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Bill Analysis

Legislative Service Commission

Sub. S.B. 1

123rd General Assembly
(As Reported by H. Education)

Sens. Gardner, Kearns, Oelslager, Cupp, Mumper, Schafrath, Prentiss, Drake, Watts, Ray, Latta, Carnes, Armbruster, White, Hottinger, Herington, Spada, Latell

Reps. Calvert, Callender, Roman, Peterson, Winkler, Harris, Flannery, Gardner, Brading

BILL SUMMARY

School safety zones

- Defines "school safety zone" for purposes of the Criminal Code as consisting of a school, school building, school premises, school activity, or school bus.
- Adds "school safety zone" to "vicinity of a school" in enhancing the penalty for disorderly conduct.
- Changes and renames the offenses of illegal conveyance or possession of a deadly weapon or dangerous ordnance on school premises, illegal possession of an object indistinguishable from a firearm on school premises, and improperly discharging a firearm at or into a habitation or school to cover acts committed in a school safety zone.
- Requires a sentencing court to increase the prison term by two years for a first, second, or third degree felony that is an offense of violence committed in a school safety zone if the offender also is convicted of or pleads guilty to a specification charging the offense of violence, that it was committed in a school safety zone.

School suspensions and expulsions

- Requires a school district superintendent to initiate expulsion proceedings against and, subject to a hearing, expel any pupil who has

committed any act that warrants expulsion even if the pupil withdraws from school before the superintendent has held the hearing or made the decision to expel the pupil.

- Permits districts to expel students for up to one year for firearm-related and knife-related incidents occurring off school property but at an interscholastic competition, extracurricular event, or other school activity or program.
- Permits a school district board to adopt a policy authorizing its superintendent to expel for up to one year any pupil who has committed an act that inflicts serious physical harm to persons or property if it was committed at school, on other school property, or at a school activity, event, or program.
- Expands the jurisdiction of a district's general suspension and expulsion policy to include (1) misconduct by a student that occurs off of district property but is *connected* to activities or incidents that have occurred on district property and (2) misconduct by a student that, *regardless of where it occurs*, is directed at a district official or employee or the property of an official or employee.
- Permits a board of education to adopt a policy granting assistant principals and other administrators authority to suspend a student.
- Exempts schools, in the case of an *in-school* suspension, from the current requirement to provide a student written notice and an opportunity for a hearing prior to suspending him or her.
- Permits a school district, after offering an opportunity for a hearing, to temporarily deny admittance to any student who has been suspended from the school of another Ohio school district, if the suspension has not expired.
- Permits school district boards to adopt policies under which they may deny high school credit for college courses taken during the period of a student's expulsion from that district.
- Permits public and private colleges to withdraw their acceptance, under the Post-Secondary Enrollment Options program, of a high school student who is expelled from a school district.

Extracurricular activities

- Eliminates the post-removal notice and hearing requirements for removing a student from extracurricular activities when the student's presence poses a continuing danger to persons or property or an ongoing threat of disruption in such settings, thereby permitting such a student to be prohibited from extracurricular activities in accordance with a district's general policy on extracurricular activities.
- Permits school districts to grant enforcement authority of a district extracurricular activity policy to personnel employed to direct, supervise, or coach a pupil activity program.

School safety plans

- Requires every board of education to adopt a comprehensive school safety plan for each school building and specifies procedures to follow in preparation of the plan and content requirements, including a protocol for addressing serious threats to safety and responding to emergencies.
- Directs the Ohio Schools Facilities Commission to consider student and staff safety when reviewing designs for classroom facility construction projects and to require necessary changes to promote safety; charges the Commission with reviewing and amending any construction and design standards it has adopted with a focus on student and staff safety.

Student driving privileges

- Provides for a student to lose driving privileges for misconduct that involves a firearm or knife, violates board policy, and results in the student being suspended, expelled, removed, or permanently excluded from school.

