

1 AN ACT relating to expulsion of students.

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

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

4 (1) All students~~[pupils]~~ admitted to the common schools shall comply with the lawful
5 regulations for the government of the schools:

6 (a) Willful disobedience or defiance of the authority of the teachers or
7 administrators;~~;~~ use of profanity or vulgarity;~~;~~ assault or battery or abuse
8 of other students;~~;~~ the threat of force or violence;~~;~~ the use or possession of
9 alcohol, drugs, or any intoxicating tetrahydrocannabinol product~~;~~ ~~or~~
10 ~~drugs~~;~~;~~ stealing or destruction or defacing of school property or personal
11 property of students;~~;~~ the carrying or use of weapons or dangerous
12 instruments;~~;~~ or other incorrigible bad conduct on school property, as well
13 as off school property at school-sponsored activities, constitutes cause for
14 suspension or expulsion from school; and

15 (b) Assault or battery or abuse of school personnel; stealing or willfully or
16 wantonly defacing, destroying, or damaging the personal property of school
17 personnel on school property, off school property, or at school-sponsored
18 activities constitutes cause for suspension or expulsion from school.

19 (2) (a) Each local board of education shall adopt a policy requiring the expulsion
20 from school for a period of at least twelve (12) months~~[not less than one (1)~~
21 ~~year]~~ for a student who:

22 1. Is determined by the board through clear and convincing evidence to
23 have made threats that pose a danger to the well-being of students,
24 faculty, or staff of the district; or

25 2. Is determined by the board to have brought a weapon to a school under
26 its jurisdiction. In determining whether a student has brought a weapon
27 to school, a local board of education shall use the definition of "unlawful

1 possession of a weapon on school property" stated in KRS 527.070.

2 (b) The board shall also adopt a policy requiring disciplinary actions, up to and
3 including expulsion from school, for a student who is determined by the board
4 to have possessed prescription drugs or controlled substances for the purpose
5 of sale or distribution at a school under the board's jurisdiction, or to have
6 physically assaulted or battered or abused educational personnel or other
7 students at a school or school function under the board's jurisdiction.

8 **(3) (a)** The board may modify the expulsion requirement **and length** for students on a
9 case-by-case basis, **except that the length of expulsion shall be twelve (12)**
10 **months or longer for the reasons described in subsection (2)(a) of this**
11 **section.**

12 **(b) Nothing in this section shall prohibit a board from expelling a student for**
13 **longer than twelve (12) months.**

14 **(c)** A board that has expelled a student from the student's regular school setting
15 shall provide or assure that educational services are provided to the student in
16 an appropriate alternative program or setting, unless the board has made a
17 determination, on the record, supported by clear and convincing evidence, that
18 the expelled student posed a threat to the safety of other students or school
19 staff and could not be placed into a state-funded agency program. Behavior
20 which constitutes a threat shall include but not be limited to the physical
21 assault, battery, or abuse of others; the threat of physical force; being under
22 the influence of **alcohol, drugs, or any intoxicating tetrahydrocannabinol**
23 **product**~~[or alcohol]~~; the use, possession, sale, or transfer of **alcohol, drugs, or**
24 **any intoxicating tetrahydrocannabinol product**~~[or alcohol]~~; the carrying,
25 possessing, or transfer of weapons or dangerous instruments; and any other
26 behavior which may endanger the safety of others. Other intervention services
27 as indicated for each student may be provided by the board or by agreement

1 with the appropriate state or community agency. A state agency that provides
2 the service shall be responsible for the cost.

3 ~~(4)~~⁽³⁾ For purposes of this subsection, "charges" means substantiated behavior that
4 falls within the grounds for suspension or expulsion enumerated in subsection (1) of
5 this section, including behavior committed by a student while enrolled in a private
6 or public school, or in a school within another state. A school board may adopt a
7 policy providing that, if a student is suspended or expelled for any reason or faces
8 charges that may lead to suspension or expulsion but withdraws prior to a hearing
9 from any public or private school in this or any other state, the receiving district
10 may review the details of the charges, suspension, or expulsion and determine if the
11 student will be admitted, and if so, what conditions may be imposed upon the
12 admission.

13 ~~(5)~~⁽⁴⁾ School administrators, teachers, or other school personnel may immediately
14 remove or cause to be removed threatening or violent students from a classroom
15 setting or from the district transportation system pending any further disciplinary
16 action that may occur. Each board of education shall adopt a policy to assure the
17 implementation of this section and to assure the safety of the students and staff.

18 ~~(6)~~⁽⁵⁾ A student~~[pupil]~~ shall not be suspended from the common schools until after
19 at least the following due process procedures have been provided:

- 20 (a) The student~~[pupil]~~ has been given oral or written notice of the charge or
21 charges against him or her which constitute cause for suspension;
- 22 (b) The student~~[pupil]~~ has been given an explanation of the evidence of the
23 charge or charges if the pupil denies them; and
- 24 (c) The student~~[pupil]~~ has been given an opportunity to present his or her own
25 version of the facts relating to the charge or charges.

