

Executive Summary

This publication addresses state law on student discipline in school districts and charter schools. The boards that govern school districts and charter schools have broad authority over disciplinary matters, subject to certain limits in state and federal law. State law does not define “discipline,” but establishes limits on removals, suspensions, exclusions, expulsions, and corporal punishment.

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Laws and Policies Governing Student Discipline

What laws govern student discipline?

School boards¹ are authorized to govern, manage, and control school districts, and charter school boards have analogous authority over charter schools. [Minn. Stat. § 123B.02](#); [124E.07](#). The boards and school administrators make discipline decisions subject to limits set by state and federal law.

Most state requirements relating to student discipline are in [Minnesota Statutes, chapter 121A](#). This chapter includes the Pupil Fair Dismissal Act ([Minn. Stat. §§ 121A.40](#) to [121A.56](#)), which establishes grounds for dismissals, procedural requirements, and requirements for dismissal of students with disabilities. [Minn. Stat. § 121A.43](#).

Other requirements in [chapter 121A](#) relate to:

- harassment and violence ([Minn. Stat. § 121A.03](#));
- bullying ([Minn. Stat. § 121A.031](#));
- corporal punishment and reasonable force ([Minn. Stat. §§ 121A.58](#); [121A.582](#));

¹ A school board is the governing body of a school district. A charter school has a board of directors that functions like the school board of a district, establishing policies related to operating the school. [Minn. Stat. § 124E.07](#). As used here, “school board” refers to the board of a district, and when the law applies to charter schools, the board of a charter school. For more information on charter schools, see House Research, [Charter Schools](#), August 2018.

- removal from class ([Minn. Stat. § 121A.61](#)); and
- hazing ([Minn. Stat. § 121A.69](#)).

The United States Constitution and federal law also govern school boards' discipline decisions. The [First Amendment](#) protects some student speech, and the [Fourth Amendment](#) limits how schools conduct searches of students' property. Federal laws relating to discrimination may also apply to student discipline.

The Pupil Fair Dismissal Act applies to charter schools as if they were school districts. Requirements relating to bullying and juvenile justice data sharing also apply to charter schools. Other disciplinary provisions under state law do not apply to charter schools.

Who makes decisions about student discipline?

Generally, school boards adopt policies² and school administrators execute them. Under the Pupil Fair Dismissal Act, school boards must adopt the following:

- uniform criteria for dismissal, and written policies and rules to carry out the Pupil Fair Dismissal Act
- policies on the appropriate use of peace officers and crisis teams to remove students who have individualized education programs (IEPs) from school grounds

In addition, school boards must adopt the following written districtwide policies:

- a discipline policy that includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class
- a student or staff hazing policy

School boards must review the districtwide discipline policy each year. School boards also play a role in exclusion and expulsion proceedings, as described below, but are not generally involved in suspensions or removals.

School administrators administer the board-adopted policies. School administrators make decisions about suspensions and carry out the procedures required for suspensions. A teacher, principal, or other school employee may remove a student from class. A school principal, in consultation with the teacher, determines the period of removal for a student who engages in assault or violent behavior. School principals must confer with representatives of parents, students, and staff at least annually to review the discipline policy and assess whether the policy has been enforced.

² As used in this publication, the term "policy" includes a rule or regulation adopted by the board of a school district or charter school.

Do antidiscrimination laws apply to disciplinary decisions?

The Pupil Fair Dismissal Act prohibits a school from denying equal protection to a student involved in a dismissal proceeding that may result in suspension, exclusion, or expulsion. [Minn. Stat. § 121A.42](#). The Minnesota Human Rights Act (MHRA) prohibits an educational institution from excluding, expelling or otherwise discriminating against a student on the basis of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability. [Minn. Stat. § 363A.13](#), subd. 2. The Pupil Fair Dismissal Act does not override or otherwise change the MHRA. [Minn. Stat. § 121A.56](#).

In 2018, the Minnesota Department of Human Rights (MDHR) found higher rates of school suspensions and expulsions among students of color and students with disabilities. The MDHR subsequently entered into agreements with school districts and charter schools across Minnesota to address the disparities, and posted agreements, plans, and reports on these efforts on the MDHR website at <https://mn.gov/mdhr/news-community/reports/sedata.jsp>.

In 2014, the Office of Civil Rights at the United States Department of Education issued guidance outlining data collected by the U.S. Departments of Justice and Education showing racial disparities in student discipline. (Joint U.S. Department of Justice, Civil Rights Division, and U.S. Department of Education, Office for Civil Rights, “*Dear Colleague*” letter, January 8, 2014.) The letter provided guidance to districts to avoid and redress racial discrimination in the administration of student discipline. The Department of Education rescinded the guidance in 2018.