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CONTENT AND OPERATION

SCHOOL SAFETY ZONES

Definition of "school safety zone" in the Criminal Code

(sec. 2901.01(C))

The bill defines "school safety zone" as consisting of a school, school building, school premises, school activity, and school bus. For this purpose:

(1) "School" has the same meaning as in the existing Drug Offense Law: any school operated by a board of education or for which the State Board of Education prescribes minimum standards, whether or not any instruction, extracurricular activities, or training is being conducted at the time a criminal offense is committed.¹

(2) "School premises" also has the same meaning as in the existing Drug Offense Law: either (a) the parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training is being conducted at the time a criminal offense is committed or (b) any other parcel of real property that is owned or leased by a board of education or the governing body of a school for which the State Board of Education prescribes minimum standards and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any is being conducted on the property at the time a criminal offense is committed.²

(3) "School building" also has the same meaning as in the existing Drug Offense Law: any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any is being conducted at the time a criminal offense is committed.³

(4) "School activity" is defined as in the current law that sets forth offenses related to bringing weapons to school activities: any activity held under the auspices of a board of education of a school district, a governing board of an

¹ Sec. 2925.01(Q), not in the bill.

² Sec. 2925.01(R), not in the bill.

³ Sec. 2925.01(S), not in the bill.

educational service center, or the governing body of a school for which the State Board of Education prescribes minimum standards.⁴

(5) "School bus" has the same meaning as in the Traffic Law: any bus designed for carrying more than nine passengers that is (a) owned by a public, private, or governmental agency or institution of learning and operated for the transportation of children to or from a school session or school function, or (b) owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function. It generally does not include mass transit buses and child day-care buses that transport fewer than 16 children.⁵

Disorderly conduct

(sec. 2917.11)

The Disorderly Conduct Law prohibits any person from recklessly causing inconvenience, annoyance, or alarm to another by doing any of several specified acts. It also prohibits any person, while voluntarily intoxicated, from doing specified acts. Except under certain circumstances, disorderly conduct is a minor misdemeanor. It is a misdemeanor of the fourth degree when "committed in the vicinity of a school."⁶

The bill adds "school safety zone" to "vicinity of a school" as a condition for disorderly conduct to constitute a fourth degree misdemeanor (sec. 2917.11(E)).

Deadly weapons or dangerous ordnance on school premises

(sec. 2923.122(A), (B), (D), and (E)(1))

Existing law prohibits any person from: (a) knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance "onto school premises, into a school or school building, to a school activity, or onto a school bus" or (b) knowingly possessing a deadly weapon or dangerous ordnance "on

⁴ Sec. 2923.122(G). The bill simply strikes this definition from section 2923.122 and places it within sec. 2901.01(C)'s new definition of "school safety zone."

⁵ Sec. 4511.01, not in the bill.

⁶ "Vicinity of a school" generally means on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises (sec. 2925.01(P), not in the bill).

school premises, in a school or school building, at a school activity, or on a school bus." These prohibitions do not apply to any security officer employed by a school or district while on duty or to any other person who has written authorization to convey deadly weapons or dangerous ordnance "onto school premises, into a school or school building, to a school activity, or onto a school bus" or to possess a deadly weapon or dangerous ordnance "on school premises, in a school or school building, at a school activity, or on a school bus."

A violation of these prohibitions is "illegal conveyance or possession of a deadly weapon or dangerous ordnance on school premises," a felony of the fifth degree or, if the offender previously has been convicted of the violation, a felony of the fourth degree.

The bill modifies the elements of the offense by prohibiting any person from: (a) knowingly conveying, or attempting to convey, a deadly weapon or dangerous ordnance *into a school safety zone* or (b) knowingly possessing a deadly weapon or dangerous ordnance *in a school safety zone* (sec. 2923.122(A) and (B)). Consequently, it renames the offense "illegal conveyance or possession of a deadly weapon or dangerous ordnance *in a school safety zone*" (sec. 2923.122(E)(1)). It retains the same penalty for the offense as in existing law.

"Look-alike" weapons on school premises

(sec. 2923.122(C), (D), and (E)(2))

Existing law prohibits any person from knowingly possessing an object "on school premises, in a school or school building, at a school activity, or on a school bus" if both (a) the object is "indistinguishable from a firearm," whether or not the object is capable of being fired and (b) the person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.⁷

"Illegal possession of an object indistinguishable from a firearm on school premises" is a misdemeanor of the first degree or, if the offender previously has been convicted of the violation, a felony of the fifth degree. Security personnel and other people with written authorization are exempt from this prohibition as they are exempt from the prohibition against possessing actual firearms.

⁷ Sec. 2923.122(F)(4) defines "object that is indistinguishable from a firearm" as an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

The bill renames the elements of the offense by prohibiting any person from knowingly possessing a look-alike object in a *school safety zone*. It also renames the offense "illegal possession of an object indistinguishable from a firearm in a *school safety zone*" and retains the same penalty as in existing law.

