

SEDOL CLASSIC CONFERENCE

LEGAL IMPLICATIONS OF SENATE BILL 100 (aka PUBLIC ACT 99-0456)

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I. BACKGROUND OF S.B. 100



BACKGROUND OF S.B. 100

U.S. Department of Education/
Department of Justice's
Dear Colleague Letter
on the Nondiscriminatory
Administration of School Discipline
(1/8/14)

<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>

DOE/DOJ'S DCL

Data collected by OCR has shown that:

- African-American and Hispanic students have much higher instances of suspension and expulsion, which are not explained by more frequent or more serious misbehavior those students.
- There are significant disparities in the use of discipline and aversive techniques for students with disabilities.
- An increasing number of students are losing important instructional time due to exclusionary discipline.

DOE/DOJ'S DCL

Studies have suggested a correlation between exclusionary discipline policies and practices and an array of serious educational, economic, and social problems for students, including:

- school avoidance and diminished educational engagement;
- decreased academic achievement;
- increased behavior problems;
- increased likelihood of dropping out;
- substance abuse; and
- involvement with juvenile and criminal justice systems.

DOE/DOJ'S DCL

OCR noted that successful school programs may incorporate a wide range of strategies to reduce misbehavior and maintain a safe learning environment, including:

- conflict resolution;
- restorative practices;
- counseling; and
- structured systems of positive interventions.

DOE/DOJ's DCL

Schools may use disciplinary measures as part of a program to promote safe and orderly educational environments.



DOE/DOJ's DCL

Recommendations for schools:

- Safe, inclusive, and positive school climates that provide students with supports such as evidence-based tiered supports and social and emotional learning;
- Training and professional development for all school personnel;
- Appropriate use of law enforcement;
- Nondiscriminatory, fair, and age-appropriate discipline policies;

DOE/DOJ's *DCL*

Recommendations for schools (cont.):

- Communication with and engaging school communities;
- Emphasis on positive interventions over student removals;
- Monitoring and self-evaluation; and
- Data collection and responsive action.

S.B. 100

In response to DOE/DOJ's *DCL* and the national discussion about the so-called "school-to-prison pipeline," Illinois enacted S.B. 100:

- Signed into law by Governor Rauner on August 25, 2015, as Public Act 99-0456.
- Amends Sections 10-20.14 and 10-22.6 of the *School Code*.

S.B. 100

School districts have until **September 15, 2016**, to adopt discipline policies that comply with the new requirements of S.B. 100 as well as provide special requirements for the discipline of students with disabilities according to federal and State law.

II. REQUIREMENTS OF S.B. 100



II. REQUIREMENTS OF S.B. 100

S.B. 100 emphasizes that disciplinary consequences that result in exclusion from school are “the most serious” and that suspensions and expulsions should only be used for “legitimate educational purposes.”

Schools must limit the duration and number of suspensions and expulsions “to the greatest extent practicable.” To do this, schools should consider non-exclusionary discipline prior to removing the student from school.

II. REQUIREMENTS OF S.B. 100

If a student is suspended or expelled, the written notice must detail:

- **Suspension:** Specific act of gross disobedience or misconduct resulting in the decision to suspend, or
- **Expulsion:** Specific reasons why removing the student from the learning environment is in the best interest of the school, and
- A rationale as to the specific duration of the expulsion or suspension.

II. REQUIREMENTS OF S.B. 100

Schools may not enforce zero-tolerance policies, where administrators are required to suspend or expel a student for particular behaviors, unless otherwise required by federal law or the *School Code*.

II. REQUIREMENTS OF S.B. 100

Out-of-school suspension for 3 days or less is permissible if the student “would pose a threat to school safety or a disruption to other students’ learning opportunities.”

- Case-by-case determination must be made.
- School officials must first make all reasonable attempts to resolve any threats or disruptions in order to minimize the length of the suspension.

II. REQUIREMENTS OF S.B. 100

Out-of-school suspensions, expulsions or disciplinary removals to alternative schools for over 3 days may only be used if:

- Appropriate and available behavioral and disciplinary interventions have been exhausted; and
- The student's continued presence at school would:
 - Pose a threat to the safety of those in the school community; or
 - Substantially disrupt, impede or interfere with the operation of school.

II. REQUIREMENTS OF S.B. 100

1-3 Days OSS:

- Threat to school safety; or
- Disruption to other students' learning opportunities

> 3 Days OSS, Expulsion, or Transfer to Alternative School:

- Threat to safety of those in school community; or
- Substantially disrupts, impedes, or interferes with operation of the school

II. REQUIREMENTS OF S.B. 100

The determination of whether “appropriate and available behavioral and disciplinary interventions have been exhausted” is made by the school officials.

