to get involved. See RCW [28A.320.211](#).

School districts are required to use disaggregated discipline data when reviewing and updating discipline policies and procedures with families to (1) monitor the impact of the district’s policies, procedures, and practices; and (2) update district policies and procedures to ensure fairness and equity in the administration of discipline. See WAC [392-400-110](#)(2).

D. Best Practices and Other Forms of Discipline

D1. Do OSPI’s discipline rules support the use of positive behavioral interventions?

Yes. The rules must be construed in a manner consistent with RCW [28A.165.035](#), regarding the state menu of best practices and strategies for behavior. See WAC [392-400-020](#)(2)(e). Since 2015, OSPI has developed, published, and provided training on the behavior menu. Since the 2016 update, the behavior menu has included a section on Multi-Tiered System of Supports (MTSS); a “Content Philosophy” section that addresses social-emotional learning (SEL); cultural responsiveness and equity in student discipline; school climate; using exclusionary discipline as a last resort; and best practices such as restorative justice, behavior monitoring, trauma-informed approaches, and family engagement. OSPI updates the menu annually to incorporate new research and resources.

The rules also must be construed in a manner consistent with RCW [28A.415.410](#), regarding training to support the implementation of state discipline policies and procedures. The training highlights the connection between research, policies, data, and best practices in school discipline within the context of Washington K–12 educational settings.

For more information about the state menu of best practices and strategies for behavior, see OSPI's [Menu of Best Practices and Strategies](#).

For more information about OSPI discipline training materials, refer to OSPI's [Student Discipline](#) website.

D2. Do OSPI's discipline rules require school districts to consider using best practices or other forms of discipline?

Yes. Consistent with statutory requirements, OSPI rules require school districts to first attempt one or more other forms of discipline before administering classroom exclusion, unless the student's presence poses an immediate and continuing danger to others or an immediate and continuing threat to the educational process. See RCW [28A.600.020](#)(2); WAC [392-400-330](#)(2). Under the rules, *other forms of discipline* is a specifically defined term that refers to discipline other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior. See WAC [392-400-025](#)(9).

School districts must adopt discipline policies and procedures that identify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations. See WAC [392-400-110](#)(1)(e). When school districts provide written notice to students and parents regarding a suspension or expulsion, the notice must include the other forms of discipline that the school district considered or attempted, and an explanation of the district's decision to administer the suspension or expulsion. See WAC [392-400-455](#)(2)(c).

OSPI's discipline rules also require school districts to first attempt one or more other forms of discipline to support the student in meeting behavioral expectations before administering a short-term or in-school suspension. See WAC [392-400-435](#)(1). For long-term suspensions and expulsions, the rules require school districts to at least consider other forms of discipline to support the student in meeting behavioral expectations. See WAC [392-400-440](#)(1); WAC [392-400-445](#)(1). Therefore, school districts may not adopt any zero-tolerance approaches in local discipline policies and procedures that would require a mandatory suspension or expulsion in response to any behavioral violation other than firearms violations.

D3. May school districts require school personnel to use best practices instead of exclusionary discipline for certain behavioral violations?

Yes. OSPI's discipline rules establish uniform minimum due process requirements for student discipline in school districts. However, school districts may adopt policies and procedures setting forth expectations that provide additional procedural protections for students.

D4. May a school district exclude a student without first attempting or considering other forms of discipline if the behavioral violation is not the student's first offense?

No. The provisions in OSPI's discipline rules regarding *other forms of discipline* are applicable whenever a district is considering an exclusionary response to a student's behavior that violates a school district's discipline policy—whether the behavioral violation constitutes a student's first offense or not. See WAC [392-400-330](#)(2); WAC [392-400-435](#)(1); WAC [392-400-440](#)(1).

D5. Would classroom strategies such as re-teaching behavioral expectations constitute other forms of discipline under OSPI’s discipline rules when used in response to a behavioral violation?

Yes. Classroom strategies that educators commonly use to proactively address behavior may also be used in response to behavioral violations. Other forms of discipline may include the teaching, modeling, and reinforcement of behavioral expectations, active supervision, environmental adjustments, increasing opportunities to respond, restorative conversations, and a variety of other low-intensity best practices and strategies. School district policies and procedures must identify other forms of discipline that school personnel within the district should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations. See WAC [392-400-110\(e\)](#).