Improperly discharging a firearm at or into a habitation or school

(sec. 2923.161(A) and (C))

Existing law prohibits discharging a firearm at or into an occupied structure that is a permanent or temporary habitation of any individual or "a school." A violation of the prohibition is "improperly discharging a firearm at or into a habitation or school," a felony of the second degree.

The bill expands the elements of the offense by prohibiting discharging a firearm *at, in, or into a school safety zone*. It renames the offense "improperly discharging a firearm at or into a habitation or in a school safety zone" and retains the same penalty as in existing law.

Enhanced penalty for felony offense of violence in a school safety zone

(secs. 2929.14(J) and 2941.143)

The bill requires a court to impose an additional prison term of two years on an offender who is convicted of or pleads guilty to a felony of the first, second, or third degree that is an "offense of violence" and also is convicted of or pleads guilty to a specification that the offender committed the offense of violence in a school safety zone, or towards a person in a school safety zone.⁸ The additional prison term must be served consecutively to and prior to the prison term imposed for the underlying felony.

⁸ *The following "offenses of violence," as defined by existing sec. 2901.01(A)(9), are first, second, or third-degree felonies: voluntary manslaughter; involuntary manslaughter; felonious assault; aggravated assault when the victim is a peace officer; assault when the victim is a functionally impaired person and the offender is the victim's caretaker; aggravated menacing; kidnapping; abduction; extortion; rape; sexual battery under certain circumstances; gross sexual imposition under certain circumstances; aggravated arson; arson under certain circumstances; aggravated robbery; robbery; aggravated burglary; burglary under certain circumstances; inciting to violence; aggravated riot under certain circumstances; intimidation; intimidation of an attorney, victim, or witness in a criminal case under certain circumstances; escape under certain circumstances; and improperly discharging a firearm at or into a habitation or school.*

The bill precludes a court from imposing the enhanced sentence unless the indictment, count in the indictment, or information charging the offense of violence specifies that the offender committed the offense of violence in a school safety zone or towards a person in a school safety zone.

SCHOOL DISCIPLINE AND SAFETY PLANS

Background--current law on suspensions, expulsions, removal, and permanent exclusion

Current law provides several mechanisms for the removal of a student from a public school for disciplinary reasons. These include "suspensions" for minor misconduct, "expulsions" for major infractions of the school discipline code, "removal" to prevent immediate threats, and "permanent exclusion" to prevent continued threats. Each district board of education must adopt a policy that specifies the types of misconduct that warrant each type of discipline.

The **COMMENT** section at the end of this analysis contains a discussion of the current mechanisms for removing a student for disciplinary reasons, the due-process requirements for disciplinary actions (**COMMENT 2**), and the federal "Gun-Free Schools Act of 1994" (**COMMENT 1**).

The bill's suspension and expulsion provisions

Student must be expelled even if withdrawn from school

(sec. 3313.66(B)(6))

The bill requires that a superintendent initiate expulsion proceedings against a pupil who has committed an act that warrants expulsion under the district's expulsion policy even if that student has already withdrawn from school. If after conducting the hearing to expel, the superintendent finds that the student has committed an act warranting expulsion, the superintendent must expel the student for the same period of time as an expulsion imposed on a student who has not withdrawn from school.

Jurisdiction over misconduct off school property

(sec. 3313.661(A))

The bill expands the scope of a school's jurisdiction over *misconduct* to include (1) "misconduct by a pupil that occurs off of property owned or controlled by the district but that is connected to activities or incidents that have occurred on property owned or controlled by that district" and (2) "misconduct by a pupil that,

regardless of where it occurs, is directed at a district official or employee, or the property of such official or employee."

It is unclear whether the student's action must be *intentionally* directed at a district employee for the non-school property provision to apply. For example, if a student damages four cars at a shopping center, one of which is owned by the district superintendent, it is unclear whether the provision applies only if the student's intent was to damage the superintendent's car, or whether it applies if the damage to all of the cars was a random act and the student did not know one of the cars was the superintendent's.

