

DISCIPLINE LAWS (QUESTIONS AND ANSWERS)

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*This is a summary of Louisiana laws governing discipline of students in Louisiana public schools. **It includes amendments passed by the Louisiana Legislature through the 2009 legislative session. Because laws may be amended or repealed, this document may be revised from year-to-year.***

This is not a full and comprehensive listing of all discipline laws and regulations. Additional provisions governing student discipline are located in (1) additional Louisiana laws, (2) Collective Bargaining Agreements between unions and local school boards, (3) your local school board's Student Code of Conduct, or (4) the local school board's policies, rules and regulations.

Reference to "La. R.S." is an abbreviation for "Louisiana Revised Statutes," and refers to a specific Louisiana law.

In certain situations, these laws may not apply to discipline of special education students.

Note: Under a 2007 Amendment, the definition of "expulsion" depends upon the particular offense. In some instances it is defined as "a removal from all regular school settings for a period of not less than one school semester, during which time the school board shall place the pupil in an alternative school or in an alternative school setting unless the board is exempt as provided by law from providing such alternative school or alternative school setting;" La. R.S. 17:416A(2)(c). In other instances (such as weapons and drugs) it is defined as a minimum period of four complete school semesters; La. R.S. 17:416C(2)(a)(i) and (ii); 17:416C(2)(b)(i) and (ii); 17:416C(2)(c)(i) and (ii).

1. How does Louisiana law define the authority of teachers to hold students accountable for disorderly conduct?

Teachers shall "endeavor to hold every student to a strict accountability for any disorderly conduct in school or on the playgrounds of the school, on the street or road while going to or returning from school, or during intermission or recess;" La. R.S. 17:416A(1)a.

2. What are the specific penalties against students who commit an assault or battery on teachers and all school employees?

Note: the term "teacher" in this section includes any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or post-secondary school or institution.

→The definition of a criminal battery (La. R.S. 14:34.3) against a teacher [includes all school employees]: "Battery is the intentional use of force or violence upon the person of another; or the intentional administration of a poison or other noxious liquid or substance to another.

→The definition of a criminal assault (La. R.S. 14:38.2) against a teacher [includes all school employees]: "Assault" "assault" means an attempt to commit on a school teacher a battery or the intentional placing of a school teacher on reasonable apprehension of receiving a battery or making statements threatening physical harm to a school teacher [includes all school employees].

When a student is *formally* accused of committing a battery upon a teacher [includes all school employees]: by either violating discipline rules – or - violating criminal law (La. R.S.14:34.3), - or - committing an assault on a teacher by either violating discipline rules or violating criminal law (La. R.S.14:38.2), the principal shall:

- (1) immediately remove the student from the school premises without complying with suspension procedures, and
- (2) immediately suspend the student from school. Note: after the student is removed and suspended, the usual notifications and procedures shall follow "as soon as is practicable;" La. R.S. 17:416A(1)(c)(vii)(aa).

→ A student who has been suspended for an accusation of committing an assault or a battery, or both, on a teacher shall not be considered for readmission to the same school where the teacher is assigned, until all hearings and appeals associated with the alleged assault or battery, or both, have been exhausted; La. R.S. 17:416A(1)(c)(vii)(bb).

→ After a student is found guilty of committing an assault or a battery on a teacher (either in Juvenile Court or Criminal Court, or at a school system suspension hearing) the student shall not be assigned to or attend the same school where the teacher is assigned. Note: This section of law does not apply when the school system has no other school of suitable grade level for the student to attend; La. R.S. 17:416A(1)(c)(vii)(cc).

Principals are required to notify the Department of Public Safety and Corrections whenever any student between the ages of 14 and 18 is suspended, expelled, or assigned to an alternative educational setting for ten or more consecutive school days, for an infraction involving assault or battery on a member of the school faculty or staff. In such cases, the student's drivers license shall be suspended for one year; La. R.S. 17:416.1.

◆ Every school employee who is the victim of an assault or a battery committed by a student or any person also has the following rights:

- The right to press criminal charges against the person who committed the assault or battery. The "battery" law is La. R.S. 14:34.3, which imposes more harsh penalties on persons found guilty of committing a battery against a teacher, and the "assault" law is La. R.S. 14:38.2, which also imposes more harsh penalties on persons found guilty of committing an assault against a teacher.

- The right to file a civil suit for money damages against the person who committed the assault or battery (or against the parent/guardian if the student is a minor).
- The right to receive full salary without loss of sick leave days, if the school employee is injured or disabled as a result of an assault or a battery; La. R.S. 17:1201 C; La. R.S. 17:1206.

