



Legislature Approves Increased Flexibility for K-4 Discipline

A recent amendment to the K-4 discipline law (A.R.S. § 15-843(K)-(L)) allows schools to suspend K-4 students for up to two days at a time, so long as the total number of suspension days in a school year does not exceed ten days. The revised law takes effect on October 30, 2023.

Under the current statute (prior to amendment), schools' ability to suspend and expel K-4 students has been strictly limited, including:

- (1) An outright prohibition of suspension or expulsion of students under the age of 7 unless they bring a firearm to school;
- (2) A prohibition of suspension or expulsion even when the misconduct involves (a) a dangerous weapon (other than a firearm), (b) drugs, or (c) immediate endangerment to health or safety of others, unless the threat cannot reasonably be addressed without removing the student from school;
- (3) Permitting suspension or expulsion in other circumstances *only* upon establishing the existence of "aggravating circumstances"—*i.e.*, a checklist of onerous hurdles fraught with traps for the unwary; and
- (4) In cases of a proposed expulsion or long-term suspension (greater than ten days), the law further requires a "disability" screening and potential determination of whether the misconduct is a manifestation of a suspected disability.

While intended to encourage schools to be more creative in addressing misconduct by young students, in practice, this gauntlet of limitations and restrictions has hamstrung schools' ability to address a broad variety of highly disruptive behaviors and serious concerns.

The newly passed amendment provides a welcome – albeit limited – bypass to the current requirements noted above, stating that the K-4 disciplinary hurdles do not apply if:

The school district or charter school is suspending the pupil for two or fewer days and the aggregate suspensions for the pupil

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do not exceed ten days within the school year.

Although this two-day suspension amendment may not completely solve all of the issues arising from difficult conduct issues by K-4 students, at a minimum, it allows schools to manage what is often some initial chaos and press the “pause button,” while considering more creative long-term solutions, as needed.

When considering use of this increased flexibility for one- or two-day suspensions, schools should keep in mind a couple of important caveats:

(1) before imposing such suspensions, schools must first provide the student constitutional due process and follow the school’s policies that are otherwise applicable to all student misconduct (i.e., verbally inform the student of the misconduct and rule it violates, and provide her an opportunity tell her side of the story before deciding whether to suspend); and

(2) if the student has a disability under IDEA or Section 504, additional procedural requirements may apply.

Schools should update their student discipline policies to reflect this newly enacted flexibility. Should you need help doing so, or if you have other questions regarding the impact or application of the updated K-4 discipline laws, please do not hesitate to contact us.



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