Schools must document whether other interventions were attempted or if it was determined that no other appropriate interventions were available.

II. REQUIREMENTS OF S.B. 100

Students suspended out-of-school for over 4 days must be provided appropriate and available support services during their suspension. In addition:

- Appropriate support services are determined by school officials.
- Schools must document whether services were provided or whether it was determined that there were no appropriate services available.
- A school district may refer students who are expelled to appropriate and available services.

II. REQUIREMENTS OF S.B. 100

Schools must create a policy to facilitate the re-engagement of students returning from out-of-school suspensions.

Schools must create a policy to allow students who are suspended (from school or bus) to make-up work for equivalent academic credit.



II. REQUIREMENTS OF S.B. 100

Schools must make reasonable efforts to provide staff, teachers, administrators and school board members with appropriate training and education on the consequences of out-of-school suspensions and expulsion, appropriate discipline methods, and related topics.

II. REQUIREMENTS OF S.B. 100

School officials may not advise or encourage a student to drop out voluntarily due to behavioral or academic issues.

Students may not be required to pay a monetary fine or fee as a result of a disciplinary violation (unless it is to provide restitution for a lost, stolen or damaged item).

III. APPLICATION OF S.B. 100



A. LEARN MORE ABOUT SCHOOL CLIMATE AND DISCIPLINARY OPTIONS AND ALTERNATIVES

APPLICATION OF S.B. 100

**1. See U.S. Department of Education's
*Guiding Principles: A Resource for Improving
School Climate and Discipline***

(1/8/14)

<http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>

U.S. DOE'S GUIDING PRINCIPLES

Three guiding principles for school districts:

1. Create positive climates and focus on prevention;
2. Develop clear, appropriate, and consistent expectations and consequences to address disruptive student behaviors; and
3. Ensure fairness, equity, and continuous improvement.

U.S. DOE'S GUIDING PRINCIPLES

Ensure that discipline policies emphasize constructive interventions, such as behavioral instruction and tiered supports, to keep students in the classroom.



U.S. DOE'S GUIDING PRINCIPLES

Consider cultural competence training for staff to enhance awareness of implicit or unconscious biases and the harms associated with using/failing to counter racial and ethnic stereotypes.

U.S. DOE'S GUIDING PRINCIPLES

Consider goals for providing supports to all students, including minority students, students with disabilities, and at-risk students (*e.g.*, students who have had trauma, social exclusion, or behavior incidents; LGBT; homeless or unaccompanied; corrections-involved; in foster care; pregnant and parenting students; migrant students; ELL).

U.S. DOE'S GUIDING PRINCIPLES

Use evidence-based prevention strategies, such as tiered supports:

- **Tier #1 - Universal Supports:**
 - Set clear expectations for school day and school-sponsored events.
 - Explicitly teach and model expected behaviors.
 - Explicitly teach social-emotional competencies.
- **Tier # 2 - Targeted Supports:**
 - Group interventions.
 - Mentoring/peer mentoring.
- **Tier # 3 - Intensive/Individual Supports.**

U.S. DOE'S GUIDING PRINCIPLES

Reserve the use of out-of-school suspensions, expulsions, and alternative school placements for the most egregious disciplinary infractions that threaten school safety and/or when mandated by federal or State law.

U.S. DOE'S GUIDING PRINCIPLES

Define the role of SROs:

- Ensure that SROs' roles are focused on protecting the physical safety of the school or preventing the criminal conduct of persons other than students, while reducing inappropriate student referrals to law enforcement.
- Ensure that SROs do not become involved in routine school disciplinary matters.

U.S. DOE'S GUIDING PRINCIPLES

- Document the expectations through clear, written policies or MOUs.
- Specify that law enforcement approaches (e.g., arrest, citations, ticketing, court referrals) should be used only as a last resort, and never to address instances of non-violent misbehavior that do not pose a serious and immediate threat to school safety.

U.S. DOE'S GUIDING PRINCIPLES

Make it a high priority to return students who are subject to discipline to their regular classroom settings.



U.S. DOE'S GUIDING PRINCIPLES

- If an alternative placement is necessary, ensure the placement provides access to meaningful instruction and adequate supports to transition the student back to class.
- Offer alternative educational services to expelled students.

