New Student Discipline Rules: OSPI Overview

October 9, 2018
Webinar Topics

1) School Discipline Recent Background and Context
2) OSPI Discipline Rule Making
3) New Discipline Rules Effective Dates
4) Resources
School Discipline: Recent Background and Context
School Discipline Policy: Zero Tolerance Approaches

A 2006 study noted that “a zero tolerance approach (e.g., school suspension or expulsion) toward preventing school violence characterizes Washington State (consistent with other areas of the U.S.)”

Zero Tolerance, Punitive, and Exclusionary Discipline

• Mandatory administration of predetermined consequences
• Severity of consequences exceeds nature of behavior
• Consequences imposed as a form of punishment
• Uniformly applied without consideration of mitigating circumstances or context
• Removal from instructional settings
• Exclusions from lunch, recess, after-school activities, school sports and social events
Zero Tolerance: APA Task Force Conclusions

- **No evidence** that zero tolerance reduced violence, improved school climate, increased consistency in schools, or deterred future behavior.

- **Evidence** that zero tolerance policies and practices:
  - Increase racial disparities and referrals to the juvenile justice system.
  - Likely have negative effects on child development.
  - Create unintended consequences for students, families, and communities that result in larger societal costs.

- **AND...**

- **Alternative approaches to zero tolerance exist that demonstrate effectiveness toward improving school climate.**

Exclusionary Discipline: Student Outcomes

- Research shows that students who receive a suspension are at increased risk for:
  - Receiving subsequent suspensions
  - Lower attendance and lack of school engagement
  - Course failure and repeating a grade
  - Not graduating on time
  - Dropping out of school
  - Involvement in the juvenile justice system
Behavior and Discipline: National Initiatives and Projects

• Positive Behavioral Interventions and Supports (PBIS) National Technical Assistance Center
  ✓ PBIS Implementation Training Materials (i.e. Resources for Equity)
  ✓ PBIS Evaluation Tools (i.e. Tiered Fidelity Inventory)
  ✓ TA support for School Climate Transformation Grant (SCTG) awardees

• Institute of Education Sciences (IES) National Center for Education Research (NCER) Funded Social-Behavioral Research
  ✓ Programs and Instructional Interventions for Students (i.e. social skills)
  ✓ Professional Development for School Staff (i.e. classroom management)
  ✓ Strategies for Addressing Schoolwide or Systems-Level Issues (i.e. MTSS)
Behavior and Discipline: National Initiatives and Projects

- National Center on Intensive Intervention (NCII) at American Institutes for Research (AIR)
  - Data-based Individualization (DBI) tools, resources, and technical assistance
  - Evidence-based behavioral and academic interventions and assessments
  - TA support for NCII state and district partners

- National Center on Safe Supportive Learning Environments (NCSSLE)
  - School Discipline Laws and Regulations Compendium
  - Addressing the Root Causes of Disparities in School Discipline
  - ED School Climate Surveys
School Discipline: Washington State

- **2012** Washington Appleseed/TeamChild report
  - Time limits and due process
  - Student discipline task force
  - Discipline data collection
  - Behavior menu of best practices

- **2013** ESSB 5946
  - Time limits and due process
  - Student discipline task force
  - Discipline data collection
  - Behavior menu of best practices

- **2014** civil rights rule-making WAC 392-190-048

- **2016** 4SHB 1541
  - Exclusion limitations
  - Educational services
  - Educator cultural competency
  - WA integrated student supports protocol
School Discipline Federal Guidance

1) Climate and Prevention

2) Clear, Appropriate, and Consistent Expectations and Consequences

3) Equity and Continuous Improvement

• Remove students from the classroom only as a last resort, ensure that any alternative settings provide students with academic instruction, and return students to their regular class as soon as possible.

• Use proactive, data-driven, and continuous efforts, including gathering feedback from families, students, teachers, and school personnel to prevent, identify, reduce, and eliminate discriminatory discipline and unintended consequences.

School Discipline Federal Law

• Every Student Succeeds Act (ESSA) 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”

• District plans to include how the district “will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by […] subgroups of students.”
Recent Policy Changes: Intended Impact

Consistent with research on best practices in discipline, recent federal and state laws are intended to:

1) **Limit the use of exclusionary discipline** in schools.

2) **Minimize the impact of exclusionary discipline** on students who are excluded.

3) **Reduce disparities** in the administration of student discipline.
Research-Based Framework: Equity in School Discipline

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OSPI Discipline Rule Making
Washington Discipline Rulemaking History

1977: original version of discipline rules adopted by the WA State Board of Education under Chapter 180-40 WAC.