Dismissals and Removals

What is the difference between a dismissal and a removal?

Dismissals occur when:

- a school administrator *suspends* a student from school for between one and ten school days;
- a school board *excludes* a student from school for some or all of the remaining school year; or
- a school board *expels* a student from school for up to one calendar year.

Dismissals do not include a removal from class. A removal occurs when a teacher, principal, or other school district employee prohibits a student from attending a class or activity period for up to five days.

What behavior can lead to a student being dismissed from school?

A school board must adopt a discipline policy stating the district’s criteria for dismissal. The policy must emphasize preventing dismissals through the early detection of problems and be designed to prevent students’ inappropriate behavior from recurring.

A school may dismiss a student for:

- willfully violating a reasonable school board policy;
- willful conduct that significantly disrupts others, officials' ability to perform their duties, or extracurricular activities; or
- willful conduct that endangers others or school property.

Under the willfulness standard, a student can be dismissed for violating a board policy when the student is aware of the policy and makes a deliberate, conscious, and intentional choice to violate the policy.

A school board must expel for at least one year a student who brings a firearm to school, though a board may modify the expulsion requirement on a case-by-case basis.

What procedures must schools follow when dismissing students?

A public school must give a student due process in a dismissal proceeding that may result in suspension, exclusion, or expulsion. [Minn. Stat. § 121A.42](#).

Suspension. A school must hold an informal administrative conference with a student before the suspension, unless the student creates an immediate and substantial danger to self, others, or property, in which case the conference must take place as soon as practicable. The school must notify the student of the reason for the suspension, explain the evidence available, and allow the student to present the student's version of facts. The school must give the student's parent a written notice stating the reason for the suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Pupil Fair Dismissal Act. A readmission plan must not obligate a parent to provide Ritalin or other similar medication to a child as a condition of readmission. A school may suspend a student pending a decision to expel or exclude.

Expulsion or Exclusion. A school must hold a hearing on an exclusion or expulsion unless the student waives the hearing. The school must give the student written notice of intent to exclude or expel. The notice must include a complete statement of the facts, a list of the witnesses and a description of their testimony, and a copy of the Pupil Fair Dismissal Act; state the date, time, and location of the hearing; describe the alternative educational services used to try to avoid the expulsion or exclusion; and inform the student and parents of their procedural hearing rights. The school board selects a hearing officer to conduct a fair and impartial hearing; the hearing officer may be an independent hearing officer, a member of the school board, a committee of the school board, or the full school board. A student may review the student's school records before the hearing, compel testimony, and present evidence. The hearing officer must make a recommendation to the school board, and the school board makes a decision based on the record, stating the basis of the decision in writing.

A school must prepare and enforce an admission or readmission plan for a student who is excluded or expelled. The plan may include measures to improve the student's behavior,

require parental involvement in the readmission process, and state the consequences for a student whose behavior does not improve.

A student's parents and school administrators may enter into an agreement to withdraw the student from the school and thereby avoid expulsion or exclusion proceedings.

What conduct can lead to a student being removed from class?

A school board policy on removal from class must state the reasons for which a student must be removed from class and a procedure for notifying and meeting with the student's parent when the student has been removed more than ten times in one school year. The policy must include the following grounds for removal:

- willful conduct that significantly disrupts the rights of others to an education
- willful conduct that endangers surrounding persons or school property
- willful violation of any rule of conduct in the district's discipline policy

The policy may include additional grounds for removal, and must include certain components, including procedures for removal of a student, procedures for returning the student to class, and minimum consequences for violations of the code of conduct.

A student who engages in assault or violent behavior must be removed from class immediately.

How can a student receive instruction after a dismissal?

School boards must recognize the district's continuing responsibility for a student's education during a dismissal period and offer alternative education services at another location.

Alternative education services must be adequate to allow a student to make progress toward meeting graduation standards and help prepare a student for readmission. An area learning center (ALC) may not prohibit a student who has been expelled or excluded from enrolling solely because a district expelled or excluded the student. The ALC may use other provisions of the Pupil Fair Dismissal Act to exclude a student or require an admission plan. A student who has been expelled or excluded may choose to enroll in another district, a charter school, or a nonpublic school.

A suspension may include a readmission plan. A readmission plan must include, where appropriate, alternative education services, which may include modified instruction, special education services, and enrollment in another district or alternative learning center, among others.

Special Situations

Can a school dismiss a preschool student?