26 These due process procedures shall precede any suspension from the common
27 schools unless immediate suspension is essential to protect persons or property or to

1 avoid disruption of the ongoing academic process. In such cases, the due process
 2 procedures outlined above shall follow the suspension as soon as practicable, but no
 3 later than three (3) school days after the suspension.

4 ~~(7)(6)~~ **(a)** The superintendent, principal, assistant principal, or head teacher of any
 5 school may suspend a student~~[pupil]~~ but shall report the action in writing
 6 immediately to the superintendent and to the parent, guardian, or other person
 7 having legal custody or control of the student~~[pupil]~~.

8 **(b) 1.** The board of education of any school district may expel ***or extend the***
 9 ***expulsion of*** any student~~[pupil]~~ for misconduct as defined in subsection
 10 (1) of this section, but the action shall not be taken until the parent,
 11 guardian, or other person having legal custody or control of the
 12 student~~[pupil]~~ has had an opportunity to have a hearing before the
 13 board. The decision of the board shall be final.

14 **2.** ***Within thirty (30) days prior to the end of a student's expulsion, the***
 15 ***board shall review the details of the expulsion and current factors and***
 16 ***circumstances, including if ending the expulsion will substantially***
 17 ***disrupt the education process or constitute a threat to the safety of***
 18 ***students or school staff, to determine if the expulsion shall be***
 19 ***extended for a period not to exceed twelve (12) months.***

20 **3.** ***The expulsion review process shall be used prior to the end of each***
 21 ***expulsion period until the board ends the expulsion or the student is***
 22 ***no longer subject to compulsory attendance under KRS 159.010.***

23 **4.** ***Each board of education shall adopt a policy for implementation of***
 24 ***the process described in this paragraph.***

25 ~~(8)(7)~~ **(a)** Suspension of exceptional children, as defined in KRS 157.200, shall be
 26 considered a change of educational placement if:

27 1. The child is removed for more than ten (10) consecutive days during a

1 school year; or

2 2. The child is subjected to a series of removals that constitute a pattern
3 because the removals accumulate to more than ten (10) school days
4 during a school year and because of other factors, such as the length of
5 each removal, the total amount of time the child is removed, and the
6 proximity of removals to one another.

7 (b) The admissions and release committee shall meet to review the placement and
8 make a recommendation for continued placement or a change in placement
9 and determine whether regular suspension or expulsion procedures apply.
10 Additional evaluations shall be completed, if necessary.

11 (c) If the admissions and release committee determines that an exceptional child's
12 behavior is related to his or her disability, the child shall not be suspended
13 any further or expelled unless the current placement could result in injury to
14 the child, other children, or the educational personnel, in which case an
15 appropriate alternative placement shall be provided that will provide for the
16 child's educational needs and will provide a safe learning and teaching
17 environment for all. If the admissions and release committee determines that
18 the behavior is not related to the disability, the local educational agency may
19 pursue its regular suspension or expulsion procedure for the child, if the
20 behavior so warrants. However, educational services shall not be terminated
21 during a period of expulsion and during a suspension after a student is
22 suspended for more than a total of ten (10) days during a school year. A
23 district may seek temporary injunctive relief through the courts if the parent
24 and the other members of the admissions and release committee cannot agree
25 upon a placement and the current placement will likely result in injury to the
26 student or others.

27 ~~(9)(8)~~ Suspension of primary school students shall be considered only in exceptional

1 cases where there are safety issues for the child or others.

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

4 ➔Section 2. KRS 158.155 is amended to read as follows:

- 5 (1) If a student has been adjudicated guilty of an offense specified in this subsection or
6 has been expelled from school for an offense specified in this subsection, prior to a
7 student's admission to any school, the parent, guardian, principal, or other person or
8 agency responsible for a student shall provide to the school a sworn statement or
9 affirmation indicating on a form provided by the Kentucky Board of Education that
10 the student has been adjudicated guilty or expelled from school attendance at a
11 public or private school in this state or another state for homicide, assault, or an
12 offense in violation of state law or school regulations relating to weapons, alcohol,
13 drugs, or any intoxicating tetrahydrocannabinol product~~[or drugs]~~. The sworn
14 statement or affirmation shall be sent to the receiving school within five (5)
15 working days of the time when the student requests enrollment in the new school.
- 16 (2) If any student who has been expelled from attendance at a public or private school
17 in this state for homicide, assault, or an offense in violation of state law or school
18 regulations relating to weapons, alcohol, drugs, or any intoxicating
19 tetrahydrocannabinol product~~[or drugs]~~ requests transfer of his or her records,
20 those records shall reflect the charges and final disposition of the expulsion
21 proceedings.
- 22 (3) If any student who is subject to an expulsion proceeding at a public or private
23 school in this state for homicide, assault, or an offense in violation of state law or
24 school regulations relating to weapons, alcohol, drugs, or any intoxicating
25 tetrahydrocannabinol product~~[or drugs]~~ requests transfer of his or her records to a
26 new school, the records shall not be transferred until that proceeding has been
27 terminated and shall reflect the charges and any final disposition of the expulsion

1 proceedings.

