

2020-21 School Year Student Discipline Q&A

About this Q&A

The purpose of this Q&A is to provide guidance to school districts regarding the implementation of Washington's student discipline laws and regulations, as well as recommended best practices, during the 2020-21 School Year (SY) and the COVID-19 pandemic. This guidance is supplemental to existing OSPI information regarding school re-openings in the 2020-21 SY and the three scheduling concepts for use if schools cannot meet public health requirements for in-person learning (split or rotating schedules with continuous distance learning, phased-in opening with continuous distance learning, or continuous learning 2.0). For the most up-to-date agency information and guidance pertaining to COVID-19, please refer to OSPI's [COVID-19 Guidance & Resources](#) webpage.

Questions and Answers

Are state laws and regulations governing student discipline in effect for the 2020-21 school year?

Yes. All existing statutes and administrative rules pertaining to student discipline remain in force, including the recently adopted provisions under [Chapter 392-400 Washington Administrative Code \(WAC\)](#) that went into effect July 1, 2019. Local school board policies remain in effect unless subsequent board action has been taken. Board policies that are amended to address special circumstances of the COVID-19 pandemic must also comply with Chapter 392-400 WAC.

School districts should consider whether revised board policies may need to be adopted to ensure they reflect the behavioral expectations of students engaged in the multiple educational modalities that may be offered in the 2020-21 SY, including virtual learning. In addition, building discipline standards and student handbooks may also need to be amended to address expectations that are new or specific to remote or hybrid learning contexts. Districts must consult with school district staff, students, parents, families, and the community when developing and reviewing district discipline policies and procedures. During the development and review of a district's discipline policies and procedures, the district must use disaggregated discipline data (by school, student groups, discipline types, and behavior categories) to monitor the impact of the district's discipline policies, procedures, and practices as well as to update the district's discipline policies and procedures to ensure fairness and



equity in the administration of discipline. **See** Revised Code of Washington (RCW) [28A.320.211](#); RCW [28A.600.020](#)(3); RCW [28A.400.110](#); WAC [392-400-110](#)(2).

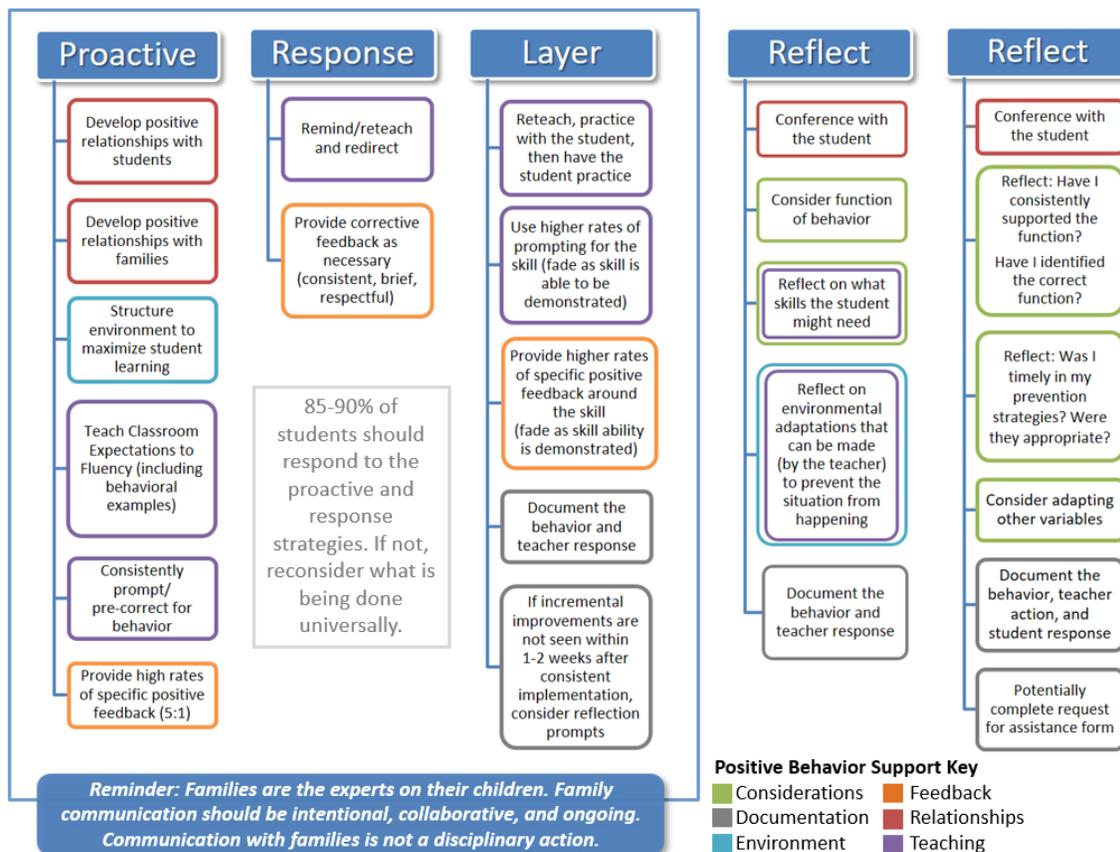
Districts need to ensure district employees are knowledgeable of the district's discipline policies and procedures, including any changes adopted during the COVID-19 pandemic. Districts may also need to consider new methods for distributing policies, handbooks, and other notices to parents when remote or hybrid learning is in use, as well as methods for families to communicate to the school or district. **See** RCW [28A.320.211](#)(1); WAC [392-400-110](#)(3).