For examples of classroom behavioral strategies, see [Supporting and Responding to Behavior: Evidence-Based Classroom Strategies for Teachers](#) and other resources available through the [National Technical Assistance Center on Positive Behavioral Interventions and Supports \(PBIS\)](#) as well as OSPI’s [Behavior Menu of Best Practices and Strategies](#).

E. Classroom Exclusions

E1. What is a “classroom exclusion” under OSPI’s rules?

Under OSPI’s discipline rules, a classroom exclusion is the exclusion of a student from a classroom or instructional or activity area for behavioral violations. See WAC [392-400-025\(2\)](#).

A classroom exclusion does not include actions that result in missed instruction for a brief duration when (1) a teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations, and (2) the student remains under the supervision of the teacher or other school personnel during such brief duration.

E2. Do OSPI’s discipline rules require parent communication related to classroom exclusions?

Yes. OSPI’s discipline rules require parent notification following a classroom exclusion. See WAC [392-400-335\(2\)](#). The person responsible for contacting the parent may be the teacher, principal, or other school personnel.

School districts must also provide local grievance procedures to address parents’ or students’ grievances related to the administration of classroom exclusions. The discipline rules provide that grievance procedures adopted by a school district must include an opportunity for the student to share their perspective and explanation regarding the behavioral violation. See WAC [392-400-110\(1\)\(h\)](#).

E3. Do OSPI’s discipline rules limit a teacher’s statutory authority to exclude a student from the classroom?

No. OSPI’s discipline rules are consistent with the statutory provision regarding a teacher’s authority to exclude a student from the teacher’s classroom—including the statutory provision regarding the principal and teacher conferring. See RCW [28A.600.020\(2\)](#).

The rules do not prescribe the means by which a principal and teacher confer regarding a classroom exclusion. The rules provide that when a classroom exclusion exceeds the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion. However, the rules do not abridge the maximum duration of time that a teacher may exclude a student under statute.

Districts may adopt discipline policies and procedures regarding the means by which the principal (or designee) and the teacher should confer that, consistent with law, clarify district expectations in accordance with collective bargaining agreements entered into by the district.

E4. Does a classroom exclusion include any instance where a teacher might send a student from the classroom to another location in the school?

No. OSPI’s discipline rules includes a formal definition for classroom exclusion, which specifies that classroom exclusions must be in response to behavioral violations. See WAC [392-400-025\(2\)](#). For example, sending a student with a hallway pass to meet with a counselor for reasons unrelated to a behavioral violation would not constitute a classroom exclusion, whereas taking similar actions in response to a behavioral violation—such as issuing an office discipline referral (ODR) to send a student to the dean’s office—would constitute a classroom exclusion.

E5. Teachers sometimes respond to a behavioral violation by directing the student to leave the classroom so they can have a conversation in the hallway. Would that action constitute a classroom exclusion under OSPI’s discipline rules?

It depends. The discipline rules provide that a classroom exclusion does not include actions that result in missed instruction for a brief duration when (1) a teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations, and (2) the student remains under the supervision of the teacher or other school personnel during such brief duration. See WAC [392-400-025\(2\)](#).

For example, if a student remains under the teacher’s supervision while in the hallway for a brief period of time and the purpose of the conversation is to support the student in meeting behavioral expectations, the teacher’s action would constitute *other forms of discipline* under OSPI’s discipline rules. Similarly, if the teacher calls a building administrator to the classroom to have a brief conversation with the student for purposes of re-teaching or reviewing classroom expectations, that action would not constitute a classroom exclusion.

However, if a teacher directs the student to go into the hallway and leaves the student there unsupervised—or with a para-professional for longer than a brief duration of time—those actions would constitute a classroom exclusion.

E6. Do the rules specify how long a brief duration is?

No. State regulations do not define “brief duration” in relation to actions that would not constitute a classroom exclusion. Evidence-based behavioral interventions and classroom strategies that include brief durations of time away from instruction typically recommend the brief duration not exceed five minutes. For example, Breaks are Better—a tier 2 intervention intended for students who engage in task-avoidance behaviors—provides students explicit opportunities to request breaks from academic activities for approximately 2 to 5 minutes.

