

School Push Out

1. **What is school push out?** School push out includes any number of methods that schools use to get rid of problem students. This can include formal discipline methods such as suspensions and expulsions. It can also include more informal means such as telling a student they can no longer go to the school without any paperwork, giving a student an 'opportunity transfer', not allowing or discouraging an 18 year old or older youth to enroll in school, forcing a parent to pick up a student early from school on a consistent basis, forcing private mental health professionals such as WRAP Around, TBS or therapists to attend school with the child, etc.
2. **What is an opportunity transfer?** When a child gets into trouble at school, the school will sometimes offer the family an opportunity transfer instead of following the more formal requirements of an expulsion. While this may seem like a good option, you will give up all due process rights of your child to call witnesses on their own behalf, cross examine witnesses against them, present evidence on their own behalf, be represented by an attorney, etc.
3. **Why do schools do this?** There are a variety of reasons schools "push out" students. Sometimes schools do not have the money or staff to serve students with high levels of academic or behavioral needs. Schools may also seek to improve scores on high-stakes testing by using "selective discipline": suspending low-scoring students during testing days or encouraging them to attend "continuation schools" or GED programs.
4. **What type of school does my child have a right to attend?** All youth have an absolute right to attend their home school unless they have been formally expelled from the school, after an expulsion hearing and upon duly authorized School Board action. Further, all youth have an absolute right to attend a complete day of school. Finally, all youth have a right to attend school on their own. If a school believes that the child is in need of special support or supervision by an adult, the school has a responsibility to conduct an assessment and provide the appropriate special education services, if necessary.

Suspensions

5. **What is a suspension?** Student is removed from school temporarily—usually no more than 5 days in a row. (Can be longer if there is recommendation for expulsion.)
6. **Does the school need to explain the reason for the suspension?** The school must hold a conference to explain the reason for the suspension, they must also make reasonable efforts to contact the parent or guardian, they must provide written notice of the suspension—stating in writing that the student was suspended, for how many days, and the reason, as well as when the student may return to school. If there were witnesses to the incident, the school must also provide copies of their statements, if requested.

Suspensions (Cont.)

7. **What are proper reasons for suspensions?** A student may not be suspended for absences or tardies or based on the actions or inactions of a parent. A student may only be suspended for specific actions, and they must be related to a school activity. These can include fighting, disrupting school activities, use or possession of drugs or alcohol or any type of weapon.
8. **The school keeps suspending my child for the same type of offense. What can I do?** If you believe the offense is related to your child's disability, request an IEP to review and possibly change your child's program to better meet his needs. If the total number of days your child has been suspended exceeds ten days in a school year, then an IEP meeting is necessary.
9. **The school keeps asking me to pick up my child from school because his behavior is out of control and the personnel cannot handle him. What am I supposed to do?**
During school hours, it is the school's responsibility to educate your child. You do not need to pick up your child before the school day is over and may inform the school that you will not pick him up. That being said, you should request an IEP meeting to review and possibly change your child's services.
10. **Should a student agree to write a statement after an incident at school?** A school will often ask a student to write a statement after an incident that leads to a suspension or expulsion. These statements may be used against students in expulsion and delinquency proceedings. It is recommended that students politely decline to do this until they have spoken to a parent or legal representative.

Expulsions

11. **What is an expulsion?** Student is prohibited from attending any comprehensive school in the district-usually for two semesters, including the semester in which the youth was expelled. (Can be longer if the student commits a "Zero Tolerance" offense.)
12. **What is the procedure for an expulsion?** Expulsion can only occur by the action of the School Board after a hearing. The hearing must be held within 30 school days of the incident. (Student has a right to postpone hearing once for 30 days.)
13. **What are a student's rights at an expulsion hearing?** Student may be represented by an attorney or advocate, they may receive copies of all documents that will be used against them, they may present evidence and witnesses, they may question any witnesses brought against them, they may appeal the decision.
14. **What happens after a student is expelled?** Students should make sure they receive a document detailing the conditions of their readmission and the date they may reapply. These are things the student must do to reenter a comprehensive school in the district. They often include community services, receiving passing grades, having good attendance, and behavior, etc. The student has a right to attend a school even while under an expulsion. The

school district should assist the student in locating an alternative school where they can continue their education prior to readmission, often called Community Day Schools.

School Discipline of Special Education Students

15. Is there a limit to how long a special education student may be suspended?

If a student with a disability is removed from their school for more than 10 days in one school year, the school must provide services to the student through their IEP, they must also conduct a behavioral assessment and provide support services designed to prevent the behavior from happening again.

16. What procedures must a school follow if they pass the 10 day limit on suspension or want to expel a special education student? Manifestation Determination: if a school removes a special education student for more than 10 days, an IEP team must be convened to review the needs of the student and determine if the conduct was caused by the student's disability, or if the conduct was a result of a failure by the school to implement the IEP. If either of these is found to be the case, the IEP team must end suspension or expulsion proceedings and put the necessary supports in place to prevent the actions from repeating in the future. If the behavior is found not to be a manifestation, the school may discipline the student like any other student.

