

1 AN ACT relating to student expulsion.

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 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 for a student who:

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

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

27 (b) The board shall also adopt a policy requiring disciplinary actions, up to and

1 including expulsion from school, for a student who is determined by the board  
2 to have:

- 3 1. Possessed prescription drugs or controlled substances for the purpose of  
4 sale or distribution at a school under the board's jurisdiction;
- 5 2. Physically assaulted or battered or abused educational personnel or other  
6 students at a school or school function under the board's jurisdiction; or
- 7 3. Physically assaulted, battered, or abused educational personnel or other  
8 students off school property and the incident is likely to substantially  
9 disrupt the educational process.

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

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

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

1 state agency that provides the service shall be responsible for the cost.

2 (d) 1. a. In lieu of expelling a student, or upon the expiration of a student's  
3 expulsion, a superintendent may place a student into an alternative  
4 program or setting *indefinitely* if the superintendent determines  
5 placement of the student in his or her regular school setting is  
6 likely to substantially disrupt the education process or constitutes a  
7 threat to the safety of other students or school staff.

8 b. Placements under subdivision a. of this subparagraph that  
9 exceed one (1) calendar year shall require an annual review by  
10 the superintendent. Significant consideration shall be given to  
11 the safety and potential disruption to the educational process for  
12 all students in determining whether a change in placement shall  
13 occur.

14 c. Action shall not be taken under subdivision a. of this  
15 subparagraph, and a change in placement shall not be made  
16 under subdivision b. of this subparagraph. ~~[The action shall not~~  
17 ~~be taken]~~ until the parent, guardian, or other person having legal  
18 custody or control of the student has had an opportunity to have a  
19 hearing before the board or an appeals committee as described in  
20 subparagraph 2. of this paragraph.

21 2. The board may adopt a policy to establish an appeals committee and  
22 delegate the authority to hold hearings and hear appeals made under  
23 this paragraph to that committee. Decisions of the appeals committee  
24 may be appealed to the local board of education by the parent,  
25 guardian, or other person having legal custody or control of the  
26 student.

27 3. The alternative program or setting may be provided virtually.

- 1           4. Notwithstanding any other statute or administrative regulation to the  
2           contrary, students placed in an alternative program or setting under this  
3           paragraph shall be counted in attendance and membership for state  
4           funding purposes in the same manner as other students participating in  
5           alternative programs of the district.
- 6           5. Students placed in an alternative program or setting under this paragraph  
7           shall be subject to compulsory attendance requirements under KRS  
8           Chapter 159 and applicable local board policy.
- 9           6. Following the initial alternative placement of a student under this  
10          paragraph, the board shall review the alternative program or setting  
11          placement at least once per year and determine if the placement should  
12          be continued in accordance with subparagraph 1. of this paragraph.
- 13 (4) For purposes of this subsection, "charges" means substantiated behavior that falls  
14          within the grounds for suspension or expulsion enumerated in subsection (1) of this  
15          section, including behavior committed by a student while enrolled in a private or  
16          public school, or in a school within another state. A school board may adopt a  
17          policy providing that, if a student is suspended or expelled for any reason or faces  
18          charges that may lead to suspension or expulsion but withdraws prior to a hearing  
19          from any public or private school in this or any other state, the receiving district  
20          may review the details of the charges, suspension, or expulsion and determine if the  
21          student will be admitted, and if so, what conditions may be imposed upon the  
22          admission, which may include placement of the student into an alternative program  
23          or setting as described in subsection (3)(d) of this section.
- 24 (5) (a) School administrators, teachers, or other school personnel may immediately  
25          remove or cause to be removed threatening or violent students from a  
26          classroom setting or from the district transportation system pending any  
27          further disciplinary action that may occur. Each board of education shall adopt

1 a policy to assure the implementation of this section and to assure the safety  
2 of the students and staff.

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

- 4 1. A principal may establish procedures for a student's removal from and  
5 reentry to the classroom when the student's behavior disrupts the  
6 classroom environment and education process or the student challenges  
7 the authority of a supervising adult. In addition to removal, the student  
8 shall be subject to further discipline for the behavior consistent with the  
9 school's code of conduct.
- 10 2. A student who is removed from the same classroom three (3) times  
11 within a thirty (30) day period shall be considered chronically disruptive  
12 and may be suspended from school in accordance with this section, and  
13 no other basis for suspension shall be deemed necessary.
- 14 3. At any time during the school year, for a student who has been removed  
15 from the classroom under this paragraph, a principal may require a  
16 review of the classroom issues with the teacher and the parent, guardian,  
17 or other person having legal custody or control of the student and  
18 determine a course of action for the teacher and student regarding the  
19 student's continued placement in the classroom.
- 20 4. At any time during the school year, a principal may permanently remove  
21 a student from a classroom for the remainder of the school year if the  
22 principal determines the student's continued placement in the classroom  
23 will chronically disrupt the education process for other students.
- 24 5. When a student is removed from a classroom under this paragraph  
25 temporarily or permanently, the principal shall determine the placement  
26 of the student in lieu of that classroom, which may include but is not  
27 limited to:

- 1           a. Another classroom in that school; or
- 2           b. An alternative program or setting, which may be provided
- 3                 virtually, as approved by the superintendent.
- 4           6. Any permanent action by a principal under this paragraph shall be
- 5                 subject to an appeal process in accordance with a policy adopted by the
- 6                 board.
- 7           7. Policies compliant with this paragraph shall be included in the code of
- 8                 behavior and discipline adopted by the board of education under KRS
- 9                 158.148 and the policies adopted by the school council under KRS
- 10                 160.345.
- 11 (6) A student shall not be suspended from the common schools until after at least the
- 12           following due process procedures have been provided:
- 13           (a) The student has been given oral or written notice of the charge or charges
- 14                 against him or her which constitute cause for suspension;
- 15           (b) The student has been given an explanation of the evidence of the charge or
- 16                 charges if the student denies them; and
- 17           (c) The student has been given an opportunity to present his or her own version of
- 18                 the facts relating to the charge or charges.
- 19           These due process procedures shall precede any suspension from the common
- 20           schools unless immediate suspension is essential to protect persons or property or to
- 21           avoid disruption of the ongoing academic process. In such cases, the due process
- 22           procedures outlined above shall follow the suspension as soon as practicable, but no
- 23           later than three (3) school days after the suspension.
- 24 (7) (a) The superintendent, principal, assistant principal, or head teacher of any
- 25           school may suspend a student but shall report the action in writing
- 26           immediately to the superintendent and to the parent, guardian, or other person
- 27           having legal custody or control of the student.



1           make a recommendation for continued placement or a change in placement  
2           and determine whether regular suspension or expulsion procedures apply.  
3           Additional evaluations shall be completed, if necessary.

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

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

22          (10) Any action under this section related to students with disabilities shall be in  
23          compliance with applicable federal law.

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