U.S. DOE'S GUIDING PRINCIPLES

Provide individually-tailored, intensive services and supports for students re-entering the classroom from alternative school placements or the juvenile justice system.

APPLICATION OF S.B. 100

2. See Council of State Governments
Justice Center's
*The School Discipline Consensus Report:
Strategies from the Field to Keep Students
Engaged in School and Out of the
Juvenile Justice System*

(2014)

https://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf

CSGJC'S REPORT

- Enhance student support teams to be responsive to the school's distinct characteristics.
- Develop partnerships with external providers to deliver behavioral health and related services to individual students on and off the school campus.

CSGJC'S REPORT

- Develop and use early warning data systems to identify students in need of targeted and intensive supports that may prevent disciplinary actions.
- Develop a systems-of-care approach to provide an array of intervention strategies.

CSGJC'S REPORT

Examples of School Interventions:

- “Buddy Rooms”
- “Student Planning Centers”
- Cognitive Behavioral Therapy (CBT)

APPLICATION OF S.B. 100

3. See U.S. Department of Education’s
*Rethink School Discipline:
School District Leader Summit on Improving
School Climate and Discipline,
Resource Guide for Superintendent Action
(July 2015)*

<https://www2.ed.gov/policy/gen/guid/school-discipline/rethink-discipline-resource-guide-supt-action.pdf>

U.S. DOE'S RESOURCE GUIDE

Possible Approaches for School Climate Improvement:

- Social-Emotional Learning (SEL)
- Positive Youth Development (PYD)
- Character Education
- Positive Behavior Support (PBS)
- School Development Program (SDP)
- Restorative Practices
- Trauma-Informed Approach



U.S. DOE'S RESOURCE GUIDE

- Promote a range of increasingly strong interventions before resorting to suspension when students commit minor offenses.
- Explain how consequences for students who engage in inappropriate behavior are matched to the severity of the misconduct.

U.S. DOE'S RESOURCE GUIDE

- Address the needs of victims, including taking steps to assist with healing, requiring the student causing harm to take responsibility and participate in restorative actions, and devising safety plans.
- Limit expulsions to extreme cases and, if students must be expelled, provide access to an alternative education setting.

APPLICATION OF S.B. 100

4. See National Opportunity To Learn Campaign's

*Restorative Practices:
Fostering Healthy Relationships & Promoting
Positive Discipline in Schools*

(March 2014)

<http://www.otlcampaign.org/sites/default/files/restorative-practices-guide.pdf>

NOTL'S RESTORATIVE PRACTICES

The goals of restorative practices are to:

- Restore the wrong that was done by the student's behavior;
- Improve relationships between students and teachers;
- Build a sense of community in the school; and
- Lower the number of suspensions and expulsions.

NOTL'S RESTORATIVE PRACTICES

Examples of Restorative Practices:

- **Social-emotional learning** ~ Emphasis on building positive relationships, emotion management, making responsible choices.
- **Informal restorative practices** ~ Examples include mentoring, affective statements, and insuring student and family engagement.
- **Preventative and post-conflict resolution programs** ~ Teach students how to defuse situations, deal with conflict, and respond when emotions are running high.

NOTL'S RESTORATIVE PRACTICES

Examples of Restorative Practices (cont.):

- **Peer juries** ~ Create accountability for wrongdoers by peers discussing the harm done, who was affected, and how the harm can be repaired.
- **Peer mediation** ~ Trains students to help their peers resolve conflicts.
- **Circle Process** ~ Talk through issues in a group setting or to open lines of communication in order to prevent future conflict.

NOTL'S RESTORATIVE PRACTICES

Examples of Restorative Practices (cont.):

- **Restorative Justice** ~ The victim and wrongdoer talk about the harm caused and how to repair it.
- **Community conferencing** ~ A conversation between each person affected by the behavior.
- **Community service** ~ Paying back the community in part for the harm done.

NOTL'S RESTORATIVE PRACTICES

Allow student who committed the wrong to:

- Have a discussion with the individual affected in order to understand how the behavior affected others; and
- Take action to repair the harm or prevent future harm.

NOTL'S RESTORATIVE PRACTICES

Benefits of using restorative practices in schools:

- Creates a supportive environment;
- Addresses behaviors to prevent reoccurrence;
- Minimizes school removals and loss of instructional time; and
- Teaches conflict resolution skills.

