

CHAPTER 139**(HB 688)**

AN ACT relating to expelled or suspended students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.150 is amended to read as follows:

- (1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:
 - (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and
 - (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.
- (2)
 - (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. ***In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.***
 - (b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student ~~posed~~^{poses} a threat to the safety of other students or school staff and ~~could not~~^{cannot} be placed into a state-funded agency program. ***Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others.*** Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. ~~[In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.]~~
- (3) ***For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that if a student is suspended or expelled for any reason, or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing, from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission.***
- (4) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

~~(5)~~~~(4)~~ A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

- (a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;
- (b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and
- (c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

~~(6)~~~~(5)~~ The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

~~(7)~~~~(6)~~ (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

- 1. The child is removed for more than ten (10) consecutive days during a school year; or
 - 2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.
- (b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.
 - (c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

~~(8)~~~~(7)~~ Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

~~(9)~~ ***Any action under this section related to students with disabilities shall be in compliance with applicable federal law.***

Approved April 4, 2006.