

Kentucky Division of Child Care Suspension and Expulsion Policy

The Division of Child Care and our partners are committed to providing resources to child care programs and families to assist in preventing suspension and expulsion of children.

It is best practice that child care programs in Kentucky develop written policies and procedures to prevent suspension and expulsion in their centers. Child care programs should focus on developing social and emotional development and responding to challenging behaviors by incorporating positive discipline practices before considering suspension and expulsion from their programs.

During a child's early years of life, their brains are developing quickly, and are influenced by positive and negative experiences that they share within their community. A child's early years set the future for the relationships and successes they will experience for the rest of their lives. Therefore, it is important that children's early experiences foster their development and do not hinder or create adverse childhood experiences. Suspension and expulsion in early childhood settings and elementary school settings are two extremely negative experiences young children and their families experience. Programs should use tools to prevent and severely limit suspension and expulsion and develop and communicate clear guidance and discipline practices to all staff and families.

Child care programs should evaluate their environment/climate of their centers. Sometimes an environment can have a negative impact on a child's development. For example, a child that is temporarily removed from classroom to classroom or sent to some other part of the center for part of the day, may respond in a way that is often seen as a "problem behavior." However, it is developmentally appropriate for a child to "act out" if their schedule or transitions are disrupted. This can also include when a child is removed to spend time with a counselor or behavioral therapist. Child care programs will find in the Resources for Child Care Providers on Suspension and Expulsion, training from [Child Care Aware](#) that can assist them in creating an appropriate environment and addressing external transitions.

Suspension and expulsion in child care programs may delay or interfere with the process of addressing underlying undiagnosed disabilities or other mental health issues. Simply expelling these children may delay or entirely prevent these children from receiving the evaluations or referrals they need to obtain services. All child care programs should comply with applicable legal requirements surrounding the discipline relating to a child's disability, per the [PART 104 - NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE](#). The discipline of a child for misconduct caused by or relating to a child's disability must include implementing reasonable modification to program's policies, practices, or procedures to ensure children are not suspended or expelled because of their disability-related behaviors. An exception to this legal requirement is unless a program can demonstrate that making such modifications would result in a fundamental alteration in the nature of a service, program, or activity. (34 C.F.R. §§ 104.4, 104.38; 28 C.F.R. § 35.130(b)(1), (7)).

According to the U.S. Department of Health and Human Services and U.S. Department of Education:

"Programs should also pay distinct attention to the language they use in shaping children's behavior and communicating with families. Language commonly used in the criminal justice system, such as the use of "probation plans" or "three strikes and you are out" frameworks, should not be applied to discipline

frameworks in early childhood programs (e.g. “three bites and you are out”). These terms connote criminal behavior and inappropriately label children.”

Furthermore, all child care programs and families need to be aware that suspensions and expulsions of children, administered in a discriminatory manner, may violate Federal civil rights laws. DCC and its partners are committed to ensuring providers develop appropriate policies.

Federal civil rights laws prohibit discrimination in child care programs. These laws include:

- Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d - 2000d-7: Prohibits discrimination based on race, color, or national origin by recipients of Federal financial Assistance.
- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 – 1688: Prohibits discrimination based on sex by recipients of Federal financial assistance.
- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794: Prohibits discrimination based on disability by recipients of Federal financial assistance.
- Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 – 12134: Prohibits discrimination based on disability by state and local governments, regardless of whether they receive Federal financial assistance.
- Title III of the American with Disabilities Act, 42 U.S.C. §§ 12181 – 12189: Prohibits disability discrimination in most private early childhood programs.