Allowing a student to ask for a break from instruction according to a predetermined tier 2 or tier 3 intervention as part of the student’s behavior plan does not constitute a *classroom exclusion* when the break in instruction is not in response to a behavioral violation. These types of interventions mostly occur within the classroom and vicinity of the school personnel responsible for supervising the student during the instructional period, are limited in number per day and in duration (usually not more than 5 minutes), and are directly related to the function of the student’s behavior (i.e. avoiding a non-preferred task, activity, or person).

In short, when school personnel take “actions that result in missed instruction for a brief duration” to support a student in meeting behavioral expectations—the duration of such actions should align with evidence-based interventions and classroom strategies.

For more information on best practices and other forms of discipline, refer to section D.

For more information on [Breaks are Better](#) and other evidence-based behavioral interventions, see [National Center on Intensive Intervention](#) and [National Technical Assistance Center on Positive Behavioral Interventions and Supports \(PBIS\)](#).

E7. Does a classroom exclusion include exclusions from recess?

No. A classroom exclusion concerns exclusions from *curricular* instructional or activity areas. A classroom exclusion does not include exclusions from recess, lunch, transportation, or extra-curricular activities. However, the action of excluding a student from going to class in response to a behavioral violation that occurred during recess or lunch would constitute a classroom exclusion. Additionally, as with classroom exclusions, students and parents may address any grievances regarding non-curricular exclusionary actions under the district’s grievance procedure established in accordance with WAC [392-400-110](#)(1)(h).

While Washington laws do not prohibit school districts from excluding students from recess in response to behavioral violations, research demonstrates that limiting physical activities can increase problem behaviors. The [Washington State School Directors’ Association \(WSSDA\)](#) model policy explicitly provides that “[p]hysical activity during the school day (including but not limited to recess, brain boosters/energizers, or physical education) will not be used or withheld as punishment for any reason.” See WSSDA 6700P Procedure – Nutrition, Health, and Physical Fitness. Additionally, the [SHAPE America](#) Position Statement on [Using Physical Activity as Punishment and/or Behavior Management](#) considers withholding recess time as a consequence for behavioral violations to be an inappropriate and unsound educational practice.

For more information and resources related to school health and physical activities, refer to OSPI [Health and Physical Education Resources](#) and the Centers for Disease Control and Prevention (CDC) [Physical Education and Physical Activity Recess in Schools](#).

E8. Is a classroom exclusion different from an in-school suspension?

Yes. When a student is excluded from *being in or going to* class in response to an alleged behavioral violation and remains within school, such actions would constitute either a *classroom exclusion* or an *in-school suspension*. However, although classroom exclusion and in-school suspension both always occur *within* school, they are procedurally and categorically different. A school cannot administer in-school suspension without first providing the student prior notice regarding the behavioral violation, explanation of the evidence, explanation of the suspension, and an opportunity for the student to provide explanation. See WAC [392-400-450](#). If a school administers a classroom exclusion and decides to exclude the student from the classroom beyond the balance of the school day, while allowing the student to remain in the student’s current school placement, the school must provide notice and due process for an in-school suspension. See WAC [392-400-330](#)(3)(a).

Generally, a classroom exclusion is related to the exercise of a teacher’s statutory authority under RCW [28A.600.020](#)(2), whereas an in-school suspension is primarily related to an administrative decision. How each school district delegates authority to administer classroom exclusions or in-school suspensions may vary. In practice, a school may administer an in-school suspension following a classroom exclusion in response to the same behavioral violation during the same school day.

F. Suspensions

F1. Is the statewide definition for suspension inclusive of out-of-school suspension as well as in-school suspension?

Yes. The regulatory definition for *suspension* applies to *in-school suspension* as well as the out-of-school suspension categories of *long-term suspension* and *short-term suspension*. The regulatory definition provides that a suspension is a denial of attendance “in response to a behavioral violation” and clearly states that a suspension is categorically as well as procedurally different from a classroom exclusion, expulsion, or emergency expulsion. See WAC [392-400-025](#)(14).

F2. Do OSPI’s discipline rules include grade-level protections that limit the use of suspensions for Washington’s youngest learners?