What are the best practices around behavior and student discipline during the COVID-19 pandemic?

Districts should focus on prevention by establishing clear behavioral expectations and a continuum of instructional responses to behavioral violations for distance learning, including online learning, videoconferencing and other curricular activities delivered remotely. The district's behavioral expectations and responses to behavioral violations may need to be adapted or supplemented for remote learning contexts. These should also align with existing schoolwide behavioral expectations, district policies, and building discipline standards.

District discipline policies and procedures must identify **other forms of discipline** to support students in meeting behavioral expectations, which may include best practices and strategies included in OSPI's [Behavior Menu](#). **See** WAC [392-400-025](#)(9); WAC [392-400-110](#)(1)(e). When responding to behavioral violations, teachers and other school personnel must first attempt one or more **other forms of discipline** before consideration is given to administering a classroom exclusion, short-term suspension, or in-school suspension. **See** RCW [28A.600.020](#)(2); WAC [392-400-330](#)(2); WAC [392-400-435](#)(1). Common strategies that educators use to proactively address behavior may also be used in response to behavioral violations. Whether implemented in-person or adapted for remote learning, **other forms of discipline** may include teaching and modeling behavioral expectations, reinforcing desired behaviors, active supervision, environmental adjustments, increasing opportunities to respond, restorative conversations, and a variety of other low-intensity best practices and strategies.

Districts should anticipate that students may exhibit behavior that reflects the anxiety and uncertainty of the school closures, changes in their routines, family stressors, and other impacts related to the COVID-19 pandemic. Likewise, students may also exhibit behavior that reflects the anxiety of returning to the school environment following a closure. Schools should plan accordingly by setting positive behavior expectations and providing appropriate tiered systems of support, including explicit instruction on the behavioral expectations for the current type of in-person, distance, or hybrid learning that is taking place. This graphic from the Wisconsin Rtl Center (CFDA #84.027) illustrates the PBIS process can be used to teach and reinforce behaviors for all students in Tier 1:



For more information regarding the application of existing policy to multiple learning contexts, refer to OSPI's [Student Discipline Rules Q&A: A Technical Guide and Supporting Inclusionary Practices During School Facility Closure](#). For practical information on defining, teaching and practicing behavioral expectations during remote learning, consult [Creating a PBIS Behavior Teaching Matrix for Remote Instruction](#) and other resources from the [National Technical Assistance Center on Positive Behavioral Interventions and Supports \(PBIS\)](#).

What are the roles and rights of families and parents regarding student discipline during COVID-19?

Parents' rights under [Chapter 392-400 WAC](#) are unchanged for the 2020-21 SY. Among other things, 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\(2\)](#). School districts must ensure that all discipline-related communications are provided in a language

parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

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. Districts should review their student discipline policies to ensure that discipline hearings and appeals, student reengagement meetings, and other procedures are being provided in a manner that allows for parents and families to comply with social distancing and other public health requirements.

Refer to OSPI's [Student Discipline Rules Q&A: A Technical Guide](#) for more information regarding parent and family engagement, participation in student due process, and student reengagement plans.

Do classroom exclusion rules apply to situations where a teacher excludes a student from a synchronous remote learning activity due to a behavioral violation?

Yes. If a student is participating remotely in a synchronous remote learning activity—whether by phone, chat, Zoom, Skype, Microsoft Teams, Google Meet, or other “live” group learning modality—and a teacher or other school personnel is considering excluding the student from that classroom or instructional or activity area due to violations of the district’s student discipline policy, the provisions for classroom exclusion under [Chapter 392-400 WAC](#) apply.

