

# MN Statute Outline of Changes

[Minnesota Statute 121A.61](#) (2023 Legislative Session Changes are outlined below).

Sec. 26. Minnesota Statutes 2022, section 121A.41, is amended by adding a subdivision to read:

Subd. 12. **Nonexclusionary disciplinary policies and practices; alternatives to pupil removal and dismissal.** "Nonexclusionary disciplinary policies and practices" means policies and practices that are alternatives to dismissing a pupil from school, including but not limited to evidence-based positive behavior interventions and supports, social and emotional services, school-linked mental health services, counseling services, social work services, academic screening for Title 1 services or reading interventions, and alternative education services. Nonexclusionary disciplinary policies and practices include but are not limited to the policies and practices under sections 120B.12; 121A.575, clauses (1) and (2); 121A.031, subdivision 4, paragraph (a), clause (1); 121A.61, subdivision 3, paragraph (r); and 122A.627, clause (3).

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 27. Minnesota Statutes 2022, section 121A.41, is amended by adding a subdivision to read:

Subd. 13. **Pupil withdrawal agreement.** "Pupil withdrawal agreement" means a verbal or written agreement between a school administrator or district administrator and a pupil's parent to withdraw a student from the school district to avoid expulsion or exclusion dismissal proceedings. The duration of the withdrawal agreement cannot be for more than a 12-month period.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 28. Minnesota Statutes 2022, section 121A.425, is amended to read:

**121A.425 FULL AND EQUITABLE PARTICIPATION IN  
~~PRESCHOOL AND PREKINDERGARTEN~~ EARLY LEARNING.**

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## Subdivision 1. **Disciplinary dismissals prohibited.**

(a) A pupil enrolled in the following is not subject to dismissals under this chapter:

(1) a preschool or prekindergarten program, including ~~a child participating in an~~ early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, Head Start, or other school-based preschool or prekindergarten program; ~~may not be subject to dismissals under this chapter;~~ or

(2) kindergarten through grade 3.

(b) This provision does not apply to a dismissal from school for less than one school day, except as provided under chapter 125A and federal law for a student receiving special education services.

(c) Notwithstanding this subdivision, expulsions and exclusions may be used only after resources outlined in subdivision 2 have been exhausted, and only in circumstances where there is an ongoing serious safety threat to the child or others.

## Subd. 2. **Nonexclusionary discipline.**

For purposes of this section, nonexclusionary discipline must include at least one of the following:

(1) collaborating with the pupil's family or guardian, child mental health consultant or provider, education specialist, or other community-based support;

(2) creating a plan, written with the parent or guardian, that details the action and support needed for the pupil to fully participate in the current educational program, including a preschool or prekindergarten program; or

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(3) providing a referral for needed support services, including parenting education, home visits, other supportive education interventions, or, where appropriate, an evaluation to determine if the pupil is eligible for special education services or section 504 services.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 29. Minnesota Statutes 2022, section 121A.45, subdivision 1, is amended to read:

Subdivision 1. **Provision of alternative programs.** No school shall dismiss any pupil without attempting to ~~provide alternative educational services~~ use nonexclusionary disciplinary policies and practices before dismissal proceedings or pupil withdrawal agreements, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 30. Minnesota Statutes 2022, section 121A.46, subdivision 4, is amended to read:

Subd. 4. **Provision of alternative education services; suspension pending expulsion or exclusion hearing.** (a) Alternative education services must be provided to a pupil who is suspended for more than five consecutive school days.

(b) Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; provided that alternative educational services are implemented to the extent that suspension exceeds five consecutive school days.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 31. Minnesota Statutes 2022, section 121A.46, is amended by adding a subdivision to read:

Subd. 5. **Minimum education services.** School administration must allow a suspended pupil the opportunity to complete all school work assigned during the period of the pupil's

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suspension and to receive full credit for satisfactorily completing the assignments. The school principal or other person having administrative control of the school building or program is encouraged to designate a district or school employee as a liaison to work with the pupil's teachers to allow the suspended pupil to (1) receive timely course materials and other information, and (2) complete daily and weekly assignments and receive teachers' feedback.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 32. Minnesota Statutes 2022, section 121A.47, subdivision 2, is amended to read:

