

# Denial of School Enrollment & Expulsion Legislative Summary

HB 236

## OVERVIEW

During the 2025 legislative session Idaho Code 33-205 was amended by House Bill (HB) 236 to further address grounds for the denial of enrollment or expulsion of a student from an Idaho public school. These changes, effective July 1, 2025, are intended to close certain loopholes that existed in Idaho Code 33-205, including the enrollment of students who would have been expelled, but elected to withdraw from school and subsequently enrolled in another school district or charter school, or those students who were convicted of a serious crime outside of the school setting, and continued to attend school.

Idaho Code 33-205 provisions regarding grounds for denial of enrollment or expulsion of school-aged students include the following existing provisions and the new provisions:

Existing Provisions	NEW Provisions
Habitual truancy	Enrollment was denied at another school due to behavior detrimental to the health and safety of other students.
Conduct continuously disruptive of student discipline or instructional effectiveness, as determined by the board of trustees.	A student disenrolled in lieu of discipline from another school in Idaho or any other state.
Presence at school is detrimental to the health and safety of other students.	Conviction or adjudication for any offense identified in Idaho Code 20-525A(5) or Idaho Code Title 18, Chapters 9, 61 or 66.
Possession of a deadly or dangerous weapon or firearm on school property.	Parent or Guardian failure to disclose conviction or adjudication when seeking enrollment.
Expelled from another school in Idaho or any other state.	

## Q & A

### Q. What are the crimes enumerated in Idaho Code 20-525A(5)?

A. The following serious crimes are listed in Idaho Code 20-525A(5), along with the corresponding code sections for each crime:

- (a) Administering poison with intent to kill ([18-4014](#), Idaho Code);
- (b) Aggravated battery ([18-907](#), Idaho Code);
- (c) Armed robbery ([chapter 65, title 18](#), Idaho Code);
- (d) Arson ([chapter 8, title 18](#), Idaho Code);
- (e) Assault with intent to commit a serious felony ([18-909](#), Idaho Code);
- (f) Assault with intent to murder ([18-4015](#), Idaho Code);
- (g) Assault or battery upon certain personnel, felony ([18-915](#), Idaho Code);
- (h) Forcible sexual penetration by use of a foreign object ([18-6604](#), Idaho Code);
- (i) Injury to child, felony ([18-1501](#), Idaho Code);
- (j) Kidnapping ([18-4501](#), Idaho Code);
- (k) Murder of any degree ([18-4001](#) and [18-4003](#), Idaho Code);
- (l) Rape, excluding statutory rape ([18-6101](#), Idaho Code);
- (m) Ritualized abuse of a child ([18-1506A](#), Idaho Code);
- (n) Sexual exploitation of a child ([18-1507](#), Idaho Code);
- (o) Unlawful use of destructive device or bomb ([18-3320](#), Idaho Code);
- (p) Voluntary manslaughter ([18-4006](#) 1., Idaho Code);
- (q) A violation of the provisions of section [37-2732\(a\)\(1\)\(A\)](#), (B) or (C), Idaho Code, [a controlled substance] when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds that were, at the time of the violation, being used for an activity sponsored by or through such a school; or

- (r) A violation of the provisions of section [37-2732B](#), Idaho Code, [a counterfeit substance classified as a narcotic drug] related to drug trafficking or manufacturing of illegal drugs.

**Q. What are the crimes enumerated in Idaho Code Title 18, Chapters 9, 61 and 66?**

A. Title 18, Chapter 9 addresses assault and battery

Title 18, Chapter 61 addresses rape

Title 18, Chapter 66 addresses sex crimes

**Q. If a student is denied enrollment based on the grounds set forth in Idaho Code 33-205, does the student have a right to a hearing?**

A. Yes. When a student is denied enrollment for grounds set forth in Idaho Code 33-205, the district in which the student is attempting to enroll must give the student the same due process hearing rights as are given to a student during the expulsion process. However, the sole issue at the hearing is to determine whether the student requesting enrollment is the same student that was expelled or denied enrollment by another school or district.