3. When is the student's drivers' license supposed to be revoked?

Principals are required to notify the Department of Public Safety and Corrections whenever any student between the ages of 14 and 18 is suspended or expelled for more than 10 consecutive school days, or if assigned to an alternative educational setting for ten or more consecutive school days, for:

- possession or sale of drugs, alcohol, or illegal substances, or
- possession of a firearm, or
- an infraction involving assault or battery on a member of the school faculty or staff.

In such cases, the student's drivers license shall be suspended for one year; La. R.S. 17:416.1

4. Under what circumstances does the teacher have the right to demand immediate removal of the student? (La. R.S. 17:416A(1)(c)(i)) (NOTE: This includes new laws passed in 2009).

- **when the student prevents the orderly instruction of other students;**
- or
- **when the student poses an immediate threat to the safety or well being of any student or teacher; or**
 - **when the student exhibits disrespectful behavior towards the teacher such as using foul or abusive language or gestures directed at or threatening a student or teacher; or**
 - **when a student violates the school's code of conduct; or**
 - **When a student exhibits other disruptive, dangerous or unruly behavior including inappropriate physical contact, inappropriate verbal conduct, sexual or other harassment, throwing objects, inciting other students to misbehave, or destroying property.**

5. Is the student supposed to be removed for 30 minutes or for the entire class period?

→A student in grades K-6 shall not be permitted to return to the class for at least thirty minutes unless the teacher agrees; La. R.S. 17:416A(1)(c)(iii).

→A student in grades 7-12 shall not be permitted to return to the class during the same class period unless the teacher agrees; La. R.S. 17:416A(1)(c)(iii).

6. What are other consequences to the student who is removed because of any of the above offenses? (NOTE: This includes new laws passed in 2009).

- The student shall be assigned school work missed and shall receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or his/her designee upon recommendation by the student's teacher. However, the teacher shall not be required to interrupt class instruction time to prepare any such assignment; La. R.S. 17:416A(1)(c)(i).

- The principal shall then advise the student of the misconduct and given an opportunity to explain his version, and shall conduct a counseling session with the student, to establish a course of action to correct the behavior; La. R.S. 17:416A(1)(c)(ii)(aa).

- The principal or designee shall provide oral or written notification to the parent, with a description of any disciplinary action taken; La. R.S. 17:416A(1)(c)(ii)(bb).

- The principal or designee may provide oral or written feedback to teachers initiating the removal of the pupil and may provide guidance and support to the teacher on practicing effective classroom management including, but not limited to, positive behavior reports. La. R.S. 17:416A(1)(c)(ii)(cc).

- If disruptive behavior persists, the teacher may request that the principal transfer the student to another setting; La. R.S. 17:416A(1)(c)(vi)(aa).

- School boards may adopt a policy requiring the parent of a student who is removed from the classroom to attend after-school or Saturday intervention sessions with the student. The school board may refer a parent who fails to attend such a session to Juvenile Court. Each time a parent is referred to court, the court may impose a fine of not less than \$25.00 or more than \$250.00, forty hours of court-approved or community service and attendance at a court-approved family counseling program, and may suspend any license issued by the Department of Wildlife and Fisheries. La. R.S. 17:416A(1)(c)(vi)(bb).

- Additionally, the student shall not be readmitted to the class until the principal has implemented one of the following disciplinary measures; La. R.S. 17:416A(1)(c)(iii):

- In-school suspension.
- Detention.
- Suspension.
- Initiation of expulsion hearings.
- Assignment to an alternative school.
- Requiring the student to complete all assigned school and homework that the student would have completed during the period of suspension.
- Any other disciplinary measure authorized by the principal with your concurrence or the concurrence of the building level committee.

→ Additionally, the teacher has the right to require that before the student is readmitted, the parent, tutor or legal guardian of the student must have a conference with the teacher in the presence of the principal or designee; La. R.S. 17:416A(1)(c)(iv).

Upon the third removal from the same classroom, the principal is required to confer with the teacher before implementing disciplinary measures, to discuss the student's disruptive behavior patterns and appropriate disciplinary measures. Also, before the student is readmitted a conference must be held between the parent, and the teacher or other appropriate school employees; La. R.S. 17:416A(1)(c)(v).

If disruptive behavior persists, the teacher may request that the principal transfer the student into another setting; La. R.S. 17:416A(1)(c)(vi).