2006: the legislature (E2SHB 3098) transferred duties, including rulemaking authority related to the discipline rules, from the state board of education to OSPI.

OSPI Statutory Authority: RCW 28A.600.015
Washington Discipline Rulemaking History

• **2007**: OSPI recodified the discipline rules under Chapter 392-400 WAC in response to E2SHB 3098.

• **2014**: OSPI revised Chapter 392-400 WAC in response to ESSB 5946 through regular rulemaking.

• **2016**: OSPI revised Chapter 392-400 WAC in response to 4SHB 1541 through expedited rulemaking.

no student shall be suspended for a short term unless another form of corrective action (punishment) reasonably
1 the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules
1ng exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving exten-
or alternative corrective action (punishment) has not been imposed upon the student(s) involved. For the purpose
seism which a school district has judged, following consultation with an ad hoc citizens committee, to be of such
mme) staff to control such misconduct through the use of other forms of corrective action (punishment), as
New Discipline Rulemaking Timeline

Nov. 2016: OSPI initiated the formal rule making process to substantially revise Chapter 392-400 WAC.


Jan. 2017–Sep. 2017: OSPI developed a “zero draft” of the discipline rules to circulate internally and externally with key stakeholders for initial feedback and then incorporated feedback in formalizing the proposed rules.

Sep. 2017–Nov. 2017: OSPI filed proposed rules and received public comment, including through public hearings held in Spokane, Yakima, Renton, and Olympia.
New Discipline Rulemaking Timeline

Nov. 2017–Feb. 2018: OSPI reviewed all public comments received and substantially revised the proposed rules.

Feb. 2018–May 2018: OSPI filed revised proposed rules and received public comment, including through public hearings held in Olympia, Tukwila, and Spokane.

May 2018–June 2018: OSPI reviewed all public comments received and substantially revised the proposed rules.

June 2018–July 2018: OSPI filed revised proposed rules and received public comment, including through a public hearing held in Olympia.

July 30, 2018: OSPI adopted final rules.
Purpose of OSPI Discipline Rule Making

OSPI decided the state’s student discipline rules under Chapter 392-400 WAC needed a comprehensive rewrite for several reasons. The agency adopted the new discipline rules to:

1) Simplify and clarify due process procedures for school districts, students, and families;
2) Improve clarity and readability of the entire chapter, thereby eliminating problems of interpretation and problems of practice that are a result of confusing or vague terminology;
Purpose of OSPI Discipline Rule Making

3) Encourage fewer adversarial resolutions to discipline-related issues and the use of best practices to minimize the use of exclusionary discipline practices;

4) Increase opportunities for students, family, and community engagement in discipline, including in the development of discipline policies and in resolving discipline-related issues; and

5) Provide further guidance on the requirements passed by the legislature in 2016 in HB 1541, including specific guidance on the provision of educational services while a student is suspended or expelled.
Purpose of Discipline Rule Making: Simplify & Clarify Due Process

Prior Rules:

• “Prior to the short-term suspension of any student a conference shall be conducted with the student as follows…” [WAC 392-400-250]

• “Prior to the long-term suspension of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall…” [WAC 392-400-265]

• “Prior to the expulsion of a student, an oral or written notice of an opportunity for a hearing shall be delivered in person, or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall…” [WAC 392-400-280]

New Rules: “Before administering any suspension or expulsion, the principal or designee must conduct an informal initial hearing with the student for the purpose of hearing the student’s perspective. At the initial hearing, the principal or designee must provide the student…” [WAC 392-400-450]
Purpose of Discipline Rule Making: Improve Clarity & Readability

Prior Rules: “No student in grades kindergarten through four shall be subject to long-term suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.” [WAC 392-400-260]

New Rules: “[A] school district may not administer a long-term suspension for any student in kindergarten through fourth grade.” [WAC 392-400-440]
Purpose of Discipline Rule Making: Use Best Practices & Minimize Exclusions

Prior Rules: “As a general rule, no student shall be suspended for a short term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved.” [WAC 392-400-245]

New Rules: “Before administering a short-term or in-school suspension, a school district must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.” [WAC 392-400-435]
Purpose of Discipline Rule Making: Increase Family Engagement

Prior Rules: “In the event a short-term suspension is to exceed one calendar day, the parent(s) or guardian(s) of the student shall be notified of the reason for the student’s suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible.” [WAC 392-400-250]