Subd. 2. **Written notice.** Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

(b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;

(c) state the date, time, and place of the hearing;

(d) be accompanied by a copy of sections [121A.40](#) to [121A.56](#);

(e) describe ~~alternative educational services~~ the nonexclusionary disciplinary practices accorded the pupil in an attempt to avoid the expulsion proceedings; and

(f) inform the pupil and parent or guardian of the right to:

(1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district ~~shall~~ must advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education and is posted on their website;

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- (2) examine the pupil's records before the hearing;
- (3) present evidence; and
- (4) confront and cross-examine witnesses.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 33. Minnesota Statutes 2022, section 121A.47, subdivision 14, is amended to read:

Subd. 14. **Admission or readmission plan.** (a) A school administrator ~~shall~~ must prepare and enforce an admission or readmission plan for any pupil who is excluded or expelled from school. The plan ~~may~~ must include measures to improve the pupil's behavior, ~~including~~ which may include completing a character education program, consistent with section [120B.232, subdivision 1](#), ~~and require~~ social and emotional learning, counseling, social work services, mental health services, referrals for special education or 504 evaluation, and evidence-based academic interventions. The plan must include reasonable attempts to obtain parental involvement in the admission or readmission process, and may indicate the consequences to the pupil of not improving the pupil's behavior.

(b) The definition of suspension under section [121A.41, subdivision 10](#), does not apply to a student's dismissal from school for ~~one school day or less than one school day~~, except as provided under federal law for a student with a disability. Each suspension action may include a readmission plan. A readmission plan must provide, where appropriate, alternative education services, which must not be used to extend the student's current suspension period. Consistent with section [125A.091, subdivision 5](#), a readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. School officials must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening or examination of the student as a ground, by itself, to prohibit the student from attending class or participating in a school-related activity, or as a basis of a charge of child abuse, child neglect or medical or educational neglect.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

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Sec. 34. Minnesota Statutes 2022, section 121A.53, subdivision 1, is amended to read:

**Subdivision 1. Exclusions and expulsions; student withdrawals; physical assaults.**

Consistent with subdivision 2, the school board must report through the department electronic reporting system each exclusion or expulsion ~~and~~, each physical assault of a district employee by a ~~student~~ pupil, and each pupil withdrawal agreement within 30 days of the effective date of the dismissal action, pupil withdrawal, or assault, to the commissioner of education. This report must include a statement of ~~alternative educational services~~ nonexclusionary disciplinary practices, or other sanction, intervention, or resolution in response to the assault given the pupil and the reason for, the effective date, and the duration of the exclusion or expulsion or other sanction, intervention, or resolution. The report must also include the ~~student's~~ pupil's age, grade, gender, race, and special education status.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 35. Minnesota Statutes 2022, section 121A.55, is amended to read:

**121A.55 POLICIES TO BE ESTABLISHED.**

(a) The commissioner of education ~~shall~~ must promulgate guidelines to assist each school board. Each school board ~~shall~~ must establish uniform criteria for dismissal and adopt written policies and rules to effectuate the purposes of sections [121A.40](#) to [121A.56](#). The policies ~~shall~~ must include nonexclusionary disciplinary policies and practices consistent with section 121A.41, subdivision 12, and must emphasize preventing dismissals through early detection of problems ~~and shall~~. The policies must be designed to address students' inappropriate behavior from recurring.

(b) The policies ~~shall~~ must recognize the continuing responsibility of the school for the education of the pupil during the dismissal period.

(c) The school is responsible for ensuring that alternative educational services, if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress ~~towards~~ toward meeting the graduation standards adopted under section [120B.02](#) and help prepare the pupil for readmission in accordance with section 121A.46, subdivision 5.