Limits on the expanded jurisdiction. While the bill extends a district's jurisdiction over a student's misconduct generally to include sites other than school property or school activities (in the case of threats against school officials or misconduct arising out of previous incidents that *did* occur on school property), the expanded jurisdiction presumably does not include the option to suspend students for longer than ten days or to expel them for longer than 80 days. The current one-year expulsion provisions (for firearm or knife offenses) and the bill's new one-year expulsion provisions for offenses resulting in serious physical harm to persons or property specifically apply only to offenses that actually occur on school-controlled property or, under the bill, at a school activity. Accordingly, a student who threatens a teacher with a knife at a shopping center could receive up to 80 days expulsion, due to the bill's expanding school jurisdiction over student misconduct to include threats against school officials at any location. If, however, the student threatened the teacher with a knife on *school property*, the student could be expelled for one year (if the district had adopted a knife policy).

Firearm and knife expulsion expanded to off-property school events

(sec. 3313.66(B)(2)(b) and (B)(3))

The bill contains a new option for districts to expel for one year students who bring a firearm or knife to, or possess a firearm or knife at, an interscholastic competition, an extracurricular event, or any other school program or activity that is not on school-controlled property. If a district elects to have a one-year expulsion policy for any of these offenses, the expulsion may extend into the next school year. The district superintendent may reduce the expulsion on a case-by-case basis in accordance with district policy.

The current law one-year expulsion remains mandatory for students who bring firearms onto property controlled by the district.

One-year expulsion for serious physical harm to persons or property

(secs. 3313.66(B)(4) and 3313.661(A))

The bill permits a district board of education to adopt a policy authorizing its superintendent to expel for up to one year any student who has committed certain violent acts at school or on other school property or at an interscholastic competition, extracurricular event, or any other school program or activity. The acts covered are those that (1) would be criminal offenses if committed by an adult and (2) result in serious physical harm to persons or property. The bill refers to definitions of "serious physical harm to persons" and "serious physical harm to property" in Revised Code section 2901.01.⁹

The superintendent may extend the expulsion as necessary into the next school year following the school year during which the incident that gave rise to the expulsion took place. A district policy authorizing expulsions under this provision must also permit the superintendent to reduce the expulsion on a case-by-case basis. Expulsion under this provision would not require prosecution or conviction for any criminal act.

Limits on access to college courses during an expulsion

(secs. 3313.613, 3365.03, 3365.04, and 3365.041)

⁹ Section 2901.01(A)(5) defines "Serious physical harm to persons" as any of the following:

(a) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(b) Any physical harm that carries a substantial risk of death;

(c) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(d) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement; or

(e) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

Section 2901.01(A)(6) defines "serious physical harm to property" as any physical harm to property that does either of the following:

(a) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace; or

(b) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

Current law regarding college courses taken by high school students. The Post-Secondary Enrollment Options program, established in 1989, permits high school students to enroll in college courses.¹⁰ Participating students may elect to receive only college credit for the courses or to receive both high school and college credit. Students who choose to receive only college credit must pay the college's tuition and fees themselves. But if they want high school credit as well, money for the colleges' tuition and fees is deducted from their school districts' state aid or, in the case of students of nonpublic high schools, from money set-aside from state Auxiliary Services funds. When colleges are paid by the state in this matter, they must provide the student with free textbooks and materials.

In 1997, the General Assembly provided another avenue for students to earn high school credit for college courses. It enacted a law requiring school districts to give high school credit for post-secondary courses successfully completed *outside of school hours*, whether that course was free of charge or paid for by the student or parent.

Possible limitations for expelled students under the bill. The bill amends these laws to authorize school districts and colleges to limit a student's options to take college courses while serving an expulsion imposed by the school district.

School boards may adopt policy to deny credit for college courses. First, it permits school district boards to adopt a policy under which they may deny high school credit for post-secondary courses, any portion of which are taken during the period of a student's expulsion. This means that if the student enrolls in college courses while serving an expulsion (or is taking them when the expulsion is imposed), the district is not obligated to grant high school credit for them if its board adopted a policy to that effect. (Sec. 3313.613.)