2 (4) A person who is an administrator, teacher, or other employee of a public or private
3 school shall promptly make a report to the local police department, sheriff, or the
4 Department of Kentucky State Police, by telephone or otherwise, if:

5 (a) The person knows or has reasonable cause to believe that conduct has
6 occurred which constitutes:

7 1. A misdemeanor or violation offense under the laws of this
8 Commonwealth and relates to:

9 a. Carrying, possession, or use of a deadly weapon; or

10 b. Use, possession, or sale of controlled substances; or

11 2. Any felony offense under the laws of this Commonwealth; and

12 (b) The conduct occurred on the school premises or within one thousand (1,000)
13 feet of school premises, on a school bus, or at a school-sponsored or
14 sanctioned event.

15 (5) A person who is an administrator, teacher, supervisor, or other employee of a public
16 or private school who receives information from a student or other person of
17 conduct which is required to be reported under subsection (1) of this section shall
18 report the conduct in the same manner as required by that subsection.

19 (6) Neither the husband-wife privilege of KRE 504 nor any professional-client
20 privilege, including those set forth in KRE 506 and 507, shall be a ground for
21 refusing to make a report required under this section or for excluding evidence in a
22 judicial proceeding of the making of a report and of the conduct giving rise to the
23 making of a report. However, the attorney-client privilege of KRE 503 and the
24 religious privilege of KRE 505 are grounds for refusing to make a report or for
25 excluding evidence as to the report and the underlying conduct.

26 (7) Nothing in this section shall be construed as to require self-incrimination.

27 (8) A person acting upon reasonable cause in the making of a report under this section

1 in good faith shall be immune from any civil or criminal liability that might
2 otherwise be incurred or imposed from:

- 3 (a) Making the report; and
- 4 (b) Participating in any judicial proceeding that resulted from the report.

5 ➔Section 3. KRS 158.444 is amended to read as follows:

- 6 (1) The Kentucky Board of Education shall promulgate appropriate administrative
7 regulations relating to school safety, student discipline, and related matters.
- 8 (2) The Kentucky Department of Education shall:
 - 9 (a) Collaborate with the Center for School Safety in carrying out the center's
10 mission;
 - 11 (b) Establish and maintain a statewide data collection system by which school
12 districts shall report by sex, race, and grade level:
 - 13 1. a. All incidents of violence and assault against school employees and
14 students;
 - 15 b. All incidents of possession of guns or other deadly weapons on
16 school property or at school functions;
 - 17 c. All incidents of the possession or use of alcohol, *any intoxicating*
18 *tetrahydrocannabinol product*, prescription drugs, or controlled
19 substances on school property or at school functions; and
 - 20 d. All incidents in which a student has been disciplined by the school
21 for a serious incident, including the nature of the discipline, or
22 charged criminally for conduct constituting a violation of any
23 offense specified in KRS Chapter 508; KRS 525.070 occurring on
24 school premises, on school-sponsored transportation, or at school
25 functions; or KRS 525.080;
 - 26 2. The number of arrests, the charges, and whether civil damages were
27 pursued by the injured party;

- 1 3. The number of suspensions, expulsions, and corporal punishments; and
- 2 4. Data required during the assessment process under KRS 158.445; and
- 3 (c) Provide all data collected relating to this subsection to the Center for School
- 4 Safety according to timelines established by the center.
- 5 (3) The Department of Education shall provide the Office of Education Accountability
- 6 and the Education Assessment and Accountability Review Subcommittee with an
- 7 annual statistical report of the number and types of incidents reported under
- 8 subsection (2)(b) of this section. The report shall include all monthly data and
- 9 cumulative data for each reporting year. Reportable incidents shall be grouped in
- 10 the report in the same manner that the reportable incidents are grouped in
- 11 subsection (2)(b)1. of this section. Data in the report shall be sorted by individual
- 12 school district, then by individual schools within that district, and then by individual
- 13 grades within each school. The report shall not contain information personally
- 14 identifying any student. The reporting period shall be for an academic year, and
- 15 shall be delivered no later than August 31 of each year.
- 16 (4) All personally identifiable student data collected pursuant to subsection (2)(b) of
- 17 this section shall be subject to the confidentiality provisions of the Kentucky Family
- 18 Education Rights and Privacy Act, KRS 160.700 to 160.730, and to the federal
- 19 Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and its
- 20 implementing regulations.
- 21 (5) Parents, legal guardians, or other persons exercising custodial control or supervision
- 22 shall have the right to inspect or challenge the personally identifiable student
- 23 records as permitted under the Kentucky Family Education Rights and Privacy Act
- 24 and the federal Family Educational Rights and Privacy Act and implementing
- 25 regulations.
- 26 (6) Data collected under this section on an individual student committing an incident
- 27 reportable under subsection (2)(b)1. of this section shall be placed in the student's

1 disciplinary record.