Yes. OSPI’s discipline rules include longstanding regulatory provisions that limit the total number of short-term suspension days a student in grades K–4 or grades 5–12 may receive during any single semester or trimester. The rules also include a longstanding regulatory prohibition on the use of long-term suspension for students in grades K–4. See WAC [392-400-435](#)(3); WAC [392-400-440](#)(4).

F3. Do OSPI’s discipline rules address when a school district may use long-term suspension in response to certain behaviors?

Yes. OSPI’s discipline rules reference the statute that sets limitations on which categories of behavioral violations can be grounds for using long-term suspension. See RCW [28A.600.015](#)(6).

Additionally, and consistent with the statutory limits, the rules provide that the length of a long-term suspension must be determined based on whether the student would pose an imminent danger to others or an imminent threat to the educational process should the student return to school before the proposed end date of the suspension. A school district making a determination under this standard must consider whether the district reasonably expects that a dangerous or threatening situation would occur in the school environment absent an imposed period of suspension. This standard is intended to protect students from unnecessary exclusions that are not related to adequately ensuring a safe and supportive learning environment for all students. See WAC [392-400-440](#)(2).

F4. If a school sends a student home early, or tells a parent to keep their student home from school because of a student’s behavioral violation, would such actions constitute a suspension?

Yes. Sending a student home early or requesting a student stay at home in response to behavioral violations is a suspension (even if the school calls it an “early dismissal” or “student pick-up” or “day off” or some other term). School districts may not suspend a student without first providing the student due process. Before a school can send a student home for a behavioral violation, the school must hold an informal initial hearing with the student. State law prohibits a school district from sending a student home or telling a parent to keep a student at home for behavioral violations without the benefit of an informal hearing. See WAC [392-400-450](#).

F5. If a school district administers a suspension in the middle of a semester or trimester, would the suspension need to end by the start of the new academic term?

No. The “length of an academic term” is a duration of time equal to the cumulative number of school days within a semester or trimester, and does not mean a duration lasting until the end of an academic term. See RCW [28A.600.020](#)(6); WAC [392-400-025](#)(8). However, a suspension cannot be administered beyond the school year in which the behavioral violation occurred. See WAC [392-400-435](#)(2); WAC [392-400-440](#)(3).

F6. If a school sends a student from their regular classroom setting to a different location within the school to work on classroom assignments or to receive instruction because of the student’s behavioral violation, would such actions constitute a suspension?

Such actions would constitute either a classroom exclusion or an in-school suspension. Refer to E8.

G. Expulsions

G1. Do OSPI’s discipline rules address when a school district may use expulsion in response to certain behaviors?

Yes. OSPI’s discipline rules reference the statute that sets limitations on which categories of behavioral violations can be grounds for using expulsion. See RCW [28A.600.015](#)(6).

Additionally, and consistent with the statutory limits, the rules provide that the length of an expulsion must be determined based on whether the student would pose an imminent danger to others should the student return to school before the proposed end date of the expulsion. A school district making a determination under this standard must consider whether the district reasonably expects that a dangerous situation would occur in the school environment absent an imposed period of expulsion. This standard is intended to protect students from unnecessary exclusions that are not related to adequately ensuring a safe and supportive learning environment for all students. See WAC [392-400-445](#)(2).

G2. If a school district administers an expulsion in the middle of a semester or trimester, would the expulsion need to end by the start of the new academic term?

No. The “length of an academic term” is a duration of time equal to the cumulative number of school days within a semester or trimester, and does not mean a duration lasting until the end of an academic term. See RCW [28A.600.020](#)(6); WAC [392-400-025](#)(8); WAC [392-400-445](#)(3).

G3. Is an expulsion any different from a long-term suspension?

