Student Discipline: A Practical and Legal Approach to the New Disciplinary Regulations

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Why We’re Here

• Managing student discipline issues is a challenge in districts.

• Changes in the law impact districts for the 2019-2020 school year, leaving many to wonder “what now?”

• We’re here to discuss some common legal issues which frequently arise in student discipline.

• We will focus on pragmatic approaches to specific difficult problems through a series of hypothetical scenarios.
Disclaimer

This presentation is for informative purposes only and does not constitute legal advice. Please check with your attorney to review the recent changes in the discipline law.
• Brief overview of the laws governing student discipline
• Review of the history of changes in the law from 2013 to the present
• Analyze the trends and potential impacts to the changes in the law
• Classroom exclusions
• Educational services
• Suspensions
• Expulsions
• Questions
A parent comes into your office to report concerns involving her son’s education in your district. Her middle-school student James is routinely in “trouble” and nothing seems to be working. The parent “feels sorry” for the teacher, but apparently James is sent to the dean’s office, or another classroom, almost daily. Her son is missing a lot of instructional time and is falling behind and doesn’t seem to receive any makeup assignments. She is coming to you because her conversations with the teacher and principal have not produced any changes.

DO YOU HAVE CONCERNS?
WHAT NOW?
Now assume that the teacher and principal in the same scenario come to you asking for your support to address the behavioral issues in the classroom. The principal is concerned that you will overturn previous decisions made by the building and are not doing enough to support the building.

WHAT NOW?
History

Prior to 2013

• Expulsions may be indefinite

• Emergency expulsions may be continued as regular expulsions and continue indefinitely

• Not required to provide educational services during most suspensions, all expulsions

• District decides which types of misconduct warrant suspension or expulsion
Mid-2013

• Long term suspension/expulsion limited to one calendar year
  • May petition superintendent for longer

• When student long-term suspended/expelled, should meet with family within 20 days, and must create reengagement plan

• Emergency expulsion converted or rescinded within 10 days
More Changes!

2016

- Provision of educational services to suspended/expelled students
- Long-term suspension/expulsion limited to length of academic term (90 school days)
- Long-term suspensions/expulsions used solely for particularly severe offenses
- Reengagement plans mandatory with family input

Additional changes for implementation in 2018-2019 and 2019-2020
Trends

• What trends do you notice?

• What could be some of the impacts of these trends?
A teacher comes to you with concerns about her safety and the safety of students within her second-grade classroom. One student is routinely disruptive of the educational process resulting in a few “room clears” and an injury to a para-educator. Parents are now coming to board meetings to discuss the concerns of this classroom.

WHAT IS THE GAMEPLAN?
Classroom Exclusions
True or False?

Under the new disciplinary regulations, teachers are UNABLE to remove students from the classroom unless there is an immediate and continuing harm to others.
Classroom Exclusions

• A classroom exclusion is the exclusion of a student from a classroom or instructional activity for behavioral violations. WAC 392-400-025(2)

• Consistent with RCW 28A.600.020(2)
  • Allows for teacher to exclude for the balance of the school day or up to the following two days OR until the principal and teacher have conferred.
Classroom Exclusions

School District must 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 treat to the educational process.
Other forms of discipline**

**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.
Notice

• Classroom exclusion requires:
  • Teachers provides notice to principal as soon as reasonably possible
  • Notice to parents. As soon as reasonably possible in language they understand.
A kindergarten student is sent to the principal’s office for violating the class rule about talking on the carpet. On prior days, the teacher used a sticker chart to help the student improve her listening. On the day in question, the teacher was visibly frustrated and did not try any other methods to address the student’s behavior.

**IS THIS A VALID CLASSROOM EXCLUSION?**

**WHAT GUIDANCE DO YOU PROVIDE TO THIS TEACHER?**
Classroom Exclusions

• A classroom exclusion **does not include** actions that result in missed instruction for a **brief duration** when:
  • A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations, and
  • The student remains under the supervision of the teacher or other school personnel during such brief duration.
In response to a behavior violation, the teacher escorts the student into the hallway, away from the classroom. The purpose of the conversation to support the student in meeting behavioral expectations. The duration of the conversation is 3 minutes and afterwards student returns to class.

IS THIS A CLASSROOM EXCLUSION?
A student who has a history of behavioral violations requests to visit the counselor’s office to address a scheduling issue. The student was on task at the time, but the teacher decides to avoid an issue and sends the student. The student is gone for the remainder of the period.

IS THIS A CLASSROOM EXCLUSION?
Classroom Exclusion?

In response to a behavior violation, the teacher directs the student into the hallway. The student is out in the hallway for the remainder of the period, approximately 26 minutes. A para educator is with the student for the entire time.

IS THIS A CLASSROOM EXCLUSION?
A teacher is at her wits’ end. After attempting many strategies to deal with a student’s disruptive behavior, the student continues to be disruptive. In response to a latest behavior violation, this time engaging in a prank of another student, the teacher sends the student home as an “early dismissal.”