A student who fails or refuses to serve a detention shall subject the student to immediate suspension; La. R.S. 17:416A(2)(b)(ii).

A student who is assigned an "in school suspension" may receive credit for work performed during the in school suspension; La. R.S. 17:416A(2). Note: all school boards were required to adopt rules to implement in school suspensions by January 1, 1995; La. R.S. 17:416A(2)(a)(ii).

7. Do teachers have the right to demand suspension of a student who makes a false accusation against a teacher? What are the grounds to suspend a student?

No, you don't have the right to demand it...but you certainly have the right to request it; La. R.S. 17:416A(3)(iii).

8. What right under law does a teacher have to suspend students who commit other types of offenses?

You have the right to request (but not demand) suspension of a student who commits these offenses: La. R.S. 17:416A(3)(a)(i) through (xvii):

- Willful disobedience.
- Treats a teacher, principal, or any employee, or a School Board member, with intentional disrespect.
 - Makes an unfounded charge against a teacher, principal, superintendent, or any employee, or School Board member.
- Uses unchaste or profane language.
- Is guilty of immoral or vicious practices or of conduct or habits injurious to his associates.
 - Uses tobacco or possesses alcoholic beverages.
 - Disturbs the school and habitually violates any rule.
 - Cuts, defaces or injures any part of a public school building or property belonging to the buildings, or any school buses jointly owned by a school board.
 - Writes profane or obscene language or draws obscene pictures in or on any school material or on any public school premises, or on any fence, pole, sidewalk or building on the way to or from school, or on a school bus.
 - Throws missiles liable to injure other persons on the school grounds or while on any school bus.
- Instigates or participates in fights while under school supervision.
- Violates traffic and safety regulations.
- Leaves the school premises without permission.
- Leaves classroom during class hours or detention without permission.
- Is habitually tardy or absent.
- "Commits any other serious offense."

9. May the principal remove a student who presents a danger?

Yes. Prior to any suspension the principal is required to follow certain procedures. But if a student's presence in or about a school poses a continued

danger to any person or property or an ongoing threat of disruption to the academic process, the student shall be immediately removed from the school premises; La. R.S. 17:416A(3)(b)(i).

Where a parent or guardian willfully refuses to attend a conference or meeting regarding the student's behavior, the principal may file a complaint in Juvenile Court if the principal feels that it is in the student's best interest; La. R.S. 17:416A(3)(b)(ii)(aa).

10. Does the student receive credit for school work missed while suspended or expelled?

Yes.

A student who is suspended for ten days or fewer shall be assigned school receive either partial or full credit for such work if it is completed satisfactorily and timely as determined by the principal or designee upon recommendation of the student's teacher. La. R.S. 17:416A(3)(e).

A student who is suspended for more than ten days or is expelled and receives educational services at an alternative school shall be assigned work by a certified teacher and shall receive credit for such work if it is completed satisfactorily and timely as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

11. What are the consequences to a student who is suspended more than once during a school year?

When a student is suspended for the second time within one school year, the principal may require the student and parent to attend a counseling session with the school counselor, teacher, principal, or another administrator; La. R.S. 17:416A(3)(f).

12. If a student damages school property, may the school system deny readmittance until the student pays for the damage?

Yes. A student suspended for damages to any school system property shall not be readmitted until making full payment, or until directed by the Superintendent; La. R.S. 17:416A(3)(d).

13. May a student be suspended for using a pager or cellphone?

Yes. A student who uses electronic communication devices on school grounds (such as a pager or mobile telephone) may be suspended, unless the device was used in an emergency, La. R.S. 17:239.

14. What are the consequences for bullying and harassment by students?

School Boards are required to incorporate into the student Code of Conduct a policy prohibiting students from harassing, intimidating, and bullying other students. The terms "harassment," "intimidation," and "bullying" shall mean any intentional gesture or written, verbal or physical act that a reasonable person under the

circumstances should know will have the effect of harming a student or damaging his property or placing the student in reasonable fear of harm to his life or person or damage to his property, and is so severe, persistent or pervasive that it creates an intimidating, threatening, or abusive educational environment for a student. Further, a student, school employee or school volunteer who makes a good faith report of harassment, intimidation or bullying to the appropriate school official in accordance with School Board policy shall be immune for damages arising from any failure to remedy the reported incident. Note: this policy does not apply in Livingston, East Baton Rouge, East Feliciana, West Feliciana, St. Helena, or Tangipahoa parishes; La. R.S. 17:416.13.