New Rules:
• “At an initial hearing in which the principal or designee is considering administering a short-term or in-school suspension, the principal or designee must provide the student an opportunity for the student to contact the student's parents. [WAC 392-400-450]
• “Before administering any suspension or expulsion, a school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the behavioral violation.” [WAC 392-400-455]
• “No later than one school business day following the initial hearing with the student in WAC 392-400-450, a school district must provide written notice of the suspension or expulsion to the student and parents in person, by mail, or by email.” [WAC 392-400-455]
Purpose of Discipline Rule Making: Clarify Requirements in HB 1541

**Prior Rules:** “A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension. Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if: (a) Such assignments or tests have a substantial effect upon the student’s semester or trimester grade or grades; or (b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.” [WAC 392-400-245]

**New Rules:** “For students subject to suspension or emergency expulsion for up to five consecutive school days, a school district must provide at least the following: (a) Course work, including any assigned homework, from all of the student’s regular subjects or classes; (b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student’s regular subjects or classes; and (c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency expulsion.” [WAC 392-400-610]
New Discipline Rules
Effective Dates
New Discipline Rules: Purpose of Different Effective Dates

OSPI decided to take a phased approach with the effective dates of the rules to provide ample time for school districts to implement new due process procedures, train school personnel, and engage with staff, students, parents, families, and communities to develop appropriate local student discipline policies.

• RCW 28A.320.211(3): “School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.”
New Student Discipline Rules: Effective 2018–19

Purpose, Authority, and Application sections
• “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”

Definitions
• “‘Behavioral violation’ means a student’s behavior that violates a school district’s discipline policy”
• “‘Culturally responsive’ has the same meaning as "cultural competency" in RCW 28A.410.270."
• “‘Parent’ has the same meaning as in WAC 392-172A-01125.”

Absences and Tardiness
• “A school district may not suspend or expel a student from school for absences or tardiness.”
Classroom Exclusions – Definition

• “ ‘Classroom exclusion’ means the exclusion of a student from a classroom or instructional or activity area for behavioral violations, subject to the requirements in WAC 392-400-330 and 392-400-335. Classroom exclusion does not include actions that result in missed instruction for a brief duration when:
  
  (a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and
  (b) The student remains under the supervision of the teacher or other school personnel during such brief duration.”
Classroom Exclusions – Conditions and Limitations

• “The teacher or other school personnel must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations, unless the student’s presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process.”

• “A student may not be removed from school during a classroom exclusion unless the school district provides notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.”
New Student Discipline Rules: Effective 2018–19

Classroom Exclusions – Notice and Procedure

- “The teacher or other school personnel must report the classroom exclusion, including the behavioral violation that led to the classroom exclusion, to the principal or designee as soon as reasonably possible.”
- “The teacher, principal, or designee must notify the student's parents regarding the classroom exclusion as soon as reasonably possible.”
Educational Services

• “During the suspension, expulsion, or emergency expulsion of a student, a school district must provide the student the opportunity to receive educational services. The educational services must enable the student to:
  (i) Continue to participate in the general education curriculum;
  (ii) Meet the educational standards established within the district; and
  (iii) Complete subject, grade-level, and graduation requirements.”
New Student Discipline Rules
Effective 2018–19

Reengagement
• “Before convening a reengagement meeting, a school district must communicate with the student and parents to schedule the meeting time and location.”

Behavior Agreements
• “A school district must ensure that a behavior agreement does not waive a student’s opportunity to participate in a reengagement meeting under WAC 392-400-710, or receive educational services as provided under WAC 392-400-610.”

School Meals
• “A school district may not administer any discipline in a manner that would result in the denial or delay of a nutritionally adequate meal to the student.”
New Discipline Rules: Effective 2019–20

Definitions

• “"Discipline” means any action taken by a school district in response to behavioral violations.”

• “"Other forms of discipline” means actions used in response to behavioral violations, 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 developed under RCW 28A.165.035.”

• “"In-school suspension” means a suspension in which a student is excluded from the student’s regular educational setting but remains in the student’s current school placement for up to ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.”
 Discipline Policies and Procedures

Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

• “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. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035”
New Discipline Rules: Effective 2019–20

Discipline Policies and Procedures (continued)

• “Establish grievance procedures to address parents' or students' grievances related to the administration of classroom exclusions and other forms of discipline, including discipline that excludes a student from transportation or extra-curricular activity. The procedures must, at a minimum, include an opportunity for the student to share the student's perspective and explanation regarding the behavioral violation”

• “Describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to be followed for the provision of educational services under WAC 392-400-610”
New Discipline Rules: Effective 2019–20

Suspension Conditions and Limitations

• “A school district may not administer a short-term or in-school suspension beyond the school year in which the behavioral violation occurred.”