IS THIS A CLASSROOM EXCLUSION?
<table>
<thead>
<tr>
<th>Classroom Exclusion</th>
<th>In-School Suspension</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Occurs within school</td>
<td>• Occurs within school</td>
</tr>
<tr>
<td>• Related to teacher’s statutory authority</td>
<td>• Related to an administrative decision</td>
</tr>
<tr>
<td>• Parental notification as soon as reasonable</td>
<td>• Must provide student of prior notice BEFORE and allow opportunity for the student to provide explanation</td>
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<tr>
<td></td>
<td>• Might follow a classroom exclusion</td>
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Educational Services
Educational Services

• District may not suspend the provision of educational services for behavioral violations
• Must provide opportunity to receive services during suspension or expulsion (including EE)
• Enable student to:
  • Continue to participate in general educational curriculum
  • Meet educational standards of district
  • Complete subject, grade-level, and grad requirements
A student is short-term suspended from High School for four school days. None of her teachers provided assignments during that time, and her math teacher refuses to allow her to take an exam that she missed during the suspension.

DO YOU HAVE CONCerns?
WHAT NOW?
Hypothetical

A student is long-term suspended from High School for 24 school days for lighting a trash can on fire (arson). District send a packet of worksheets and/or exams home for each of his five classes once per week. On the tenth day of the suspension, the counselor emails the student’s parents to see whether he is completing the worksheets.

DO YOU HAVE CONCERNS?
WHAT NOW?
Educational Services

- Exclusion up to 5 days:
  - Course work, including any assigned homework from all regular subjects/classes
  - Access to school staff who can offer support
  - Opportunity to make up assignments and tests missed
Educational Services

• Exclusion up to 6-10 days:
  • Course work, including any assigned homework from all regular subjects/classes
  • Access to school staff who can offer support
  • Opportunity to make up assignments and tests missed
  • Make reasonable attempt to contact student or parents within 3 school business days and periodically thereafter to:
    • Coordinate delivery and grading of course work at frequency allowing to keep current in all subjects/classes
    • Communicate with student, parent, and teacher(s) about academic progress
Suspensions
Limits to Suspension/Expulsion

District MUST do the following:

• Consider individual circumstances and the nature/circumstances of the behavioral violation to determine what level of discipline and length of exclusion warranted

• Report all suspensions and expulsions (and underlying violation) to superintendent within 24 hours

• Make reasonable efforts to return to regular educational setting as soon as possible

• Allow application for readmission at any time

• Include end date
Limits to Suspension/Expulsion

During suspension expulsion may NOT:

• Suspend educational services
• Prevent from competing subject, grade-level, or graduation requirements
• Be imposed for absences or tardiness
• Preclude student from returning to regular ed setting following end date if in new program or course of study, unless:
  • Superintendent grants petition to extend expulsion;
  • Excluded in accordance with protecting victims; or
  • Otherwise allowed by law.
Short Term Suspension

- Exclusion from school for 10 days or less
- Not for first offense unless attempted other form(s) of discipline
- Must not exceed school year in which violation occurred
- Limitations on number of cumulative days:
  - K-4: 10 days during academic term
  - 5-12: 15 days during semester, or 10 days during trimester
In School Suspension

- A form of short-term suspension
- School personnel must be:
  - In the same physical location to provide direct supervision
  - Accessible to offer support to keep the student current with assignments and course work for all regular subjects or classes
Long Term Suspension

- Exclusion from school for more than 10 days
- Not for first offense unless considered other forms of discipline
- Limited to length of academic term
- Cannot extend beyond school year in which violation occurred
Long Term Suspension

• Cannot be used as “discretionary discipline”
• Must determine that if returned earlier, would pose:
  • Imminent danger to students or personnel; or
  • Imminent threat of material and substantial disruption of the educational process
• Not available for grades K-4
Expulsions
Expulsion

• Denial of admission to current school placement in response to behavioral violation
• Not for first offense unless considered other form(s) of discipline
• Limited to length of academic term
• Principal may petition superintendent for Extension
• Cannot be used as “discretionary discipline”
Non-Discretionary Discipline

POSSESSING FIREARMS ON SCHOOL PREMISES, TRANSPORTATION, OR FACILITIES UNDER RCW 28A.600.420
MUST EXPEL FOR ONE YEAR
SUPERINTENDENT CAN MODIFY ON CASE-BY-CASE BASIS
Non-Discretionary Discipline

• Violent offenses such as manslaughter, kidnapping, arson, extortion, assault, and robbery

• Sex offenses such as rape, child molestation, sexual misconduct with minor, indecent liberties, voyeurism, incest, and sexual exploitation of children

• Harassment and related crimes such as stalking, violation of a no contact order, and criminal gang intimidation
Hypothetical

Student, a senior at High School, is emergency expelled on Friday for threatening to stab a classmate on Monday over Twitter.

WHAT ADDITIONAL INFORMATION DO YOU NEED?
WHAT NEXT?
Emergency Expulsion

- Immediate removal from current school placement for up to 10 school days
- Must be sufficient cause to believe student presence poses immediate and continuing:
  - Danger to other students or school personnel, or
  - Threat of material and substantial disruption of educational process,
    - Results in extreme disruption that creates substantial barrier to learning for other students across the school day, and
  - Staff exhausted reasonable attempts at administering other forms of discipline
NOTICE OF EE

Initial notice: Must attempt to notify parents as soon as reasonably possible of reason for EE

Formal notice: Within 24 hours in person, by mail, or by email

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<th>Reason behavior meets standard</th>
<th>Duration and conditions, including begin/end dates</th>
<th>Opportunity to receive educational services</th>
<th>Right to informal conference</th>
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Questions?