If the student is enrolled in college through Post-Secondary Enrollment Options when he or she is expelled from high school, and had elected to receive high school credit, that election is automatically revoked. This revocation will affect the amount of state reimbursement the college receives for the student's attendance; it will receive the same reimbursement as would be paid for a student who voluntarily withdrew at the same point in the term. If that results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student for free. The college

¹⁰ The "colleges" in which they may enroll comprise (1) state universities, (2) community colleges, (3) technical colleges, (4) university branches, (5) private, nonprofit institutions holding a certificate of authorization from the Ohio Board of Regents, and (5) institutions registered with the Board of Proprietary School Registration and authorized to have an associate's or bachelor's degree program.

must notify the student of the revocation no later than five days after being notified that the student has been expelled (see "Expulsion notices to colleges," below). If the student is to remain in the college during the expulsion, the cost of all tuition, fees, textbooks, and materials becomes the student's responsibility. (Sec. 3365.041(C).)

Colleges may withdraw acceptance of expelled high school student. But a college is not obligated to allow a Post-Secondary Enrollment Options student to remain in classes during a high school expulsion. Under a second change introduced by the bill, a college may withdraw its acceptance of a student under this program when notified that the student has been expelled from public high school (see "Expulsion notices to colleges," below).

When a college elects to withdraw its acceptance of an expelled high school student, there may be an adjustment in payments to the college. If the student had elected to receive college credit only, and therefore is responsible for paying tuition and fees, the college must refund the amounts the student paid in the same proportion that it makes refunds to students who voluntarily withdraw at the same time in the term (which, if late enough in the term, could be zero). If the student elected to receive both high school and college credit, and therefore the state reimburses the college, the college's reimbursement from the state is reduced or eliminated; it will receive the same reimbursement as would be paid for a student who voluntarily withdrew at the same point in the term. If that results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student for free. (Sec. 3365.041(B).)

Regardless of whether the district board has adopted a policy to deny high school credit, a school district may not grant high school credit for college courses when the college exercises its option to withdraw its acceptance of an expelled student. (Sec. 3365.041(B).)

Expulsion notices to colleges. The bill requires school district superintendents, when they expel a student, to send written notice to any college in which the expelled student is enrolled under Post-Secondary Enrollment Options at the time the expulsion is imposed. This notice must indicate the date the expulsion is scheduled to expire and whether the district board has adopted a policy to deny high school credit for college courses taken during an expulsion. If the expulsion is later extended, the district superintendent again must notify the college. (Sec. 3365.041(A).)

Expelled student's college eligibility in subsequent terms. The bill specifies that a student who is expelled from a school district may not enroll in

college through *Post-Secondary Enrollment Options* for terms that begin during the student's expulsion, unless the student has enrolled in high school in another school district or a nonpublic school that participates in the program. But it does not prevent a college from choosing to enroll an expelled student independently. (Secs. 3365.03(A) and 3365.041(B).)

Authority of new district to delay admittance of suspended transferred student

(sec. 3313.66(J)(1)(a))

The bill permits a school district, after offering an opportunity for a hearing, to temporarily deny admittance to any student if the student has been *suspended* from the school of another Ohio school district and the period of suspension has not expired. The district may deny admittance to the student until the suspension period set by the other Ohio district expires. This provision does not apply to suspensions imposed by out-of-state schools or private schools. Current law already permits a school district, after offering an opportunity for a hearing, to temporarily deny admittance to any student who has been *expelled* from the schools of another Ohio school district or another state if the expulsion has not expired.

District policies allowing assistant principals and others to suspend

(sec. 3313.66(A))

The bill permits a board of education to adopt a policy granting assistant principals and other administrators (not just superintendents and principals as under current law) the authority to suspend a pupil from school for a period of time as specified in the board's policy, not to exceed ten school days.

No notice and hearing for in-school suspensions

(sec. 3313.66(A) and (K)(2))

The bill also specifically exempts schools from the notice and hearing requirements in the case of an *in-school* suspension, which it defines as a suspension that is served entirely within a school setting.

Extracurricular activities

(secs. 3313.66(C) and 3313.664)

By revising two existing laws, the bill expands school districts' ability to bar students from extracurricular activities.

First, it eliminates a requirement that after a student is removed from an extracurricular activity because his or her presence posed a continuing danger to persons or property or an ongoing threat of disruption, the student be provided a written notice of the reason for the removal and an opportunity for a hearing.

Second, it expands the authority of school district boards to establish policies authorizing superintendents or other administrative personnel to bar students from extracurricular activities. Under the bill, these policies may *prohibit*, instead of suspend, students from extracurricular activities. Also, these policies could authorize additional "personnel employed by the district to direct, supervise, or coach a pupil activity program" to prohibit a student's participation. The bill states that a director, supervisor, or coach may prohibit participation by a student in any particular or in *all* extracurricular activities.