APPLICATION OF S.B. 100

5. Examples of Programs/Interventions Implemented by Some Urban School Districts

SCHOOL DISTRICT EXAMPLES

Los Angeles Unified School District's *Discipline Foundation Policy: School-Wide Positive Behavior Intervention Support* (3/27/07 and 2/14/14):

The policy's goal is to minimize out-of-school suspensions by using positive behavioral interventions and restorative practices.

SCHOOL DISTRICT EXAMPLES

Los Angeles Unified School District (cont.):

- Positive behavioral supports and interventions are used to teach students clear expectations.
- Implements a system to recognize students who meet expectations and to address those students who do not.
- Uses data to assess areas of need and success of interventions.

SCHOOL DISTRICT EXAMPLES

Los Angeles Unified School District (cont.):

Alternatives to suspensions include:

- Changing the student's schedule or classes or moving the student to alternative school, if necessary;
- Charting student behaviors and providing feedback to the student;

SCHOOL DISTRICT EXAMPLES

Alternatives to suspensions include (cont.):

- Teaching students social-emotional skills;
- Requiring students to complete community service;
- Providing counseling to students; and
- Problem-solving to help students see other choices or behavior options.

SCHOOL DISTRICT EXAMPLES

Miami-Dade County Schools' Alternative Program (August 2015):

- Eliminated out-of-school suspensions;
- Started the school year with lessons on character, citizenship, and community;



SCHOOL DISTRICT EXAMPLES

Miami-Dade County Schools' Alternative Program (August 2015):

- Created success centers throughout the district;
 - Students attend the success centers during suspension;
 - Success centers are staffed with teachers so that students can keep up with coursework;

SCHOOL DISTRICTS EXAMPLES

Miami-Dade County Schools (cont.):

- Uses attendance data to target students who need more support;
- Focuses on community and self-reflection; and
- Trying the use of restorative practices.



SCHOOL DISTRICTS EXAMPLES

Seattle School District No. 1 Resolution No. 2014/15-35:

In September 2015, the Seattle school board passed a resolution that eliminated out-of-school suspensions for elementary school students for behaviors such as disruptive conduct, rule breaking, and disobedience.

By June 2016, the superintendent is to provide the board with a proposal for a system to reduce the number of out-of-school suspensions.

B. S.B. 100 IMPLEMENTATION CHECKLIST FOR SCHOOL DISTRICTS

S.B. 100 CHECKLIST

- By September 15, 2016, boards of education, with the PTAC, must review and revise their policies on student conduct/discipline, bus misconduct, misconduct by students with disabilities, suspension procedures, and expulsion procedures.
- Revise the student conduct/discipline provisions in your district's Parent/Student Handbook for 2016-17 to reflect the S.B. 100-related changes in the board's policies.
- Review these board policies and Parent/Student Handbook provisions, with the PTAC, annually thereafter. The board and PTAC must also review the implementation of the discipline policies and any other factors related to school safety annually.

S.B. 100 CHECKLIST

- Revise your district's suspension notice letter template or form.
- Revise your district's suspension review decision letter template or form

S.B. 100 CHECKLIST

- Revise your district's expulsion hearing notice letter template or form.
- Revise your district's expulsion decision letter template or form.

S.B. 100 CHECKLIST

- Review the district's data about student suspensions and expulsions for the past several years and analyze:
 - What types of misconduct have resulted in suspensions of up to 3 days and of more than 3 days? How might this change under S.B. 100?
 - What types of misconduct have resulted in expulsion? How might this change under S.B. 100?

S.B. 100 CHECKLIST

- Develop a list of all behavioral and disciplinary interventions currently in use in your schools.
- Research additional behavioral and disciplinary interventions that might also be implemented.

S.B. 100 CHECKLIST

- Develop a list of support services currently available to students who are subject to suspension or expulsion.
- Research additional support services that might also be implemented.

S.B. 100 CHECKLIST

- If your district offers a voluntary withdrawal option for students in lieu of suspension or expulsion, review the continued use of this option with the district's legal counsel.

S.B. 100 CHECKLIST FOR SCHOOL DISTRICTS

- Consider the development of MOUs with local law enforcement agencies that clearly define law enforcement's role in schools.

S.B. 100 CHECKLIST FOR SCHOOL DISTRICTS

- Review your district's current and 2016-17 professional development plans and make "reasonable efforts" to include ongoing PD for teachers, administrators, board members, SROs, and staff on:
 - adverse consequences of school exclusion and justice system involvement;
 - effective classroom management strategies;
 - culturally responsive discipline; and
 - developmentally appropriate disciplinary methods that promote a positive and healthy school climate.

QUESTIONS



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