• “A school district may only administer a long-term suspension:
  (a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and
  (b) After the school district has determined that, if the student returned to school before completing a long-term suspension:
    (i) The student would pose an imminent danger to students or school personnel; or
    (ii) The student would pose an imminent threat of material and substantial disruption of the educational process.”
Expulsion Conditions and Limitations

• “A school district may only administer an expulsion:
  (a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and
  (b) After the school district has determined that if the student returned to
  school before completing an expulsion, the student would pose an
  imminent danger to students or school personnel.”

• “Except for violations of WAC 392-400-820, a school district may not administer
  an expulsion for any student in kindergarten through fourth grade.”
New Discipline Rules: Effective 2019–20

Emergency Expulsion Conditions and Limitations

• “For purposes of this section, an immediate and continuing threat of material and substantial disruption of the educational process means:
  
  (a) The student’s behavior results in an extreme disruption of the educational process that creates a substantial barrier to learning for other students across the school day; and
  
  (b) School personnel have exhausted reasonable attempts at administering other forms of discipline to support the student in meeting behavioral expectations.”
New Discipline Rules: Effective 2019–20

Suspension, Expulsion, Emergency Expulsion Due Process Procedures

• “Before administering any suspension or expulsion, the principal or designee must conduct an informal initial hearing with the student for the purpose of hearing the student’s perspective.”

• “Before administering any suspension or expulsion, a school district must attempt to notify the student’s parents, as soon as reasonably possible, regarding the behavioral violation.”

• “No later than one school business day following the initial hearing with the student in WAC 392-400-450, a school district must provide written notice of the suspension or expulsion to the student and parents in person, by mail, or by email. The written notice must include: […]

(c) 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”
New Discipline Rules: Effective 2019–20

Suspension, Expulsion, Emergency Expulsion Due Process Procedures (continued)

• “If the student or parents disagree with the school district’s decision to suspend or expel the student, the student or parents may request an informal conference with the principal or designee to resolve the disagreement.”

• “A school district may establish a time limit to appeal a suspension or expulsion. Appeal time limits must be no less than five school business days from the date the school district provides the written notice under WAC 392-400-455.”

• “The school district must hold an appeal hearing within three school business days from the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student or parents.”
New Student Discipline Rules: Effective 2019–20

Zero Tolerance

• Starting in the 2019–20 school year the new 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 new rules require school districts to at least consider other forms of discipline to support the student in meeting behavioral expectations.

• Therefore, by the start of the 2019–20 school year, school districts must eliminate 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).
Resources
New Student Discipline Rules: Resources

- 2018–19 Discipline Rules PDF
- 2019–20 Discipline Rules PDF
- New Student Discipline Rules Q&A: A Technical Guide
- New Discipline Rules Family Quick Guide
- Discipline in Schools: A Parent Guide

http://www.k12.wa.us/studentdiscipline/Rules/default.aspx
ESSA allows some funding sources to be merged, or “braided,” to support programs that improve student learning.

- **Multi-Tiered System of Supports** (Pgs. 10–25)
- **Professional Learning** (Pgs. 26–36)
- **Parent and Family Engagement** (Pgs. 47–58)
- **Positive School Climate** (Pgs. 59–70)

Additional OSPI Resources

• **Data Analytics:**
  www.k12.wa.us/DataAdmin/PerformanceIndicators/DataAnalytics.aspx

• **Multi-Tiered System of Supports (MTSS):**
  http://www.k12.wa.us/MTSS/Resources.aspx

• **WA Integrated Student Supports Protocol (WISSP):**
  http://www.k12.wa.us/CISL/ISS/

• **Student Discipline:** http://www.k12.wa.us/studentdiscipline

• **Equity in Student Discipline:** www.k12.wa.us/StudentDiscipline/Equity

• **Behavior Menu:** http://www.k12.wa.us/SSEO/BehaviorMenu.aspx
Additional Resources

Positive Behavioral Interventions and Supports (PBIS) National Technical Assistance Center: https://www.pbis.org/


National Center on Intensive Intervention (NCII): https://intensiveintervention.org/

National Center on Safe Supportive Learning Environments (NCSSLE): https://safesupportivelearning.ed.gov/
Additional Webinar:
Family Engagement & Student Discipline

Register here:
http://ow.ly/jxYi30lO5G5
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