Comprehensive school safety plan

(sec. 3313.536)

The bill requires each school board to adopt a comprehensive school safety plan for each school building under its control. The board must examine the environmental conditions and operations of each building to determine potential hazards to safety and propose operating changes to promote the prevention of potentially dangerous problems and circumstances. Community law enforcement and safety officials, parents, and teachers and other employees assigned to the building must be involved in designing the plan for each building. The board must consider incorporating remediation strategies into the plan for any building where documented safety problems have occurred.

Each board must incorporate into its plan a protocol for addressing serious threats to the safety of school property, students, or employees and a protocol for responding to any emergency that compromises the safety of school property, students, or employees. Each protocol must include procedures the board finds appropriate for responding to threats and emergencies, including notification of appropriate law enforcement officials, calling emergency response personnel, and informing parents of affected students.

Ohio Schools Facilities Commission to review designs for safety

(sec. 3318.031)

The bill directs the Ohio Schools Facilities Commission to consider student and staff safety when reviewing design plans for state-assisted classroom facility construction projects. After consulting with appropriate education and law enforcement personnel, the Commission may require, as a condition of project

approval, changes in the design plans that it believes will advance or improve student and staff safety in the proposed facility.

The Commission must review with a focus on safety, any construction and design standards it uses in the project approval process, including any standards for location and number of exits and location of restrooms. If necessary, the Commission must amend its standards.

Loss of driver's license

(secs. 3321.13(B)(4) and 4507.061)

Under current law, a student of compulsory school age will have a temporary instruction permit or driver's license suspended, or the opportunity to obtain such a permit will be denied, for withdrawing from school or, pursuant to district policy, for excessive absences.

The bill requires a superintendent to notify the Registrar of Motor Vehicles and the juvenile judge if a student is suspended, expelled, removed, or permanently excluded from school for misconduct that is included in a policy that the board of education has adopted and that involves a firearm or knife or other weapon as defined in the district policy. The Registrar must suspend the student's temporary instruction permit or driver's license or prohibit the student from obtaining one.

The suspension or prohibition lasts until the student turns 18. It may end sooner if the district superintendent informs the Registrar that the student has satisfied any terms or conditions established by the school as necessary to terminate it.

COMMENT

1. Federal Gun-Free Schools Act

The Gun-Free Schools Act of 1994 makes a state's federal education funding contingent on the state adopting a law requiring local educational agencies (such as school districts) "to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school"

The Act also provides an exception to the otherwise mandatory one-year expulsion requirement, which is the basis for the discretion granted to the district board and superintendent in Revised Code section 3313.66(B)(2). The federal law specifies that the state law "*shall* allow the chief administrative officer of [the] local educational agency to modify [the] expulsion requirement for a student on a case-by-case basis" (20 U.S.C. § 8921(b)(1) (emphasis added)).

2. Current law on suspensions, expulsions, removal, and permanent exclusion

Current law provides for "suspensions" for minor misconduct, "expulsions" for major infractions of the school discipline code, "removal" to prevent immediate threats, and "permanent exclusion" to prevent continued threats.

Each district board of education must adopt a policy that specifies the types of misconduct that warrant each type of discipline (sec. 3313.661(A)). The decision to permanently exclude a student from the public schools is made by the state Superintendent of Public Instruction after a hearing and only upon the recommendation of the district board.

Suspension

(sec. 3313.66(A))

District superintendents and school principals may suspend students for up to ten days for misconduct. If there are less than ten days left in the school year at the time the suspension is imposed, the superintendent, and only the superintendent, may apply part or all of the period of the suspension to the following school year. Prior to suspending a student, the superintendent or principal must provide the student with written notice of the intention to suspend the student and an opportunity for an informal hearing to challenge the reasons for the intended suspension or to explain the student's actions.

Expulsion--permissive

(sec. 3313.66(B)(1) and (I))

Only a district superintendent may expel a student. For misconduct that does *not* involve conveying or possessing a firearm or knife at school or on other school property, the superintendent may expel a student for up to the greater of 80 days or for the number of days remaining in the semester or term. If there are less than 80 days left in the school year at the time the expulsion is imposed, the superintendent may apply part or all of the period of the expulsion to the following school year. Any student who is expelled must be removed from the regular school setting, but the district may provide that student with educational services in an alternative setting.