Yes. An expulsion is different from a long-term suspension in several ways:

- (1) Although the maximum length of long-term suspension and expulsion is limited to the length of an academic term, a school district may not administer a long-term suspension beyond the school year in which the behavioral violation occurred. No such limitation applies to the use of expulsion. See WAC [392-400-440](#)(3).
- (2) Although the maximum length of a long-term suspension and expulsion is limited to the length of an academic term, a school district may extend the length of an expulsion when warranted, based on public health or safety. No such process applies to the use of long-term suspension. See RCW [28A.600.020](#)(6); WAC [392-400-480](#).
- (3) A long-term suspension may be a denial of attendance from a single subject or class, multiple subjects or classes, or a full schedule of subjects or classes. An expulsion is a denial of admission to the student’s current school placement, inclusive of the student’s full schedule of subjects or classes at that school. See WAC [392-400-025](#)(7), (14)(b).
- (4) School districts are required to determine the length of a long-term suspension based on whether the student would pose an imminent danger to others or an imminent threat to the educational process should the student return to school before the proposed end date of the suspension. In contrast, the length of an expulsion is limited to a determination based on whether the student would pose an imminent danger to others should the student return to school before the proposed end date of the expulsion. See WAC [392-400-440](#)(2); WAC [392-400-445](#)(2). Refer to F3 and G1.

G4. If a school district administratively transfers a student to another school or program in response to a behavioral violation, would such actions constitute an expulsion?

Yes. OSPI's discipline rules clarify that expulsions are "a denial of admission to the student's current school placement" that are administered "in response to a behavioral violation." Accordingly, school districts must provide notice and due process any time a district refers a student to another school in response to a behavioral violation. See WAC [392-400-025](#)(7), (14).

OSPI's discipline rules also specify that, if a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, except in limited cases. See WAC [392-400-430](#)(8).

G5. Are there grade-level limits on the use of expulsions?

Yes. With the exception of firearms violations, OSPI's discipline rules prohibit school districts from using expulsion for students in grades K–4. See WAC [392-400-445](#)(4).

H. Emergency Expulsions

H1. Do OSPI's discipline rules allow a school district to immediately remove a student from school under emergency circumstances?

Yes. The legal basis for immediately excluding a student from school under emergency circumstances is the Supreme Court decision, *Goss v. Lopez*, 419 U.S. 565 (1975). *Goss* established that students facing a suspension from school have a right to notice and hearing under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution, while providing an exception:

"[T]here are recurring situations in which prior notice and hearing cannot be insisted upon. Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable" *Goss v. Lopez*, 419 U.S. 565 at 582

Under Washington state statute, the action of excluding a student from school under emergency circumstances is referred to as *emergency expulsion*. See RCW [28A.600.015](#)(3) Consistent with *Goss v. Lopez* and state statutes, OSPI's discipline rules provide that a school district may immediately remove a student from school without first conducting an informal initial hearing with the student. To use emergency expulsion, the school district must have sufficient cause to believe that the student's presence poses (a) an immediate and continuing danger to other students or school personnel or (b) an immediate and continuing threat of material and substantial disruption of the educational process. See WAC [392-400-510](#).

H2. Do school districts need to provide notice and due process after administering an emergency expulsion?

Yes. OSPI's discipline rules provide that a school district must notify the parents about the emergency expulsion and the right to appeal within 24 hours after the school district removes the student from school. See WAC [392-400-515](#)(2). In accordance with RCW [28A.600.015](#)(3), within ten school days from the emergency removal from school, a school district must end the emergency expulsion or provide notice and due process for any subsequent discipline action. Consistent with statutory requirements, the rules require school districts to provide additional notice and due process whenever a school district administers a suspension or expulsion following an emergency expulsion. See WAC [392-400-510](#); WAC [392-400-515](#).

In practice, emergency expulsions often end once the emergency conditions that gave rise to the use of emergency expulsion are no longer present. In cases where a district decides to administer a subsequent exclusionary action following the emergency expulsion, the district must apply any days that the student was emergency expelled before the subsequent action to the total length of the suspension or expulsion. *See* [WAC 392-400-510\(4\)](#). The following are examples of what notice and due process a district would be required to provide in different situations related to an emergency expulsion:

Example 1: A district emergency expels a student. After 1 school day the district holds an initial hearing with the student and decides to end the emergency expulsion based on a determination that the district can safely return the student to school. The district would initially provide notice and due process for an emergency expulsion—as well as any subsequent notice regarding the initial or modified end date for the emergency expulsion.

Example 2: A district emergency expels a student. After 1 school day the district holds an initial hearing with the student and decides to suspend the student for the next two school days. The district would initially provide notice and due process for an emergency expulsion followed by additional notice and due process for short-term suspension.

