



Know Your Rights:

Student Discipline

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ACLU of Washington

Overview

- Legal Framework
 - Right to Education
 - Additional protections for students with special needs
- “Due Process Path”
 - 5 key questions
- “Special Needs Path”
 - 3 key questions

Parallel Paths



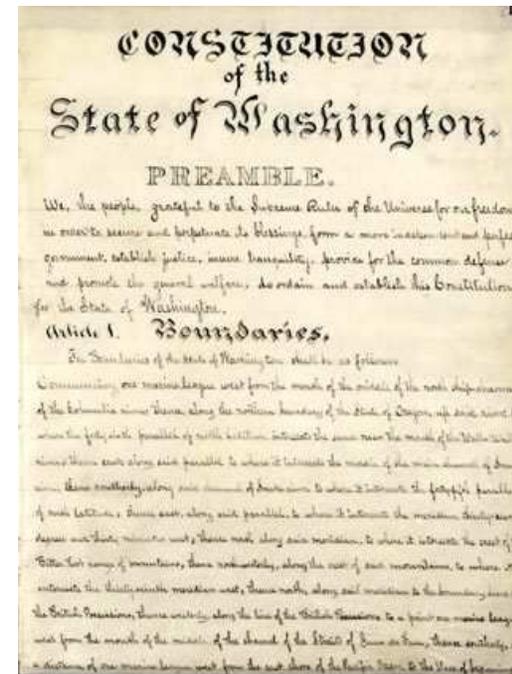
Legal Right to Education



Washington Law
Against Discrimination,
RCW 49.60

RCW 28A.642

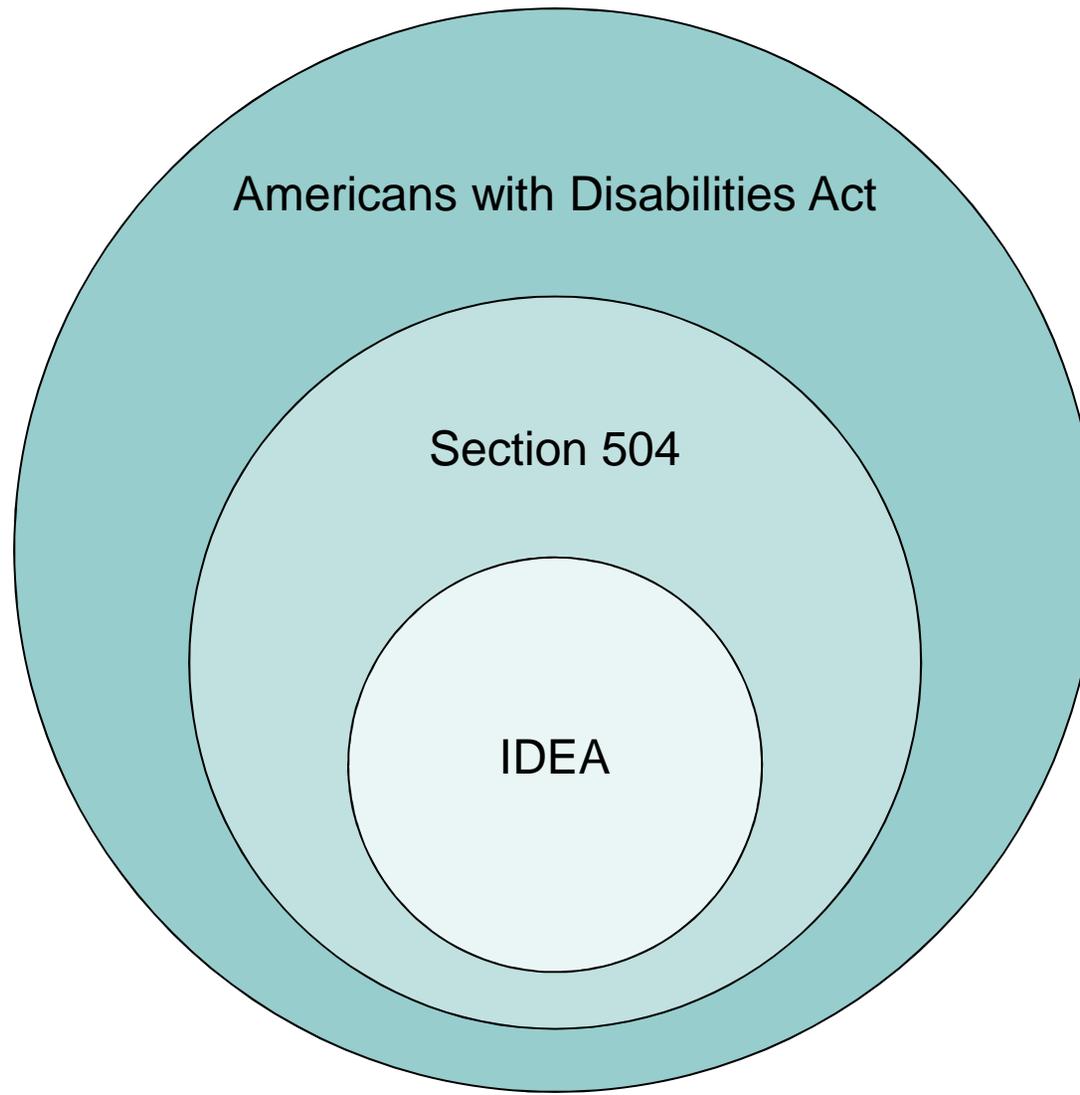
Washington
Constitution,
Article IX, s. 1



