

# MEMORANDUM

TO: Superintendents, Approved Independent School Heads  
FROM: Daniel M. French, Ed.D., Secretary of Education *DMF*  
SUBJECT: New Requirement: Ban on Suspension and Expulsion of Students Under Age Eight  
DATE: August 3, 2022

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## Background

On June 1, 2022, Act 35 was updated, through the adoption of S.283, to include an amendment related to approved independent schools and private prekindergarten education programs.

Act 35 is intended to reduce the incidence of suspension and expulsion in Vermont public schools, approved independent schools and private prekindergarten education programs, and to ensure that, where disciplinary exclusion is necessary, it is applied equitably across public school systems and in accordance with State Board of Education (SBE) Rule Series 2200.

This memo is intended to inform supervisory unions/supervisory districts (SU/SDs), approved independent schools and private prekindergarten education programs of the updated requirements that must be adhered to, as stipulated in Act 35, as a part of planning for SY22-23. The amendment expands the existing suspension/expulsion restrictions described in Act 35 or 2021 (outlined below).

## Suspension and Expulsion of Students Under 8 Years Old

Act 35 adds a section (d) to 16 V.S.A. § 1162, banning suspension and expulsion of students under eight years old, except in cases of imminent harm or danger to others. The full text of the section follows:

*Sec. 3. 16 V.S.A. § 1162 SUSPENSION OR EXPULSION OF STUDENTS (d)  
Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.*

Additionally, S.283 introduced an amendment to Act 35 expanding these restrictions to approved independent schools and private prekindergarten education programs. The full text

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## Contact Information:

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of the relevant updated language to Act 35 follows; the language added through the amendment is bolded:

*Sec. 3. 16 V.S.A. § 1162 SUSPENSION OR EXPULSION OF STUDENTS (d)*  
*Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school, **approved independent school, or prequalified private prekindergarten program** who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.*

Prior to Act 35 of 2021, this subchapter did not make separate provisions for children under 8. Going forward, suspension and expulsion will not be allowed for students under age eight enrolled in public schools (including public PreK), approved independent schools, and private prekindergarten education programs, except in the very rare occurrences when a student poses an imminent threat of harm or danger to others in the school. This restriction took effect upon the passage of the amendment to Act 35.