Before administering a classroom exclusion, the teacher or other school personnel must first attempt one or more **other forms of discipline** to support the student in meeting behavioral expectations. **See** RCW [28A.600.020\(2\)](#); WAC [392-400-330\(2\)](#). The teacher or other school personnel may attempt **other forms of discipline** that result in a student missing instruction for a brief duration so long as the student remains under the supervision of the teacher or other school personnel while attempting to support the student in meeting behavioral expectations. **See** WAC [392-400-025\(2\)](#). For example, during a group learning activity a teacher may invite an individual student to join an online breakout room for purposes of briefly reteaching behavioral expectations.

Following a classroom exclusion, the teacher or other school personnel must notify the principal or designee as soon as reasonably possible. **See** WAC [392-400-335\(1\)](#). The teacher, principal, or designee also must notify the student's parents of the exclusion as soon as reasonably possible in a language the parents understand. **See** WAC [392-400-335\(2\)](#). The student and parents may address any grievance regarding the classroom exclusion, as well as **other forms of discipline** that were attempted before the exclusion, under the district’s grievance procedure established in accordance with WAC [392-400-110\(1\)\(h\)](#).

A classroom exclusion may be administered for all or any portion of the balance of the school day during which the student was excluded from the student's classroom or instructional or activity area. In a situation where a student has multiple teachers during the school day and is excluded from one synchronous learning activity area, the student may be allowed—depending on the administrative decision that is made following the classroom exclusion—to attend any remaining remote or in-person synchronous learning activities that are supervised by other teachers. In a situation where a student has one teacher for the entire school day and is excluded by that teacher, the student may only be allowed to participate in asynchronous remote learning activities (unless that teacher and the principal are able to confer regarding the student returning to the class). In a situation where a student is to continue to be excluded from a classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for suspension. **See** WAC [392-400-330\(3\)](#).

If a school district decides to suspend a student who is participating in remote learning, how does the district count school days for suspension timelines?

Remote learning days that are planned and scheduled by the school district are “school days” for purposes of determining the end date of a suspension, emergency expulsion, or expulsion. **See** RCW [28A.150.203\(10\)](#); WAC [392-400-025\(13\)](#). Any calendar day—except Saturdays, Sundays, or any federal, state, or school holiday—when the office of the superintendent of a school district is open to the public for business are “school business days” for purposes of meeting suspension, emergency expulsion, and expulsion appeal timelines. **See** WAC [392-400-025\(11\)](#). Reengagement timelines are based on calendar days. **See** RCW [28A.600.022](#); WAC [392-400-710](#).

If a student was suspended during the 2019-20 SY, can a school district continue the suspension into the 2020-21 SY?

No. School districts may not administer any suspension beyond the school year in which the behavioral violation occurred. **See** WAC [392-400-435\(2\)](#); WAC [392-400-440\(3\)\(b\)](#). School districts must make reasonable efforts to return a student to their regular educational setting prior to the end date of suspension or expulsion. **See** RCW [28A.600.020\(6\)](#); WAC [392-400-430\(5\)](#). School facility closures and remote learning decisions related to the COVID-19 pandemic present opportunities for school districts to shorten the length of exclusionary discipline actions—particularly for cases in which the rationale for excluding a student from the physical school environment may no longer exist.

Does a school district need to provide educational services to a student who is suspended or expelled from remote learning?

Yes. Procedures regarding the provision of educational services during suspension, expulsion, or emergency expulsion are under WAC [392-400-610](#). Districts may provide educational services to the student in an alternative setting or modify the suspension or expulsion on a case-by-case basis. Alternative settings should be comparable, equitable, and appropriate to the regular educational services a student would have received without the exclusionary discipline. For example, a student who has been short-term suspended from regularly scheduled synchronous online classes may be provided alternate education services through asynchronous online instruction, packets, or synchronous learning involving a different student cohort. Regardless of the method, the educational services must enable the student to continue to participate in the general education curriculum; meet the educational standards established within the district; and complete subject, grade-level, and graduation requirements.

When considering exclusionary responses to behavioral violations that occur while providing remote learning opportunities, districts should be aware that they may not (1) suspend the provision of educational services to a student in response to behavioral violations, or (2) administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements. **See** RCW [28A.600.015](#)(8) and WAC [392-400-115](#).

Can a district suspend a student for not participating in remote learning activities?