“Due Process”



Rights of Students with Disabilities



GENERAL DISCIPLINE PATH

5 Key Questions

- What **BEHAVIOR** is my student accused of?
- What **FORM** of discipline is proposed?
- Is the discipline **FAIR**?
- What **EDUCATION** will my student receive while suspended or expelled?
- How will my student be **REENGAGED** in school after the discipline?

**What behavior is
my student
accused of?**

What behavior is my student accused of?

More Serious Behaviors	Less Serious Behaviors
Can be punished with long-term suspension and/or expulsion	State law limits ability to impose long-term suspension and/or expulsion
For behaviors designated “exceptional misconduct”, school can immediately suspend or expel	Generally, school cannot suspend until other interventions have been tried

What behaviors lead to serious discipline?



SUPERINTENDENT OF PUBLIC INSTRUCTION

Randy I. Dorn Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

June 9, 2016

Action Required
 Informational

BULLETIN NO. 024-16 LEGAL AFFAIRS

TO: School District Superintendents
School Building Principals
Educational Service District Superintendents

FROM: Randy I. Dorn, State Superintendent of Public Instruction

RE: Significant Student Discipline Update—Changes Effective June 9, 2016

CONTACT: Joshua Lynch, Program Supervisor
Student Discipline, Behavior, and Readiness to Learn
360-725-4969, joshua.lynch@k12.wa.us, Agency TTY: 360-664-3631

PURPOSE AND BACKGROUND

During the 2016 regular session, the legislature passed [4SHB 1541](#), a comprehensive bill based on recommendations of the Educational Opportunity Gap Oversight and Accountability Committee (EOGOAC).

Sections of the bill include significant changes to student discipline laws, effective **June 9**. This bulletin contains a summary of the changes that impact the 2016–17 school year.

What behaviors can be punished with immediate exclusion?



**What form of
discipline is
proposed?**

What form of discipline is proposed?

Non-Exclusionary Discipline	Exclusionary Discipline
Detention	Short-term suspension
Going to the office	Long-term suspension
Revocation of privileges (e.g., computer, athletics participation)	Expulsion
“Extras” (e.g., apology letter)	

Why does the form of discipline matter?

- **Procedural Protections**
 - Hearings
 - Re-engagement meetings
- **Fairness Limits in State Law**
 - Age Limits (below 5th grade)
 - Behavior limits for long-term suspension/expulsion

Note: Criminal Prosecution

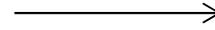
- Is my student being referred to juvenile court?
- Tips:
 - Under state law, school police subject to same limits on search, questioning, and use of force as other police.
 - Request a lawyer before speaking to police or school officials
 - Coordinate with lawyer on discipline/juvenile justice