An administrator who is in the immediate family of a student shall recuse himself in the discipline of that student; La. R.S. 17:416I.

15. What are the laws that govern weapons and drugs?

Several laws prohibit students from use or possession of weapons on or about school grounds. These laws refer to "firearms, knives, or "other dangerous instrumentalities." A "knife" refers to a knife with a blade that equals or exceeds two inches in length.

Several laws prohibit students from use or possession of "Controlled Dangerous Substances governed by the Uniform Controlled Dangerous Substances Law."

Principals are required to notify the Department of Public Safety and Corrections whenever any student between the ages of 14 and 18 is suspended, expelled, or assigned to an alternative educational setting for ten or more consecutive school days, for possession of a firearm, drugs, alcohol, or any other illegal substance. In such cases, the student's drivers license shall be suspended for one year; La. R.S. 17:416.1

The principal shall suspend any student who is found carrying or possessing a firearm, knife, or other dangerous instrumentality, or who possesses, sells, gives, or loans a controlled dangerous substance. The principal shall immediately recommend the student's expulsion with the following exception: the principal may, but is not required, to recommend the expulsion of a student less than 11 years old in grade K-5; La. R.S. 17:416B(1)(b). Additionally, this law does not apply if the student has been given permission to carry or possess a firearm or knife for an approved activity; La. R.S. 17:416B(1)(c)(i), or if the student carries a valid prescription or physician's order for the controlled dangerous substance, which is subject to verification; La. R.S. 17:416B(1)(c)(ii).

→ If a student is suspended on three occasions in the same school year for this offense, then upon committing the fourth such offense, the student shall be expelled from all public schools in the parish until the beginning of the next regular school year, and the student's reinstatement shall be subject to the review and approval of the local school board; La. R.S. 17:416B(2).

A student who has been expelled for these offenses shall not be admitted to any public school in the state except upon review and approval of the school board to which he seeks admittance; La. R.S. 17:416B(3)(a)(i).

A student who has been expelled from any public or nonpublic school outside of Louisiana, or from any nonpublic school within Louisiana for committing any of these offenses shall not be admitted to any public school in Louisiana except upon the review and approval of the school board; La. R.S. 17:416B(3)(a)(ii).

A student who has been expelled from any public or nonpublic school within or outside Louisiana shall provide to the school system or the public school all information on the dates of any expulsions and the reasons for the expulsions. The student's records shall include the dates and reasons for such expulsions; La. R.S. 17:416B(3)(c). Additionally, such student shall not be readmitted to any school on a probationary basis prior to the minimum period of expulsion or admitted in any public elementary or secondary school in Louisiana until the student produces written documentation substantiating enrollment and participation in an appropriate rehabilitation or counseling program related to the reasons for the expulsion; La. R.S. 17:416B(3)(d)(i). This requirement may be waived in certain situations; La. R.S. 17:416B(3)(d)(iii).

Any student after being suspended for committing any of the above La. R.S. 17:416B offenses may be expelled, upon recommendation by the principal, after hearing; La. R.S. 17:416B(1)(a).

→ Upon the principal's recommendation for expulsion of any La. R.S. 17:416B offense, the Superintendent or designee shall conduct a hearing. "The concerned teacher shall be permitted to attend such hearing and shall be permitted to present information the teacher believes relevant. Until such hearing takes place, the student shall remain suspended from the school;" La. R.S. 17:416C(1).

A student age 16 or older who is found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, after a hearing, shall be expelled from school for a minimum of four complete school semesters and shall be referred to the district attorney for appropriate action; La. R.S. 17:416C(2)(a)(i). However, the Superintendent may modify the length of such minimum expulsion on a case-by-case basis provided there is written notification.

A student age 16 or older who is found guilty of being in possession of, or knowledge of and intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event, after a hearing, shall be expelled from school for a minimum of four complete school semesters unless such student has agreed to participate and participates full time in a court drug program. Such student may be placed by the school system in an alternative education program for suspended and expelled students approved by the State Board of Elementary and Secondary Education. La. R.S. 17:416C(2)(a)(ii). However, the Superintendent may modify the length of such expulsion on a case-by-case

A student under 16 and in grades 6 through 12 who is found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, after a hearing, shall be expelled from school for a minimum of twelve calendar months and shall be referred to the district attorney for appropriate action; La. R.S. 17:416C(2)(b)(i).