**Q. Do the existing and new provisions in Idaho Code 33-205 regarding denial of school enrollment also apply to students seeking to enroll, or who are enrolled through an out-of-district's open enrollment [Enrollment Options] policy?**

A. Yes. The amendments set forth in HB 236 also amended Idaho Code 33-1402 by including the same language that a student with a conviction or adjudication of the crimes set forth above may be denied open enrollment [Enrollment Options]. If the student is enrolled out-of-district at the time the crime occurred, that student is ineligible to again apply for open enrollment, or if enrolled, open enrollment may be revoked. Prior to the revocation of open enrollment, the student would have the right to a hearing. The sole issue at the hearing is to determine whether the student was convicted of one or more of the crimes listed above.

**Q. If a parent seeks to enroll a student in a district and fails to disclose the student's conviction of any of the crimes listed above, can the student be denied enrollment or be expelled if enrolled?**

A. Yes. A parent's failure to disclose a conviction is adequate grounds to deny enrollment or attendance of the student. However, any time a student is denied enrollment, or expulsion is considered, the student has a right to a hearing. The sole issue at the hearing is to determine whether the student was convicted of one or more of the crimes listed above.

**Q. Do the new grounds for denial of enrollment or expulsion apply to students with disabilities under the Individuals with Disabilities Education Act (IDEA)?**

**A.** Yes. Although students with disabilities are entitled to the same due process rights as nondisabled students, the IDEA provides additional rights to students with disabilities. If all of the disciplinary requirements set forth in the IDEA are correctly followed and it is determined that the grounds for expulsion or denial of enrollment are not a manifestation of a student's disability, the student may be expelled or denied enrollment, although educational services may not cease. The determination of which school or district is responsible for providing ongoing educational services in an alternate location will depend on the residency of the student or the boundaries of the LEA.

**Q. If a student unenrolls from an LEA to evade discipline and the LEA has not conducted the Manifestation Determination (MDR) process, is the new LEA required to conduct an MDR before pursuing a hearing to determine if the student is the same student who unenrolled from the previous LEA?**

**A.** No. If an LEA (LEA #1) proposes to change a student's placement for disciplinary reasons, and the student with a disability unenrolls from LEA #1 prior to LEA #1 conducting a Manifestation Determination Review (MDR), a MDR could be held by LEA #1, either immediately, or upon reenrollment, as discussed below. LEA #1 continues to have jurisdiction over the student's actions that occurred while enrolled and LEA #1 has pertinent information and knowledge regarding the student's behavior which resulted in a proposed change in placement for disciplinary reasons.

If LEA #1 determines, through the MDR, that the student's actions resulting in a proposed change in placement for disciplinary reasons were related to the student's disability, the student continues to have a right to receive FAPE from LEA #1 upon reenrollment in the student's LRE. On the other hand, if LEA #1 determined the disciplinary infraction was not related to the student's disability, the student continues to have the right to receive FAPE from LEA #1 upon reenrollment, although the educational services may be in an alternate location.

LEA #2, in which the student is seeking to enroll, does not have an obligation to conduct an MDR, as LEA #2 does not have knowledge about the student's behavior or violation of LEA #1's code of conduct. However, a hearing must be held by LEA #2 to ensure the student seeking to enroll in LEA #2 is the same student who disenrolled from LEA #1 in lieu of discipline.

**Q. Do the new grounds for denial of enrollment or expulsion apply to students with disabilities under Section 504 of the 1973 Rehabilitation Act (Section 504)?**

**A.** Yes. Students with disabilities are entitled to the same due process rights as nondisabled students. Section 504 provides additional rights to students with disabilities. The same process discussed in the previous question applies to students with disabilities under Section 504. If all of the disciplinary requirements set forth in Section 504 are correctly followed by LEA #1 and it is determined that the grounds for expulsion or denial of enrollment are a manifestation of the student's disability, educational services cannot cease. However, unlike the IDEA, if it is

determined that the student's actions were not a manifestation of a student's disability, the student may be expelled or denied enrollment, and educational services may cease, if educational services are not provided to similarly situated students without disabilities.

**Additional Resource:** [\*The Educator's Guide to Student Discipline and Supports\*](#)

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**For Questions Contact**

Special Education Department  
Idaho Department of Education  
650 W State Street, Boise, ID 83702  
208 332 6896 | [www.sde.idaho.gov](http://www.sde.idaho.gov)