**Is the discipline
fair?**

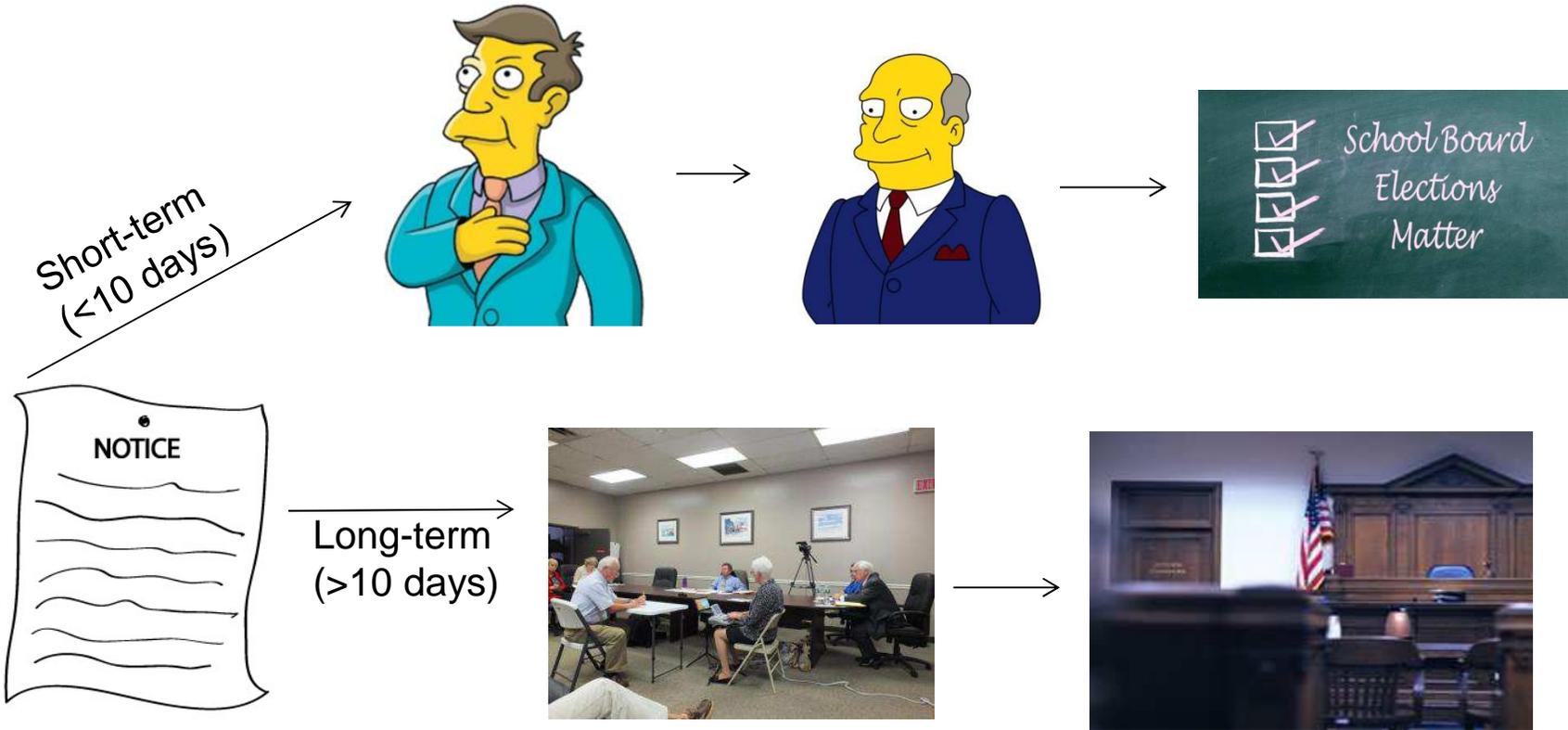
Is the discipline fair?

- Your student didn't do it.
- The behavior is constitutionally protected.
- There are other factors besides the behavior to consider.
- The punishment isn't proportional.
- The discipline violates state law or school policy.

Challenging Non-Exclusionary Discipline



Challenging Exclusionary Discipline



**What education services
will my student receive
during the period of
exclusion?**

House Bill 1541



- Comparable
- Equitable
- Appropriate to the regular services the student would have received

What are the right education services?

- Make up assignments
- Online education
- Tutoring or one-on-one
- Alternative school
- IDEA compliance



**How will my student be
reengaged in school
when the discipline is
over?**

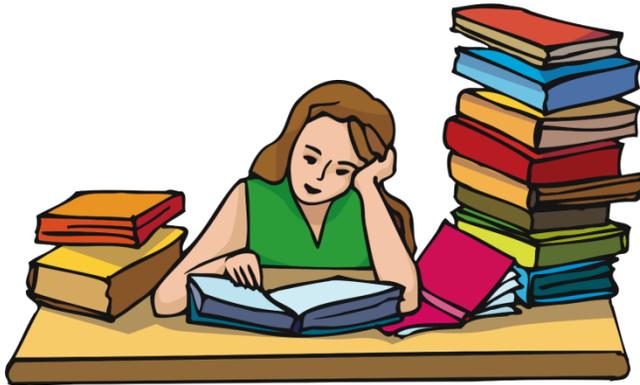
House Bill 1541: Re-Engagement Meetings



- **Mandatory**

- **Individualized**

The Process: To Get Educated/Reenrolled



Comparable, adequate and equitable education services

A white sticky note is pinned to a wall with a red pushpin at the top. The note has the handwritten text "What's the plan?" in black ink.

