

As schools continue to adapt to the new state regulations on student discipline, educators have asked questions about the types of actions which count or do not count as a “classroom exclusion.” Specifically, there appears to be some confusion regarding exclusions from a classroom or instructional area for behavioral violations that result in missed instruction for a brief duration. WAC 392-400-025(2) says that “classroom exclusion does not include actions that result in missed instruction for a brief duration when: (a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and (b) The student remains under the supervision of the teacher or other school personnel during such brief duration.” How long is a “brief duration”? To help educators with this question, District administrators, Northshore Education Association leaders and legal counsel have collaborated on the explanation below.

1. Remember the purpose of the change in state regulations.

Before considering the discussion below, remember that our state law on student discipline was changed with the explicit goal of limiting the loss of instructional time for students, and eliminating practices that resulted in exclusions for students of color or students with disabilities more often than other students. Nothing in this document should be read as detracting from an emphasis on these laudable goals.

2. State law does not define “brief duration.”

The student discipline regulations written by OSPI do not define a specific number of minutes which will in every case qualify as a brief duration. Commenting on the absence of a specific number of minutes, OSPI has offered that “evidence-based behavioral interventions and classroom strategies that include brief durations of time away from instruction typically recommend the brief duration not exceed five minutes.” It is important to note that this non-binding reference to five minutes is merely providing one example of a source for determining whether the loss of instructional time was of a “brief duration.” There is no hard-and-fast “five-minute rule.” The purpose and circumstances surrounding a loss of instruction, the nature of the supervision provided, and the other interventions employed to support the student meeting behavioral expectations may be as equally relevant as the number of minutes involved. Although the ambiguity of the term “brief duration” may require a more nuanced, complex analysis of particular facts, educators should recognize that the absence of a fixed and definitive number of minutes provides valuable flexibility for meeting the individual needs of students.

3. Actions that count as a “classroom exclusion” may still occur.

There are many legitimate, professionally responsible reasons for excluding a student from a class even if that action is longer than a brief duration or otherwise meets the definition of “classroom exclusion.” When an action meets that definition, there is a requirement in state regulations to notify a school administrator and the parents as

soon as reasonably possible. Communication with parents often is a valuable tool, and nothing in this document should be read as an attempt to avoid notifying parents. Communication with parents may be an appropriate intervention regardless of whether the time away from instruction counts as a classroom exclusion under the student discipline regulations. When educators disagree on whether a student's time away from instruction was for a legitimate, professionally responsible reason, we suggest that the conversation between educators focus on the professional practice of successful classroom management rather than an arbitrary number of minutes.

We recognize that ambiguous terms like "brief duration" present implementation challenges for educators who strive to be consistent and fair in their application of the rules. We encourage you to contact your administrator(s) for assistance in reviewing any specific set of facts related to an incident and the intervention strategies you have attempted.