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(d) For expulsion and exclusion dismissals and pupil withdrawal agreements as defined in section 121A.41, subdivision 13:

(1) for a pupil who remains enrolled in the district or is awaiting enrollment in a new district, a school district's continuing responsibility includes reviewing the pupil's schoolwork and grades on a quarterly basis to ensure the pupil is on track for readmission with the pupil's peers. A school district must communicate on a regular basis with the pupil's parent or guardian to ensure that the pupil is completing the work assigned through the alternative educational services as defined in section 121A.41, subdivision 11. These services are required until the pupil enrolls in another school or returns to the same school;

(2) a pupil receiving school-based or school-linked mental health services in the district under section 245.4889 continues to be eligible for those services until the pupil is enrolled in a new district; and

(3) a school district must provide to the pupil's parent or guardian information on accessing mental health services, including any free or sliding fee providers in the community. The information must also be posted on the district or charter school website.

~~(b)~~ (e) An area learning center under section [123A.05](#) may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

~~(c)~~ (f) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education program from school grounds.

**EFFECTIVE DATE.** This section is effective for the 2023-2024 school year and later.

Sec. 36. Minnesota Statutes 2022, section 121A.58, is amended to read:

## **121A.58 CORPORAL PUNISHMENT; PRONE RESTRAINT; AND CERTAIN PHYSICAL HOLDS.**

Subdivision 1. ~~Definition~~ **Definitions.**

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(a) For the purpose of this section, "corporal punishment" means conduct involving:

(1) hitting or spanking a person with or without an object; or

(2) unreasonable physical force that causes bodily harm or substantial emotional harm.

(b) For the purpose of this section, "prone restraint" means placing a child in a face-down position.

## Subd. 2. **Corporal punishment not allowed.**

An employee or agent of a district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

## Subd. 2a. **Prone restraint and certain physical holds not allowed.**

(a) An employee or agent of a district, including a school resource officer, security personnel, or police officer contracted with a district, shall not use prone restraint.

(b) An employee or agent of a district, including a school resource officer, security personnel, or police officer contracted with a district, shall not inflict any form of physical holding that restricts or impairs a pupil's ability to breathe; restricts or impairs a pupil's ability to communicate distress; places pressure or weight on a pupil's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen; or results in straddling a pupil's torso.

## Subd. 3. **Violation.**



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Conduct that violates subdivision 2 is not a crime under section [645.241](#), but may be a crime under chapter 609 if the conduct violates a provision of chapter 609. Conduct that violates subdivision 2a is not per se corporal punishment under this statute. Nothing in this section or section 125A.0941 precludes the use of reasonable force under section 121A.582.

Sec. 37. Minnesota Statutes 2022, section 121A.61, subdivision 1, is amended to read:

Subdivision 1. **Required policy.** Each school board must adopt a written districtwide school discipline policy which includes written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy must contain the discipline complaint procedure that any member of the school community may use to file a complaint regarding the application of discipline policies and seek corrective action. The policy must be developed in consultation with administrators, teachers, employees, pupils, parents, community members, law enforcement agencies, county attorney offices, social service agencies, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

Sec. 38. Minnesota Statutes 2022, section 121A.61, subdivision 3, is amended to read:

Subd. 3. **Policy components.** The policy must include at least the following components:

(a) rules governing student conduct and procedures for informing students of the rules;

(b) the grounds for removal of a student from a class;

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(c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

(f) provisions relating to the responsibility for and custody of a student removed from a class;

(g) the procedures for return of a student to the specified class from which the student has been removed;

(h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;

(i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;

(j) any procedures determined appropriate for encouraging early detection of behavioral problems;

(k) any procedures determined appropriate for referring a student in need of special education services to those services;

(l) any procedures determined appropriate for ensuring victims of bullying who respond with behavior not allowed under the school's behavior policies have access to a remedial response, consistent with section 121A.031;

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~~(h)~~ (m) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individualized education program of a student with a disability who is removed from class;

~~(i)~~ (n) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;

~~(j)~~ (o) the minimum consequences for violations of the code of conduct;

~~(k)~~ (p) procedures for immediate and appropriate interventions tied to violations of the code;

~~(l)~~ (q) a provision that states that a teacher, school employee, school bus driver, or other agent of a district may use reasonable force in compliance with section [121A.582](#) and other laws;