What's
the
plan?

Culturally responsive reengagement meeting and plan



Petition for readmission

SPECIAL NEEDS PATH

Guiding Principles

Free

Appropriate

Public

Education

3 Key Questions

- Does the proposed discipline count as a **CHANGE OF PLACEMENT**?
- Is the behavior a “**MANIFESTATION**” of my student’s disability?
- Would additional services or **SUPPORTS** prevent recurrence of the behavior?

**Does the proposed
discipline count as a
“change of placement”?**

Is this a change of placement?

- Is this a single 10+ day exclusion (i.e., long-term suspension or expulsion)?
- Is it part of a pattern of removals that add up to 10+ days of exclusion?
- If NO →
 - General path for challenging school discipline
 - General path for IEP/504
- If YES → ENTITLED to manifestation determination review

**Is the behavior a
“manifestation” of my
student’s disability or a
failure to implement
IEP?**

Why does it matter?

- Generally a special education student cannot be disciplined for behavior that is a manifestation of disability or a failure to implement his/her IEP
- If behavior is related to disability, student is entitled to:
 - Functional Behavior Assessment
 - Behavior Intervention Plan
 - Return to current placement (unless special circumstances or parent agrees to change placement)

**Would additional
services or supports
prevent recurrence of
the behavior?**

Why does it matter?

- Parent involvement in behavior intervention plan
- Potential revision of IEP or 504 plan

The Process: Discipline and Special Needs



Change of placement determination



Manifestation Determination Review



BIP / FBA



ADDITIONAL RESOURCES



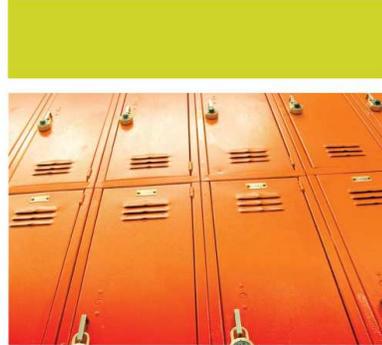
ACLU Publications

<https://www.aclu-wa.org/teacher-resources>



STUDENT RIGHTS AND RESPONSIBILITIES IN THE DIGITAL AGE

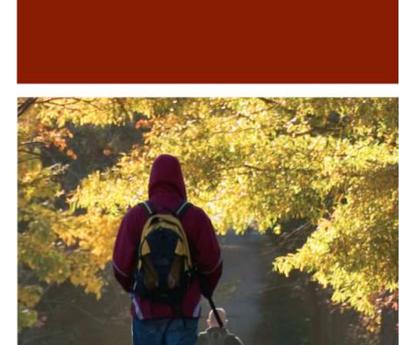
A Guide for Public School Students in Washington State



KNOW YOUR RIGHTS A GUIDE FOR PUBLIC SCHOOL STUDENTS IN WASHINGTON



PARENTS' GUIDE TO PUBLIC SCHOOL DISCIPLINE IN WASHINGTON



PARENTS' GUIDE TO TRUANCY IN WASHINGTON



Office of Education Ombuds (Governor)



Basic Education Rights and Opportunities in Public Schools

[English](#) | [Español \(Spanish\)](#)



How to be an Education Advocate

[English](#) | [Español \(Spanish\)](#)



Discipline in Public Schools

[English](#) | [Español \(Spanish\)](#)



Protecting the Educational Rights of Students with Disabilities in Public Schools *(Updated July 2012)*

[English](#) | [Español \(Spanish\)](#)

<http://oeo.wa.gov/publications-reports/publications/>

OSPI Equity and Civil Rights

- <http://www.k12.wa.us/Equity/A-ZTopics.aspx>

Topics A-Z

[Affirmative Action Plans](#)

[Athletic Self-Evaluation](#)

[Athletic Survey for Students](#)

[Bias in Instructional Materials](#)

[Bullying](#)

[Civil Rights Laws](#)

[Complaint Process](#)

[Compliance Coordinators](#)

[Consolidated Program Review](#)

[Counseling and Guidance Services](#) - Equity in Course and Program Enrollment

[Disability](#) (Section 504)

[Discipline](#) - Equity in Student Discipline

[Gender Identity and Gender Expression](#)

[iGrants](#)

[Interpretation and Translation Services](#)



www.aclu-wa.org/schooldiscipline

Questions?

Comments?

Brilliant Ideas?

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