Expulsion--mandatory

(sec. 3313.66(B)(2))

In response to the federal "Gun-Free Schools Act of 1994," existing state law also provides that a district superintendent *must* expel for a period of one year

any student who has brought a firearm to school or onto other property owned or controlled by the school district. The superintendent may reduce the expulsion period on a "case-by-case basis" pursuant to the policy adopted by the district board. Any expulsion imposed under that provision *must* extend as necessary into the school year following the school year in which the incident took place that gave rise to the expulsion.

Additional grounds for one-year expulsion

(secs. 3313.66(B)(3) and 3313.661(A))

In addition to the federally required provision, state law also permits a district board to adopt a resolution authorizing its superintendent to expel for up to one year any student who has brought a knife to school or onto other school property or who has possessed either a firearm or knife at school or on other school property when the knife or firearm was brought there by another person. The resolution may also authorize the district superintendent to extend these expulsions, as necessary, into the school year following the school year in which the incident takes place. If a school board adopts this resolution, the district's student discipline policy must define "knife" for purposes of these expulsions. The policy must also specify any reasons for which the district superintendent may reduce any required expulsion period on a case-by-case basis.

Due process requirements--expulsion

(sec. 3313.66(B)(5), (D), and (E))

An expulsion requires written notice to the pupil and the pupil's parent, guardian, or custodian and an opportunity to appear before the superintendent to explain the pupil's actions. Further, the pupil has a right to representation at such appearance, the right to appeal the superintendent's decision to the district board, and a right to appeal the board's decision to the court of common pleas. The notice also must include notification that the student may be subject to permanent exclusion if the student is at least 16 years of age and the expulsion is based on a violation any of certain enumerated offenses, which include, among other acts, the conveyance or possession of a deadly weapon or ordnance on school premises.

Applicability of expulsion in another district

(sec. 3313.66(J))

A school district may temporarily deny admittance to any student who has been expelled from the schools of another Ohio school district if the student's expulsion period in that district has not expired. A school district must offer the

student a hearing before temporarily denying the student admittance and must grant admittance upon expiration of the student's expulsion period.

The law also generally allows school districts to honor out-of-state expulsions in a similar manner. When a student coming from out of state becomes entitled to attend school in a school district in Ohio and when that student has been expelled or otherwise removed for disciplinary purposes from an out-of-state public school and that expulsion or removal period has not expired, the act allows Ohio school districts to temporarily deny admittance to the student. As under the law for in-state expulsions, the Ohio school district must offer the student a hearing before temporarily denying the student admittance. Unlike in-state expulsions, however, the out-of-state expulsion or removal period does not automatically apply. An Ohio school district may deny admittance only for the *shorter* of the following two periods: (1) for the remainder of the expulsion or removal period imposed by the out-of-state school or (2) for a period established by the Ohio district, beginning with the date of expulsion or removal from the out-of-state school, that is no greater than the period of expulsion that the pupil would have received under the disciplinary policy of the Ohio district had the offense that gave rise to the out-of-state expulsion or removal been committed while enrolled in the Ohio district. For example, if a student has served 15 out of 40 days of an out-of-state expulsion (25 remaining days) and if that student would have been expelled 60 days if the offense had occurred while enrolled in the Ohio district (45 remaining days), the student may be denied admittance only up to the number of days remaining on the out-of-state expulsion, which is the lesser of the two remaining amounts. If, on the other hand, the student had served 15 out of 80 days of an out-of-state expulsion (65 remaining days) and if that student would have been expelled 40 days if the offense had occurred while enrolled in the Ohio district (25 remaining days), the student could be denied admittance only up to the lesser remaining amount, which is 25 days.

Removal from curricular or extracurricular activities

(secs. 3313.66(C) and 3313.664)

The superintendent or principal or assistant principal may remove a student from curricular *or* extracurricular activities (or a teacher may remove a student from activities that are under the teacher's supervision) without the prior notice and hearing requirements when the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises. However, when a student is immediately removed from such settings, notice must be provided as soon as practicable prior to the hearing, which must be held within three school days from the time the initial removal of the student is ordered.

A district extracurricular activity suspension policy may authorize the district superintendent or other district administrative personnel to suspend a student from all or any particular extracurricular activities of the district or a school of the district for a period of time as provided in the district's policy.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 25
Reported, S. Education	03-04-99	p. 160
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