Unlike a student enrolled in kindergarten through 12th grade, a child enrolled in certain publicly funded prekindergarten programs is not subject to dismissal. A prekindergarten program may exclude or expel the child only after exhausting other measures and if there is an ongoing serious safety threat to the child or others. This prohibition applies to early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, and Head Start programs, and other school-based preschool or prekindergarten programs.

Can a school dismiss a student who receives special education services?

Federal and state special education laws affect how schools discipline students with disabilities. Schools may subject students with disabilities to in-school suspensions if the student continues to receive the same special education services. Schools must hold an IEP meeting for students suspended from school for five or more consecutive days or for more than ten cumulative days in a school year. A school must provide alternative educational services if the suspension is for more than five days. Schools cannot exclude or expel a student for behavior related to the student's disability, but if the student has a weapon or drugs, or causes serious bodily harm, the student may be removed for up to 45 school days. Schools may discipline a student with disabilities for behavior unrelated to the student's disability in the same manner and for the same duration as students without disabilities.

Can a school employee restrain a student or use corporal punishment?

A school official may not use corporal punishment to discipline a child. [Minn. Stat. § 121A.58](#). Corporal punishment means hitting or spanking a person with or without an object, or using unreasonable physical force that causes bodily harm or substantial emotional harm. A teacher, principal, school employee, school bus driver, or district agent may use reasonable force when it is necessary to restrain a student or prevent bodily harm or death. A teacher or principal may also use reasonable force to correct a child. A school official who uses reasonable force within the exercise of lawful authority has a defense against criminal prosecution and civil liability. [Minn. Stat. §§ 121A.582; 609.06](#), subd. 1, cl. (6); [123B.25](#), para. (c).

Trained school staff may use physical holding or seclusion to restrain a student with a disability only in an emergency. "Restrictive procedures" is the use of physical holding or seclusion in an emergency. [Minn. Stat. § 125A.0941](#). Qualified and trained professionals may use restrictive procedures on a child with disabilities only in response to behavior that constitutes an emergency and only if the procedures are consistent with applicable statutory requirements governing the use of such procedures. [Minn. Stat. § 125A.0942](#), subd. 2.

How can a student appeal a discipline decision?

A party to an exclusion or expulsion decision may appeal the decision of the school board to the commissioner of education within 21 calendar days of the board action. The commissioner may affirm the decision, send it back for additional findings, or reverse or modify the decision. A party to the decision may appeal the commissioner's decision by seeking judicial review under [Minnesota Statutes, sections 14.63 to 14.69](#), by filing a petition with the court of appeals. There is no statutory appeal process for a suspension or removal from class.

Access to Data

Does the Department of Education collect data on student discipline?

A school board must report to the commissioner of education each exclusion or expulsion within 30 days. The report must include a statement of alternative educational services, the reason for the exclusion or expulsion, and the effective date and duration, as well as the student's age, grade, gender, race, and special education status. Districts also report in-school and out-of-school suspensions. The commissioner aggregates districts' discipline data and includes this data on the department's website in the Minnesota Report Card, and in a report generated through the disciplinary incident reporting system.

Who has access to a student's disciplinary records?

Student disciplinary records are protected by the federal Family Educational Rights and Privacy Act (FERPA), which generally requires educational institutions including school districts to ask for written permission before disclosing a student's personally identifiable information, with some exceptions.

A school must include disciplinary information when transmitting the education records of a student transferring to another school and must notify the student and the student's parent that it is transmitting the student's disciplinary records. [Minn. Stat. § 120A.22](#), subd. 7, para. (c); [34 C.F.R. § 99.34](#).

Teachers must be notified before a student with a history of violent behavior is placed in the teacher's classroom. Violent behavior includes documented physical assault of a district employee by a student. [Minn. Stat. § 121A.64](#).

Legislative Activity

What student discipline issues has the legislature considered in recent years?

The 2016 education omnibus bill established a Student Discipline Working Group to review the substance, application, and effect of the Pupil Fair Dismissal Act and related student discipline provisions, and make recommendations on improving disciplinary policies, practices, and

procedures. The group's report is available at <https://www.leg.mn.gov/docs/2017/mandated/170243.pdf>.

In 2020, the legislature prohibited dismissals of students in public preschool and prekindergarten programs, except in limited circumstances. [Minn. Stat. § 121A.425](#).

The legislature has also considered bills requiring nonexclusionary disciplinary procedures, establishing a process for withdrawal agreements, establishing reporting requirements, and amending the grounds and procedures for dismissals, among others.



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