A student under 16 and in grades 6 through 12 who is found guilty of possession of, or knowledge of and intentional distribution of, or possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event pursuant to a hearing shall be expelled from school for a minimum period of 12 calendar months unless such student has agreed to participate and participates full time in a juvenile court drug program. Such student may be placed by the school system in an alternative education program for suspended and expelled students approved by the State Board of Elementary and Secondary Education.; La. R.S. 17:416 C(2)(b)(ii). (b)

A student in grades kindergarten through 5 who is found guilty of being in possession of a firearm on school property, on a school bus, or in actual possession at a school sponsored event, after a hearing, shall be expelled from school for a minimum of twelve calendar months and shall be referred to the district attorney for appropriate action; La. R.S. 17:416C(2)(c)(i).

A student in grades kindergarten through 5 who is found guilty of possession of, or knowledge of and intentional distribution of or of possession with intent to distribute any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event pursuant to a hearing shall be referred to the school board for recommendation for action by the Superintendent; La. R.S. 17:416C(2)(d)(i).

A student expelled from school under the above R.S. 17:416(C) offenses may be readmitted on a probationary basis to school at any time during the specified expulsion period on such terms and conditions as stipulated by the school board and agreed to in writing by the student and the parent. Such terms and conditions may include but need not be limited to placing the student in a suitable alternative education program as determined by the school board. However, any such written agreement shall state that upon the principal or superintendent making a determination that the student has violated any term or condition agreed to, the student shall be immediately removed from the school premises without a hearing or other procedures applicable to suspensions and expulsions. As soon thereafter as possible, the principal or designee shall provide verbal notice to the superintendent and the parent. The principal or designee also shall provide written notice of the determination and the reasons to the superintendent and to the student's parent or guardian; La. R.S. 17:416C(2)(d)(i). This section of the law shall not apply where a court finds a student guilty of a criminal statute related to the reason for the suspension, or if the student is adjudicated a delinquent, unless the judge finds otherwise; La. R.S. 17:416C(2)(d)(ii).

No student who has been expelled pursuant to a La. R.S. 17:416C offense shall be admitted to any public school in any other parish or city school system in the state except upon the review and approval of the school board of the school system to which he seeks admittance; La. R.S. 17:416C(3)(a)(i).

No student who has been expelled for a La. R.S. 17:416C(2) offense shall be readmitted to a public school in the school system in which he was expelled prior to the completion of the specified amount of the expulsion or on a probationary basis under terms and conditions that may be stipulated in writing by the school board and agreed to in writing by the student or parent; La. R.S., 17:416D(2)(d)(i); La. R.S. 17:416C(3)(b). Such student who has been expelled from any public or nonpublic school within or outside the State of Louisiana shall provide to any public school or

school system in the state to which the student is seeking admission information on the dates of any expulsions and the reason or reasons for the expulsion. The transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any expulsions and the reasons for the expulsion. La. R.S. 17:416C(3).

No student who has been expelled from any public or nonpublic school within or outside Louisiana for possession of a weapon or possession of drugs shall be admitted to any public elementary or secondary school in Louisiana until the student produces written documentation that he has enrolled and participated in an appropriate rehabilitation or counseling program related to the reason or reasons for the expulsion; La. R.S. 17:416C(3)(b)(i).

Any student arrested for possession of drugs on school property shall be referred by the principal for drug and alcohol screening within five days after the arrest; La. R.S. 17:416(c)(3)(a). If there is evidence of abuse, the student shall be referred to an alcohol and drug abuse professional chosen by the student's parent. If the student agrees to cooperate in treatment (as certified in writing by the medical professional), the documentation may be used to initiate reopening the student's case. The School Board shall consider the student's agreement to receive treatment as a positive factor in its final decision relative to disciplinary action; La. R.S. 17:416C(3)(b).

The conviction of a student of a felony or the incarceration of a student for an act which had it been committed by an adult would have constituted a felony may be cause for expulsion for a period of time determined by the school board; La. R.S. 17:416D(1).

The conviction of any student of a felony or the incarceration for an act (whether it is committed in the state or outside of the state) which had it been committed by an adult would have constituted a felony in this state, may be sufficient cause for a public school superintendent to refuse the student's admission to any school except upon approval by a majority of the elected members of the school board; La. R.S. 17:416D(2).

When a student stores a knife or firearm in a motor vehicle and there is no evidence of intent to use the firearm or knife in a criminal manner, school officials have total discretion in imposing disciplinary action; La. R.S. 17:416F.