~~(m)~~ (r) an agreement regarding procedures to coordinate crisis services to the extent funds are available with the county board responsible for implementing sections [245.487](#) to [245.4889](#) for students with a serious emotional disturbance or other students who have an individualized education program whose behavior may be addressed by crisis intervention; **and**

~~(n)~~ (s) a provision that states a student must be removed from class immediately if the student engages in assault or violent behavior. For purposes of this paragraph, "assault" has the meaning given it in section [609.02, subdivision 10](#). The removal shall be for a period of time deemed appropriate by the principal, in consultation with the teacher;

(t) a prohibition on the use of exclusionary practices for early learners as defined in section 121A.425; and

(u) a prohibition on the use of exclusionary practices to address attendance and truancy issues.

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**Sec. 39. Minnesota Statutes 2022, section 121A.61, is amended by adding a subdivision to read:**

Subd. 4. **Discipline complaint procedure.** The discipline policy must contain procedures for students, parents and other guardians, and school staff to file a complaint and seek corrective action when the requirements of sections 121A.40 to 121A.61, including the implementation of the local behavior and discipline policies, are not being implemented appropriately or are being discriminately applied. Each district and school policy implemented under this section must, at a minimum:

(1) provide procedures for communicating this policy including the ability for a parent to appeal a decision under section 121A.49 that contains explicit instructions for filing the complaint;

(2) provide an opportunity for involved parties to submit additional information related to the complaint;

(3) provide a procedure to begin to investigate complaints within three school days of receipt, and identify personnel who will manage the investigation and any resulting record and are responsible for keeping and regulating access to any record;

(4) provide procedures for issuing a written determination to the complainant that addresses each allegation and contains findings and conclusions;

(5) if the investigation finds the requirements of sections 121A.40 to 121A.61, including any local policies that were not implemented appropriately, contain procedures that require a corrective action plan to correct a student's record and provide relevant staff with training, coaching, or other accountability practices to ensure appropriate compliance with policies in the future; and

(6) prohibit reprisals or retaliation against any person who asserts, alleges, or reports a complaint, and provide procedures for applying appropriate consequences for a person who engages in reprisal or retaliation.

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## **Sec. 40. Minnesota Statutes 2022, section 121A.61, is amended by adding a subdivision to read:**

Subd. 5. **School supports.** (a) A school board is strongly encouraged to adopt a policy that promotes the understanding in school staff that when a student is unable to meet adult expectations it is often because the student lacks the skills to respond to a situation appropriately. A school district must support school staff in using tiered interventions that teach students skills and prioritize relationships between students and teachers.

(b) A school board is strongly encouraged to adopt a policy that discourages teachers and staff from reacting to unwanted student behavior with approaches that take away the student's opportunity to build skills for responding more appropriately.

## **Sec. 41. [121A.611] RECESS AND OTHER BREAKS.**

(a) "Recess detention" as used in this chapter means excluding or excessively delaying a student from participating in a scheduled recess period as a consequence for student behavior. Recess detention does not include, among other things, providing alternative recess at the student's choice.

(b) A school district or charter school is encouraged to ensure student access to structured breaks from the demands of school and to support teachers, principals, and other school staff in their efforts to use evidence-based approaches to reduce exclusionary forms of discipline.

(c) A school district or charter school must not use recess detention unless:

(1) a student causes or is likely to cause serious physical harm to other students or staff;

(2) the student's parent or guardian specifically consents to the use of recess detention; or

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(3) for students receiving special education services, the student's individualized education program team has determined that withholding recess is appropriate based on the individualized needs of the student.

(d) A school district or charter school must not withhold recess from a student based on incomplete schoolwork.

(e) A school district or charter school must require school staff to make a reasonable attempt to notify a parent or guardian within 24 hours of using recess detention.

(f) A school district or charter school must compile information on each recess detention at the end of each school year, including the student's age, grade, gender, race or ethnicity, and special education status. This information must be available to the public upon request. A school district or charter school is encouraged to use the data in professional development promoting the use of nonexclusionary discipline.

(g) A school district or charter school must not withhold or excessively delay a student's participation in scheduled mealtimes. This section does not alter a district or school's existing responsibilities under section 124D.111 or other state or federal law.