

1 AN ACT relating to discipline 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 of  
8 other students, the threat of force or violence, the use or possession of alcohol  
9 or drugs, stealing or destruction or defacing of school property or personal  
10 property of students, the carrying or use of weapons or dangerous instruments,  
11 or other incorrigible bad conduct on school property, as well as off school  
12 property at school-sponsored activities, constitutes cause for suspension or  
13 expulsion from school; and

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

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

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

24 2. Is determined by the board to have brought a weapon to a school under  
25 its jurisdiction. In determining whether a student has brought a weapon  
26 to school, a local board of education shall use the definition of "unlawful  
27 possession of a weapon on school property" stated in KRS 527.070.

1 (b) The board shall also adopt a policy requiring disciplinary actions, up to and  
 2 including expulsion from school, for a student who is determined by the board  
 3 to have:

4 1. Possessed prescription drugs or controlled substances for the purpose of  
 5 sale or distribution at a school under the board's jurisdiction; ~~[-, or to~~  
 6 ~~have]~~

7 2. Physically assaulted or battered or abused educational personnel or other  
 8 students at a school or school function under the board's jurisdiction; or

9 3. *Physically assaulted, battered, or abused educational personnel or*  
 10 *other students off school property and the incident is likely to*  
 11 *substantially disrupt the educational process.*

12 (3) (a) The board may modify the expulsion requirement *and length* for students on a  
 13 case-by-case basis, *except the length of expulsion shall be at least twelve*  
 14 *(12) months for a violation set forth in subsection (2)(a) of this section.*

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

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

1 safety of others. Other intervention services as indicated for each student may  
2 be provided by the board or by agreement with the appropriate state or  
3 community agency. A state agency that provides the service shall be  
4 responsible for the cost.

- 5 (d) 1. In lieu of expelling a student, or upon the expiration of a student's  
6 expulsion, a superintendent may place a student into an alternative  
7 program or setting if the superintendent determines placement of the  
8 student in his or her regular school setting is likely to substantially  
9 disrupt the education process or constitutes a threat to the safety of  
10 other students or school staff. The action shall not be taken until the  
11 parent, guardian, or other person having legal custody or control of  
12 the student has had an opportunity to have a hearing before the board  
13 or an appeals committee as described in subparagraph 2. of this  
14 paragraph.
- 15 2. The board may adopt a policy to establish an appeals committee and  
16 delegate the authority to hear appeals made under this paragraph to  
17 that committee.
- 18 3. The alternative program or setting may be provided virtually.
- 19 4. Notwithstanding any other statute or administrative regulation to the  
20 contrary, students placed in an alternative program or setting under  
21 this paragraph shall be counted in attendance and membership for  
22 state funding purposes in the same manner as other students  
23 participating in alternative programs of the district.
- 24 5. Students placed in an alternative program or setting under this  
25 paragraph shall be subject to compulsory attendance requirements  
26 under KRS Chapter 159 and applicable local board policy.
- 27 6. Following the initial alternative placement of a student under this

1                   paragraph, the board shall review the alternative program or setting  
2                   placement at least once per year and determine if the placement  
3                   should be continued in accordance with subparagraph 1. of this  
4                   paragraph.

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

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

22           (b) Except as described in subsection (10) of this section:

23                   1. A principal may establish procedures for a student's removal from and  
24                   reentry to the classroom when the student's behavior disrupts the  
25                   classroom environment and education process or the student  
26                   challenges the authority of a supervising adult. In addition to removal,  
27                   the student shall be subject to further discipline for the behavior

