

The Minnesota Department of Education (MDE), Division of Compliance and Assistance has developed this document to provide technical assistance to districts that have raised questions about the procedures by which a student may be dismissed from a state-approved alternative program (SAAP) as a result of disciplinary/attendance issues or due to the student's lack of academic progress. The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal situation. This document may not include a complete rendition of applicable state and federal law.

Question 1: When may a student attend a state-approved alternative program (SAAP)?

Answer: As set forth in Minnesota Statutes, section 124D.128, Subdivision 2, a student must be served by a SAAP if the student meets the criteria in Minnesota Statutes, section 124D.68, and is enrolled in a district that is served by a SAAP or a charter school located within the geographical boundaries of a district served by the SAAP.

Authority: Minn. Stat. §§ 124D.128, Subd. 2 and 124D. 68

Question 2: Can a public school district or charter school transfer a student from a traditional middle school or high school to a SAAP without the student's and the student's parent or guardian's permission?

Answer: No. As set forth in Minnesota Statutes, section 124D.128, Subdivision 3,

A district, charter school or state-approved alternative program must inform all pupils and their parents about the learning year program and that participation in the program is optional. A continual learning plan must be developed, at least annually, for each pupil with the participation of the pupil, parent or guardian, teachers, and other staff; each participant must sign and date the plan.

Authority: Minn. Stat. § 124D.128, Subd. 3

Question 3: What process must a SAAP administrator follow when a student has disciplinary issues while at the SAAP?

Answer: The SAAP administrator must comply with the Pupil Fair Dismissal Act (PFDA) when disciplining a student. The PFDA, found in Minnesota Statutes, sections 121A.41 through 121A.56, can be accessed at the MDE or Minnesota State Legislature website at <https://www.revisor.mn.gov/statutes>.

Authority: Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.41 through 121A.56

Question 4: What if the student being disciplined is a special education student?

Answer: For detailed information about the state and federal disciplinary law regulating the disciplinary proceedings for special education students, *Minnesota's Pupil Fair Dismissal Act: Frequently Asked Questions* the MDE website (www.state.mn.us > Student Success > Student Rights > Student Discipline and Truancy > Student Fair Dismissal Act).

Authority: 34 C.F.R. §§ 300.34, 300.530, 300.531, and 300.536

Question 5: May an administrator at a SAAP discipline a student for violation of the disciplinary or attendance policies by asking the student to “take a break” and return after a period of time?

Answer: No. The PFDA prescribes that a student cannot be suspended for more than 10 school days for a particular disciplinary incident. However, the suspension can be extended to 15 school days if the SAAP initiates an expulsion action for a particular disciplinary incident.

Authority: Minn. Stat. §121A.42, Subd. 10

Question 6: What process must be followed if SAAP staff believes that a special education student's placement at a SAAP is no longer appropriate?

Answer: For students receiving special education services who are placed at a SAAP by the individual education program (IEP) team, the decision to change the student's placement would occur through the IEP process. The IEP team would review the student's progress on his or her IEP goals to determine whether another placement would be appropriate. In those cases, the IEP team must

make a new placement before a special education student can be removed from the SAAP.

Authority: 34 C.F.R. §§ 300.116 and 300.324(a)-(b)