Example 3: A district emergency expels a student. After 2 school days the district holds an initial hearing with the student and decides to suspend the student for the next 9 school days. The district would initially provide notice and due process for an emergency expulsion followed by additional notice and due process for long-term suspension because the district is denying the student attendance at school for 11 consecutive school days.

H3. Can school districts adopt discipline policies and procedures that define certain behavioral violations as posing an immediate and continuing danger or threat?

No. A category of student behavior that violates a school district’s discipline policy alone is insufficient for determining whether a specific situation warrants the use of emergency expulsion. However, a student’s behavior, when considered along with the context and totality of the circumstances, could raise enough of a concern regarding school safety that a district may have sufficient cause to believe a student being physically present on school grounds poses an immediate and continuing danger or threat in accordance with [WAC 392-400-510](#). A determination regarding whether any given situation warrants the use of emergency expulsion is highly fact-specific. Districts may need to work with their legal counsel if questions arise in specific cases.

H4. Can a school district use emergency expulsion for the purpose of investigating student conduct?

No. In order to immediately remove a student from school without first holding an informal initial hearing with the student in accordance with [WAC 392-400-450](#), the district must have sufficient cause to believe that the student's presence poses (a) An immediate and continuing danger to other students or school personnel; or (b) An immediate and continuing threat of material and substantial disruption of the educational process. *See* [WAC 392-400-510](#).

Emergency expulsion cannot be used simply for the purpose of doing an investigation. The [Washington State School Directors’ Association](#) (WSSDA) model policy and procedures emphasizes that point by stating: “The district may not impose an emergency expulsion solely for investigating student conduct.” *See* WSSDA 3241P Student Discipline.

H5. Are there grade-level limitations that apply to the use of emergency expulsion?

No. OSPI’s discipline rules do not include grade-level limitations for emergency expulsions.

I. Educational Services

11. Can a school district deny a student educational services in response to a behavioral violation?

No. School districts are expressly precluded by statute from suspending the provision of educational services when imposing suspension or expulsion. See RCW [28A.600.015](#)(5), (8). OSPI's discipline rules require school districts to provide students the opportunity to receive educational services that enable the student to (1) continue to participate in the general education curriculum, (2) meet the educational standards established within the district, and (3) complete subject, grade-level, and graduation requirements. See WAC [392-400-610](#)(1)(a).

OSPI's discipline rules also provide that, as soon as reasonably possible after administering a suspension or expulsion, school districts must provide written notice to the student and parents about the educational services the district will provide. This notice must include a description of the educational services that will be provided, and the name and contact information for the school personnel who can offer support to keep the student current with assignments and course work. See WAC [392-400-610](#)(2).

School districts must adopt policies that, among other things, describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to follow for the provision of educational services under OSPI's discipline rules. See WAC [392-400-110](#)(i).

12. Does a suspended or expelled student who is receiving educational services that are comparable to the educational services the student would have received without the exclusionary discipline still have a right to appeal the suspension or expulsion?

Yes. Due process for students who are charged with violating a school district discipline policy is not just about protecting a student's entitlement to basic education as a property interest. The Fourteenth Amendment's Due Process Clause also forbids arbitrary deprivations of a student's liberty interest in preserving a good name, reputation, honor, or integrity. *Goss v. Lopez*, 419 U.S. 565 at 574. "If sustained and recorded, charges [against a student] could seriously damage the students' standing with their fellow pupils and their teachers as well as interfere with later opportunities for higher education and employment." *Id.* The minimum due process procedures set forth in OSPI's discipline rules protect this important right.

13. Can a school district claim state funds for students who are suspended or expelled and receiving educational services during the period of the exclusionary action?

Yes. OSPI amended WAC [392-121-108](#) in 2016 to remove suspensions and expulsions from the list of enrollment exclusions so that school districts can now claim state funding for students who have been long-term suspended or expelled. As long as a suspended or expelled student is receiving educational services in accordance with program requirements under state law before the monthly count day, a school district may claim state funds for students who are suspended or expelled.

For more information on student enrollment, state apportionment, and program requirements, refer to OSPI's latest [Enrollment Reporting](#) handbook.

14. If a school district needs to provide a student transportation services to participate in educational services during the period of a suspension or expulsion, can state funds pay for the transportation costs?