No. While districts are required to take daily attendance in the 2020-21 SY, attendance may not be a factor when determining student grades and districts may not suspend or expel a student from school for absences or tardiness—regardless of whether a student’s absence or tardiness is from in-person learning or remote learning. **See** RCW [28A.600.030](#) and WAC [392-400-430](#)(6).

For more information on attendance, refer to OSPI’s [Attendance](#) webpage.

In the event a school building is closed because of an emergency COVID-19-related incident or on the order of public health authorities, how should the school handle pending discipline cases?

Districts must continue to ensure due process is provided to students. Due process procedures under [Chapter 392-400 WAC](#) do not preclude districts from conducting appeal hearings and reengagement meetings via distance options (e.g., phone, Zoom, Skype, etc.). School districts may communicate with students and parents about mutually agreeing to either expedite or postpone an appeal hearing. **See** WAC [392-400-465](#)(4). Districts must hold a reengagement meeting within twenty calendar days and no later than five calendar days before the end date

of a long-term suspension or expulsion, or sooner if the family requests an early meeting. **See** WAC [392-400-710](#). In the event of mandatory school facility closures, OSPI recommends districts provide flexible options as well as multiple opportunities for families and students to participate in appeal hearings and reengagement meetings.

Regardless of the timeline for pending discipline cases, school districts must make reasonable efforts to return a student to their regular educational setting prior to the end date of suspension or expulsion. **See** RCW [28A.600.020](#)(6); WAC [392-400-430](#)(5). School facility closures related to the COVID-19 pandemic present an opportunity for school districts to shorten the length of exclusionary discipline actions and provide student support services.

If a student is referred to the office because the student has no face covering or has difficulty wearing the face covering, is that a classroom exclusion?

No. Schools should treat office referrals of this sort like any referral to the office for health-related purposes.

What if a student refuses to comply with a social distancing or face covering directive?

Districts should not expect perfect compliance from students and should plan for and utilize school-wide strategies to teach and reinforce the norm of face coverings and social distancing among students when schools provide any in-person instruction. OSPI strongly encourages districts and schools to use Positive Behavioral Interventions and Supports (PBIS) approaches to teach and reinforce compliance with face covering requirements, specifically:

- Structure the learning environment to be conducive to wearing face coverings as much as possible; this may include more frequent fresh air breaks—or taking regularly scheduled “mask breaks” outside or to large, well ventilated rooms—where students can distance enough to remove their mask temporarily.
- Teach face covering wearing practices to fluency.
- Consistently prompt for wearing face coverings.
- Pre-correct (remind) students about wearing face coverings at the times/places they are likely to be out of compliance (e.g., after eating or drinking, returning from outside, etc.).
- Provide high rates of specific, positive feedback for compliance, at a rate of 4 or 5-to-1.
- Remind, reteach and redirect when students are not remembering to wear their face coverings or wear them properly.
- Provide corrective feedback when necessary that is consistent, brief, and respectful.
- For students who are less compliant, use higher rates of prompting until mask wearing is consistently demonstrated.

- Provide higher rates of positive feedback to students who are struggling with compliance.
- Contact parent if necessary.
- Consider temporarily sending a student home a last resort health and safety precaution for students who do not respond to the steps above in order to engage in problem solving among school staff, the family, and the student.

Districts may not adopt policies that define noncompliance with public health mandates as behavioral violations that could result in exclusionary discipline under the district's discipline policies and procedures. Because non-compliance with public health mandates in school may not be used as the basis for exclusionary discipline, schools should not send a student home for more than the remainder of a school day if students do not comply with public health mandates, and must permit the student to return at any time that the student indicates compliance with health directives.

While districts may not administer exclusionary discipline in response to a student's noncompliance with a public health mandate, districts are not precluded from administering appropriate discipline for other behavioral violations that may precede or accompany the noncompliance, as they would under normal circumstances.

A student who is sent home for failing to comply with public health directives should be handled in the same manner as student who is sent home due to sickness or injury. The student's absence should be marked as an excused absence in accordance with OSPI's new attendance rule for the 2020-21 SY, and the student should receive tiered supports consistent with those rules.

As a reminder, the Washington State Department of Health has directed that cloth face coverings should not be worn by:

- Those with a disability that prevents them from comfortably wearing or removing a face covering.
- Those with certain respiratory conditions or trouble breathing.
- Those who are deaf or hard of hearing, and those who provide instruction to such people, and use facial and mouth movements as part of communication.
- Those advised by a medical, legal, or behavioral health professional that wearing a face covering may pose a risk to that person.