17. What if the student has a pending assessment request?

If a parent has requested a special education assessment in writing or any school staff have expressed such a need, prior to the behavior that led to the discipline, the school must complete the special education assessment, determine a student's eligibility and if eligible, conduct the manifestation determination prior to moving forward with an expulsion.

The Delinquency System

18. Who are the players in the courtroom?

- **Judge:** This person is in charge of the courtroom. They make sure the youth's rights are protected, that everyone is following the law, and if the case goes to trial they decide if the charge is true or not.
- **Public Defender:** Lawyer for the youth. He or she helps decide what to tell the court and argues the youth's case to the judge.
- **District Attorney:** Lawyer for the county. Their job is to prove that the youth did the act that brought them to court. They decide what charges to file, and whether to make a deal with the public defender.
- **Probation Officer:** Makes sure the youth is following the plan the court makes and reports back to the court. He or she can also help the youth get services they need.

The Delinquency System (Cont.)

19. What are the possible decisions the court could make?

Disposition (Sentencing): These are the possibilities if the charge is found to be true.

- **Informal:**
 - **Diversion:** No petition is filed.
 - **Probation: 654:** Petition is filed, but no judgment is entered. If the youth does everything they are supposed to for six months, the charge goes away, like it never existed.
- **Deferred Entry of Judgment:**
 - **Misdemeanor: 725:** Youth must admit the charges. There will be probation terms that must be completed within 6 months. If you have completed the terms, the court then dismisses the case.
 - **Felony: 790:** The same as 725, but youth must complete probation terms of 1-3 years.
- **Formal: 602:** Youth admits or is found guilty of the charge. Several different placement options: Home on Probation (in home of parent), Suitable Placement (if the home of your parent is not a place where youth can complete the terms of probation-may include home of relative, group home or facility), Camp (boot camp-can serve terms of up to 1 year), Division of Juvenile Justice (for youth considered dangerous-similar to prison).

20. What does it mean to be 'on probation?'

For any disposition there will be "terms" that the youth must complete. These usually include things like good attendance and grades, following parent rules, and possibly going to therapy or drug treatment. If you have trouble with completing any of these, you should ask your probation officer for help prior to the next court date if possible.

21. Do I have a right to community service instead of paying a fine?

All youth have a right to request community service instead of court fines. These fines can be expensive so always request community service instead.

22. What happens when a foster youth picks up a delinquency charge?

241.1/Multi-Disciplinary Team: This is a joint assessment that should be ordered if a delinquency charge is filed against a foster youth. The team (including social worker, probation officer, mental health and education experts) will look at the needs of the child and make a recommendation to the court about what services and systems will help the youth.

23. What should a youth do to prepare for court?

- **Evidence:** Gather any evidence or witness statements that support their side of the case.
- **School:** Ask the school for any record of good attendance or grades. Also, make sure to ask the court for a note to excuse the absence from school.
- **Character References:** Ask any respected member of your community (church leader, community group member, teacher, etc.) to write a letter in support of the good character of the youth.

The Delinquency System (Cont.)

- **Clothes:** Dress and act appropriately in court. ‘Sunday Best’ or Church clothes are a good idea. Tuck in shirt, don’t sag pants, take all hats/head gear off.
- **Actions:** Be polite to the judge, responding ‘Yes/No, Your Honor.’ This person makes the decisions that will deeply impact the youth’s life, treat them with respect.

24. Can I seal my probation record once I am off probation?

Most, but not all, charges can be sealed once the youth has demonstrated that they fulfilled the terms of their probation and have not reoffended for at least six months. To seal your records, go to the juvenile court where the last hearing was held and request/fill out/file a Petition to Seal Juvenile Records and Court Order.

AB3632/ERMHS

- 25. Are AB3632 services still available?** Technically, all funding for AB 3632 mental health services is gone.
- 26. How can a child with emotional/behavioral problems seek mental health services in their IEP?** If a child has severe behavior or emotional difficulties that require mental health services, then the school must add them as a service in the child’s IEP. These services are now provided through contracts that the school districts make with mental health providers and are called “Educationally Related Mental Health Services (ERMHS)”.
- 27. What type of services can be included?** Mental health services may include individual therapy for the child, family therapy or counseling, and/or medication monitoring by a psychiatrist. For extremely severe disabilities, children can qualify for residential placement which is 24 hour therapeutic care.
- 28. Are these services different from school-based or “DIS” counseling?** Yes. School-based counseling is meant to address less extreme behaviors and emotional difficulties that a child may experience while at school. It is provided by a school psychologist who has an educational degree, but may not have any clinical license. ERMHS services must be provided by a licensed professional and will offer a higher level of care, as well as the option of including after-school sessions, family counseling, and medication.