- 1                   consistent with the school's code of conduct.
- 2                   2. A student who is removed from the same classroom three (3) times  
3                   within a thirty (30) day period shall be considered chronically  
4                   disruptive and may be suspended from school in accordance with this  
5                   section, and no other basis for suspension shall be deemed necessary.
- 6                   3. At any time during the school year, for a student who has been  
7                   removed from the classroom under this paragraph, a principal may  
8                   require a review of the classroom issues with the teacher and the  
9                   parent, guardian, or other person having legal custody or control of  
10                  the student and determine a course of action for the teacher and  
11                  student regarding the student's continued placement in the classroom.
- 12                  4. At any time during the school year, a principal may permanently  
13                  remove a student from a classroom for the remainder of the school  
14                  year if the principal determines the student's continued placement in  
15                  the classroom will chronically disrupt the education process for other  
16                  students.
- 17                  5. When a student is removed from a classroom under this paragraph  
18                  temporarily or permanently, the principal shall determine the  
19                  placement of the student in lieu of that classroom, which may include  
20                  but is not limited to:
- 21                   1. Another classroom in that school; or  
22                   2. An alternative program or setting, which may be provided  
23                   virtually, as approved by the superintendent.
- 24                  6. Any permanent action by a principal under this paragraph shall be  
25                  subject to an appeal process in accordance with a policy adopted by  
26                  the board.
- 27                  7. Policies compliant with this paragraph shall be included in the code of

1 *behavior and discipline adopted by the board of education under KRS*  
 2 *158.148 and the policies adopted by the school council under KRS*  
 3 *160.345.*

4 ~~(6)~~~~(5)~~ A student~~[pupil]~~ shall not be suspended from the common schools until after  
 5 at least the following due process procedures have been provided:

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

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

17 ~~(7)~~~~(6)~~ (a) The superintendent, principal, assistant principal, or head teacher of any  
 18 school may suspend a student~~[pupil]~~ but shall report the action in writing  
 19 immediately to the superintendent and to the parent, guardian, or other person  
 20 having legal custody or control of the student~~[pupil]~~.

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

27 2. Within thirty (30) days prior to the end of a student's expulsion, the

1 board shall review the details of the expulsion and current factors and  
 2 circumstances, including if ending the expulsion will substantially  
 3 disrupt the education process or constitute a threat to the safety of  
 4 students or school staff, to determine if the expulsion shall be  
 5 extended for a period not to exceed twelve (12) months.

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

9 4. Each board of education shall adopt a policy for implementation of  
 10 the process described in this paragraph.

11 ~~(8)~~~~(7)~~ (a) Suspension of exceptional children, as defined in KRS 157.200, shall be  
 12 considered a change of educational placement if:

- 13 1. The child is removed for more than ten (10) consecutive days during a  
 14 school year; or
- 15 2. The child is subjected to a series of removals that constitute a pattern  
 16 because the removals accumulate to more than ten (10) school days  
 17 during a school year and because of other factors, such as the length of  
 18 each removal, the total amount of time the child is removed, and the  
 19 proximity of removals to one another.

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

24 (c) If the admissions and release committee determines that an exceptional child's  
 25 behavior is related to his or her disability, the child shall not be suspended  
 26 any further or expelled unless the current placement could result in injury to  
 27 the child, other children, or the educational personnel, in which case an

1 appropriate alternative placement shall be provided that will provide for the  
2 child's educational needs and will provide a safe learning and teaching  
3 environment for all. If the admissions and release committee determines that  
4 the behavior is not related to the disability, the local educational agency may  
5 pursue its regular suspension or expulsion procedure for the child, if the  
6 behavior so warrants. However, educational services shall not be terminated  
7 during a period of expulsion and during a suspension after a student is  
8 suspended for more than a total of ten (10) days during a school year. A  
9 district may seek temporary injunctive relief through the courts if the parent  
10 and the other members of the admissions and release committee cannot agree  
11 upon a placement and the current placement will likely result in injury to the  
12 student or others.

13 ~~(9)~~<sup>(8)</sup> Suspension of primary school students shall be considered only in exceptional  
14 cases where there are safety issues for the child or others.

15 ~~(10)~~<sup>(9)</sup> Any action under this section related to students with disabilities shall be in  
16 compliance with applicable federal law.

17 **(11) Nothing in this section shall be interpreted or construed to preclude the**  
18 **requirements contained in KRS 158.305 or 158.4416.**