Yes. In accordance with [Chapter 28A.160 RCW](#), school districts may claim transportation funding for providing students transportation to an alternative setting during the duration of a suspension or expulsion.

15. Can a school district use the truancy process if a student does not participate in the educational services during the suspension or expulsion?

No. Under OSPI rules governing student absences, [Chapter 392-401 WAC](#), student absences due to suspensions, expulsions, or emergency expulsions administered in accordance with OSPI’s discipline rules count as excused absences when the student is not receiving educational services and not enrolled in qualifying course of study activities in accordance with WAC [392-121-107](#). See WAC [392-401-020\(9\)](#).

Students with excused absences are not deemed truant for purposes of the state’s compulsory education laws.

For more information on truancy and attendance policies and procedures, see OSPI’s [Attendance, Chronic Absenteeism, and Truancy](#) website.

16. Does a school district have to ensure that suspended or expelled students are provided in-person contact with school personnel who are responsible for supporting the student’s educational progress or coordinating the delivery and grading of course work?

No. OSPI’s discipline rules do not mandate in-person contact between school personnel and suspended or expelled students. The methodology that school districts use to provide the support and coordination required under WAC [392-400-610](#) is left to the discretion of local school personnel. However, OSPI’s discipline rules do not preclude school districts from adopting policies and procedures that require in-person contact.

J. Reengagement

J1. Is the reengagement process different from an appeal process?

Yes. Reengagement meetings do not replace an appeal hearing. See WAC [392-400-710\(5\)](#).

State law requires school districts to meet with the student and parents to develop a reengagement plan. The meeting must be held within twenty calendar days and no later than five calendar days before the end date of a long-term suspension or expulsion. Additionally, OSPI’s discipline rules provide that the meeting must be held sooner if the family requests an early meeting. See RCW [28A.600.022](#); WAC [392-400-710](#).

The reengagement process must involve the family in the development of a culturally responsive plan that is “tailored to the student’s individual circumstances” to support the student’s successful return to school. When developing the plan with the family, school districts are required to consider:

- The nature and circumstances of the discipline incident;
- The student’s cultural histories and contexts, family norms and values, and community resources;
- Shortening the length of the suspension or expulsion;
- Academic and nonacademic supports to aid the student’s academic success; and
- Supports that the student, parents, or school personnel may need to prevent a similar incident from happening again

J2. Do OSPI’s discipline rules require school districts to convene a reengagement meeting for short-term suspensions?

No. Consistent with statute, reengagement meetings and plans are required for long-term suspension or expulsion. See RCW [28A.600.022](#); WAC [392-400-710](#). However, nothing in OSPI’s discipline rules precludes a school district from holding a reengagement meeting for short-term suspensions.

J3. Are school districts supposed to use the reengagement process to determine what educational services the district should provide to a student during a suspension or expulsion?

No. Requirements regarding the provision of educational services are independent from the reengagement process. For information about educational services during suspension or expulsion, refer to section I.

The reengagement process involves considering shortening the length of time the student is suspended or expelled and discussing supportive interventions that aid in the student's academic success and keep the student engaged and on track to graduate. In addition, the reengagement process must involve the family in the development of a culturally responsive plan that is tailored to the student's individual circumstances. See RCW [28A.600.022](#); WAC [392-400-710](#). Therefore, the reengagement process is an opportunity for school districts to account for whether the educational services the district initially provided the student were sufficient and, if not, develop an appropriate plan.

K. Special Education

K1. Do OSPI's discipline rules apply to students receiving special education services?

Yes. OSPI's discipline rules are intended to establish uniform minimum due process requirements for student discipline in school districts. The rules apply to *all* students, regardless of whether the students are eligible for special education services. State and federal special education laws, including the [Individuals with Disabilities Education Act](#) and its implementing regulations, impose additional requirements on school districts with regard to students with disabilities. See [Chapter 392-172A WAC](#).

The application section of OSPI's discipline rules clarifies that the rules must be construed in a manner consistent with existing state and federal laws concerning students receiving special education services—including anti-discrimination laws that protect students under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. See WAC [392-400-020](#)(2)(c), (2)(d).

For more information about protections for students with disabilities, see OSPI's [Special Education Behavior and Discipline](#) and [Section 504 and Students with Disabilities](#).