



# EDUCATION & DISCIPLINE ISSUES

## Fact Sheet

### ***For what reasons can a student be suspended or expelled?***

Students can be suspended or expelled for behaviors such as disobeying teachers and administrators, using profanity or vulgar language, assaulting other students, using or possessing drugs, stealing or destroying school property, carrying weapons, or other bad conduct at school, on school property, or at school-sponsored activities. Each school must develop a student discipline code informing students of expected behavior.

### ***What is the difference between a suspension and an expulsion?***

Suspension is a removal from school for a set period, typically ranging from one to ten days. After the suspension period has passed the student returns to school and continues from where he/she left off. Records of the suspension are usually removed after the end of the school year. An expulsion is a permanent removal of a student from school, generally for the remainder of the school year. An expulsion is permanently noted on the student's record. A student that is expelled can be expelled with or without services. A student who the school board determines has brought a weapon to school must be expelled for at least one year.

### ***What types of suspensions are there?***

A student may be suspended in school or out of school. In-school suspension means the student is expected to come to school but is withheld from regular classes. Both in and out of school suspensions are absences even if the student is serving the suspension within the school. Kentucky law gives no specific duration for suspension.

### ***Can a student make up work that cannot be complete during a suspension?***

Each teacher must decide whether to let suspended students make up work but there is no requirement that forces a teacher to do so.

### ***Can a suspension be challenged?***

Yes. A student cannot be suspended until: 1) they are given oral or written notice of the charge(s) against you that is cause for suspension, 2) they are given an explanation of the evidence of such charges, and 3) they are given the chance to present their side of the story. These steps must occur unless immediate suspension is needed to protect persons or property, or to avoid disruption at school. In that case, these procedures must take place no later than three school days after the suspension.

### ***What are the rights of a student who is facing a possible expulsion?***

School districts must give notice of their expected behavior standards, and students must receive notice of alleged violations. Only a school board can decide to expel a student, and must follow the school's expulsion procedure. Students must be given the opportunity to provide their side of the story before the school board at a hearing that is closed to the public, and must be notified of the hearing. The student can bring an attorney to represent them at an expulsion hearing. However, students cannot appeal the school board's decision, except in limited circumstances by filing an original action in Circuit Court challenging procedural issues related to how the expulsion hearing was conducted.

### ***If a student is expelled, can the student get any education services?***

A student can be expelled with or without education services. A school board that expels a student from the regular school setting must ensure educational services are provided in an alternative program or setting. The school may deny educational services if the school board determines on the record, supported by clear and convincing evidence, that the student poses a threat to the safety of other students or staff and cannot be placed in a state-funded program.

### ***Do students have to report an expulsion to a new school at which they are trying to enroll?***

Yes. If a student has been found guilty of criminal behavior or has been expelled from school for such behavior, they must provide to the school a sworn statement or affirmation on a form provided by the Kentucky Board of Education that the student has been found guilty or expelled from school attendance for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs. This must be sent to the school within five working days of the time when the student requests enrollment in the new school.

### ***Can corporal (physical) punishment be used by Kentucky schools?***

Yes. Kentucky is one of the few states that have not abolished corporal punishment in schools, and studies show it is still used in one out of three Kentucky schools. However, the punishment must be reasonably necessary to maintain reasonable discipline and cannot be physical force that is known to cause serious harm or pain.

### ***Can schools punish students for conduct outside of school?***

Students can be punished for conduct if it is during or related to a school-sponsored event such as a sporting event or play. Also under certain circumstances, such as events of a serious violent nature or that might affect the welfare of other students, a school district may punish a student and may even refuse to enroll the student in a school but the school must arrange alternative education.

### ***What actions can be taken for misbehaving on a school bus?***

Schools have authority over students from the time they leave home in the morning until they return home in the afternoon. School officials can hold conferences to discuss student behavior and may even restrict a student's access to busing in the form of suspension from using the bus to revoking riding privileges for the rest of the school year.

### ***When can school officials report a student's behavior to law enforcement?***

A school administrator, teacher, or other employee must promptly report a student to the local police department, sheriff, or state police if he or she has reason to believe that the student has committed a criminal offense if it occurred on school premises or within 1,000 feet of school premises, on a school bus, or at a school-sanctioned event. Offenses included are: misdemeanors or violation offenses relating to carrying, possession, or use of a deadly weapon or use, possession, or sale of drugs, or any felony under Kentucky law.

### ***What happens at school if a student is referred to juvenile court?***

The school cannot punish a student for having to go to juvenile court but it can punish the student after holding a hearing to decide if his or her conduct violated school rules.

### ***What is truancy?***

If a student under age 18 misses school or is tardy without a valid excuse for three or more days, he/she is considered "truant." Any student reported as truant two or more times is a habitual truant. The local board of education may adopt reasonable policies that require students to make up missed school days, and discipline a student for missing school. Habitually truant students may have to go before juvenile court, but not before the school has assessed the student. When investigating a student's habitual truancy, the school director or assistant of student personnel must contact the student's parent or guardian and try to address causes of the truancy. The director must inform the school of any home conditions, and inform the student's parent/guardian about the advantages of regular school attendance.

### ***Do truancy laws apply to students who are 18 or have withdrawn from school?***

If a student between ages 16 and 18 has gone through the process to withdraw from school, the truancy laws do not apply. If a student is 18 and still enrolled in school, truancy laws still apply.

### ***Will a parent or guardian get in trouble if a student does not go to school?***

Any parent, guardian, or custodian who intentionally fails to make sure a child goes to school may be fined \$100 for the first offense, and \$250 for the second offense. Each subsequent offense is classified as a misdemeanor.

#### **Resources:**

##### ***Suspensions and Expulsions***

- KY. REV. STAT. ANN. § 158.150 (student discipline); § 158.155 (reporting of student conduct); § 503.110 (when use of physical force justified)
- *Pirschel v. Sorrell*, 2 F.Supp.2d 930 (1988) (conduct outside of school)
- OAG 60-553 (corporal punishment)
- 704 KY. ADMIN. REGS. 7:050 (2007) (student discipline guidelines)

##### ***Juvenile Court***

- KY. REV. STAT. ANN. § 158.150 (student discipline); § 158.155 (reporting of student conduct); § 159.150 (truancy); § 630.060 (referral to juvenile court for truancy); § 159.140 (duty of director of pupil personnel or assistant); § 159.990 (fine for truancy)

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