

AN ACT relating to the safety and well-being of students.

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

➔Section 1. KRS 158.440 is amended to read as follows:

The General Assembly finds that:

- (1) Every student should have access to a safe, secure, and orderly school that is conducive to learning;
- (2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior, ***including but not limited to the harassment, intimidation, cyberbullying, or bullying of another student***; and
- (3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

➔Section 2. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) ***"Harassment, intimidation, cyberbullying, or bullying" means a repeated verbal, nonverbal, electronic, or written communication transmitted; repeated physical acts committed; or any repeated behavior committed by a student against another student on school premises, on school-sponsored transportation, or at a school-sponsored event with intent to injure, intimidate, alienate, or threaten another student that results in:***
 - (a) Physically harming a student;***
 - (b) Damaging or stealing a student's property;***
 - (c) Substantially disrupting the orderly operation of the school; or***
 - (d) Creating a hostile environment that substantially interferes with a student's educational benefits, opportunities, or performance.***

This definition shall not be interpreted to prohibit civil exchange of opinions or

debate or cultural practices protected under the state or federal Constitution if the opinion expressed does not otherwise materially or substantially disrupt the education process.

(2) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs;

~~**(3)**~~~~**(2)**~~ "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district; and

~~**(4)**~~~~**(3)**~~ "School security officer" means a person employed by a local board of education who has been appointed a special law enforcement officer pursuant to KRS 61.902 and who has specialized training to work with youth at a school site.

➔Section 3. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Kentucky Association of Professional Educators, the Kentucky Association of School Superintendents, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop or update as needed and

distribute to all districts by August 31 of each even-numbered year, beginning August 31, 2008:

- (a) Statewide student discipline guidelines to ensure safe schools, including the definition of serious incident for the reporting purposes as identified in KRS 158.444;
 - (b) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement; and
 - (c) A model policy to implement the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080.
- (2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.
- (3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles and legal requirements to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.
- (4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board. The code shall be updated no less frequently than every two (2) years, with the first update being completed by November 30, 2008.
- (a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be

responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

- (b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.
- (c) **The code shall prohibit the harassment, intimidation, cyberbullying, or bullying of a student. The definition used in the code shall be no less inclusive than the definition in Section 2 of this Act.**
- (d)** The code shall contain:
1. Procedures for identifying, documenting, and reporting incidents of violations of the code and incidents for which reporting is required under KRS 158.156;
 2. Procedures for investigating and responding to a complaint or a report of a violation of the code or of an incident for which reporting is required under KRS 158.156, including reporting incidents to the parents, legal guardians, or other persons exercising custodial control or supervision of the students involved;
 3. A strategy or method of protecting from retaliation a complainant or person reporting a violation of the code or an incident for which reporting is required under KRS 158.156;
 4. A process for **annually** informing students, parents, legal guardians, or other persons exercising custodial control or supervision, and school

employees of the requirements of the code and the provisions of this section and KRS 158.156, 158.444, 525.070, and 525.080, including training for school employees; and

5. Information regarding the consequences of violating the code and violations reportable under KRS 158.154, 158.156, or 158.444.

~~(e)~~~~(d)~~ The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

~~(f)~~~~(e)~~ A copy of the code of behavior and discipline adopted by the board of education shall be posted in a prominent location in~~at~~ each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents, legal guardians, or other persons exercising custodial control or supervision shall be provided copies of the code.

(g) A local school district shall:

1. To the extent state or federal funds are appropriated and available, provide training to school employees who have direct contact with students on the district's code of acceptable behavior and discipline. The training shall include but not be limited to strategies to identify, report, respond to, investigate, prevent, and encourage the students' reporting of harassment, intimidation, cyberbullying, or bullying; and
2. Incorporate information regarding the code of acceptable behavior and discipline in employee training provided by the district.

(h) A school employee or student shall be individually immune from a cause of action for damages arising from reporting in good faith an incident of a student's disruptive or disorderly behavior if school and school district procedures are followed regarding the report.

→Section 4. 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 harassment, intimidation, cyberbullying, or bullying 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 *or other appropriate disciplinary action*; 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 *or other appropriate disciplinary action*.
- (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 a threat to the safety of other students or school staff and could not 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.

- (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) 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) 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) (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) 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.

➔Section 5. KRS 158.444 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.
- (2) The Kentucky Department of Education shall:
 - (a) Collaborate with the Center for School Safety in carrying out the center's mission;
 - (b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:
 1. a. All incidents of violence and assault against school employees and students;
 - b. All incidents of possession of guns or other deadly weapons on school property or at school functions;
 - c. All incidents of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions;~~and~~
 - d. All incidents in which a student has been disciplined by the school for a serious incident, including the nature of the discipline, or charged criminally for conduct constituting a violation of any offense specified in KRS Chapter 508; KRS 525.070 occurring on school premises, on school-sponsored transportation, or at school functions; or KRS 525.080; ***and***

e. All incidents in which a student has been disciplined for harassment, intimidation, cyberbullying, or bullying of another student three (3) times in a single semester, or where an individual student has been the object of three (3) or more separate documented incidents of harassment, intimidation, cyberbullying, or bullying;

2. The number of arrests, the charges, and whether civil damages were pursued by the injured party;
 3. The number of suspensions, expulsions, and corporal punishments; and
 4. Data required during the assessment process under KRS 158.445; and
- (c) Provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.
- (3) The Department of Education shall provide the Office of Education Accountability and the Education Assessment and Accountability Review Subcommittee with an annual statistical report of the number and types of incidents reported under subsection (2)(b) of this section. The report shall include all monthly data and cumulative data for each reporting year. Reportable incidents shall be grouped in the report in the same manner that the reportable incidents are grouped in subsection (2)(b)1. of this section. Data in the report shall be sorted by individual school district, then by individual schools within that district, and then by individual grades within each school. The report shall not contain information personally identifying any student. The reporting period shall be for an academic year, and shall be delivered no later than August 31 of each year.
- (4) All personally identifiable student data collected pursuant to subsection (2)(b) of this section shall be subject to the confidentiality provisions of the Kentucky Family Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its

implementing regulations.

- (5) Parents, legal guardians, or other persons exercising custodial control or supervision shall have the right to inspect or challenge the personally identifiable student records as permitted under the Kentucky Family Education Rights and Privacy Act and the federal Family Educational Rights and Privacy Act and implementing regulations.
- (6) Data collected under this section on an individual student committing an incident reportable under subsection (2)(b)1. of this section shall be placed in the student's disciplinary record.

➔Section 6. KRS 525.080 is amended to read as follows:

- (1) A person is guilty of harassing communications when, with intent to intimidate, harass, annoy, or alarm another person, he or she:
 - (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication;
 - (b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication; or
 - (c) Communicates, while enrolled as a student in a local school district, with or about another school student, anonymously or otherwise, by telephone, the Internet, telegraph, mail, or any other form of electronic or written communication in a manner which a reasonable person under the circumstances should know would cause the other student to suffer fear of physical harm, intimidation, humiliation, or embarrassment and which serves no purpose of legitimate communication.
- (2) Harassing communications is a Class B misdemeanor.