



Student Discipline Guide





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Student Suspension Process

Are there Constitutional Protections for Students Subject to Discipline?

The right to due process in disciplinary proceedings is applicable in all instances where the behavior of the student is being evaluated for possible suspension or expulsion.¹ The Fourteenth Amendment forbids the State from depriving any person of life, liberty, or property without due process of law.² Students facing suspension are entitled to protection under this Due Process Clause because suspensions deprive students of two rights: a property interest in educational benefits which the State chose to provide with compulsory attendance laws, and a liberty interest in their reputations.³ The basic requirements of due process are notice and an opportunity to be heard.

The student shall always be treated with fundamental fairness, has a right to be fully informed about his/her alleged breach of behavior, and shall be provided with an opportunity to respond to such charges. The level of due process required is dependent upon the length of the suspension, generally a ten (10) day threshold. A short-term in-school suspension that does not exclude a student from the educational process, i.e. the student remains in the school setting and is required to complete academic requirements, may not require any extensive procedural due process.⁴

What are the Grounds for Suspension?

A principal's authority to suspend students is inherent in his/her responsibility for the operation of the school⁵ and is also codified in statute. T.C.A. § 49-6-3401 requires "good and sufficient" reasons for suspension from attendance and provides a non-exhaustive list of qualifying offenses.⁶ Qualifying behavior may be any "conduct prejudicial to good order or discipline."⁷ Off campus behavior may be grounds for suspension if the student is legally charged, adjudicated delinquent, or convicted of a felony.⁸

A principal may suspend a student from classes or activities without suspending them from school pursuant to an in-school suspension policy adopted by the Board. Good and sufficient grounds for in-school suspension include, but are not limited to, behavior that adversely affects safety and well-being of others, disrupts a school activity, or is prejudicial to good order and discipline in school. See Chapter 2 for further explanation of behaviors justifying suspension.⁹

¹Goss v. Lopez, 419 U.S. 565 (1975).

²U.S. Const. amend. XIV, § 1.

³Goss v. Lopez, 419 U.S. 565, 581 (1975).

⁴Laney v. Farley, 501 F.3d 577 (6th Cir. 2007).

⁵Carter v. Taylor, 409 F. Supp. 1162 (E.D. Tenn. 1975).

⁶T.C.A. § 49-6-3401(a)

⁷T.C.A. § 49-6-3401(a)(13)

⁸T.C.A. § 49-6-3401(a)(14)

⁹T.C.A. § 49-6-3401(b)(1)



What About Short-Term or In-School Suspensions?

Most discipline problems not leading to long-term suspension (more than ten (10) days) or expulsion are resolved at the building level through an informal hearing involving the student, parent/guardian, and teacher or building administrator. Except in an emergency, the student shall be advised of the misconduct and allowed to give an explanation prior to suspension.¹⁰ Any suspension other than an in-school suspension of one day or less requires a principal to notify the parent/guardian and the Director of Schools within twenty-four (24) hours. The notice shall include the length of the suspension (shall be less than ten (10) days for informal hearing), cause, and conditions of readmission, e.g. meeting with the parent(s)/guardian(s).¹¹ If the suspension is more than five (5) days, the principal shall develop a plan for improving behavior.¹²

What About Long-Term Suspensions?

Suspensions for more than ten (10) days require a higher level of due process. A principal may suspend a student unconditionally for a such a period of time or upon such terms and conditions they deem reasonable. A principal shall immediately notify the parent(s)/guardian(s) (oral or written) of the right to appeal the suspension. The student, parent/guardian, or teacher acting on the request of the student may then file an appeal with the school within five (5) days of said notice.

The appeal will be heard by the local Board or a Disciplinary Hearing Authority (DHA). The local Board should adopt a policy requiring initial appeal to the DHA if it does not want to hear all initial appeals itself.

If appointed, the DHA shall consist of at least one licensed employee of the school district. The total number of members for the DHA should not exceed the number of members of the Board. The hearing shall be held no later than ten (10) days after the beginning of the suspension.¹³ After the hearing, the local Board or the DHA, whichever hears the appeal, may affirm the suspension, remove it unconditionally or upon such terms and conditions it deems reasonable, assign the student to an alternative program, or suspend the student for a specified period of time.¹⁴

¹⁰T.C.A. § 49-6-3401(c)(1)

¹¹T.C.A. § 49-6-3401(c)(2)

¹²T.C.A. § 49-6-3401(c)(3)

¹³T.C.A. § 49-6-3401(c)(4)

¹⁴T.C.A. § 49-6-3401(c)(5)



Formation and Operation of the DHA

The only requirements in state law regarding composition of the DHA are that the DHA consist of at least one licensed employee of the school district and that the total membership not exceed the number of members on the local Board. Based on State Board of Education Policy and TSBA model policy, we recommend as a best practice that the Director of Schools nominate DHA members to the Board for approval and that the Director selects a Chair to preside over the meetings. The Chair should be responsible for scheduling the hearing, maintaining order and structure of the hearing, and preparing the minutes. Hearings should not be held with less than three (3) members of the DHA present.

At the outset of the meeting, the Chair should call the meeting to order. The DHA, the administration, and the student should introduce themselves on the record and in that order. The offense, proposed suspension, and date of appeal should be included in the record. The administrator will then present his/her case. It is not necessary to present witnesses or even disclose the source of statements. Remember, this is not an adversarial legal proceeding requiring conformity to the Tennessee Rules of Evidence. Although there are constitutional due process implications, courts have stopped short of construing the protection in this context as affording students a right to have counsel participate in the proceedings or the right to cross examination.¹⁵ The student may have an attorney present, but the Board is not required to allow attorney participation at the hearing.

DHA members can and should ask questions during the proceeding. After each side has presented their case, the Chair may adjourn for private deliberations or deliberate in the hearing room unless the student or parent/guardian has requested an open meeting. The DHA shall summarize the facts forming the basis of the decision, and such facts shall have been adduced at the hearing. Since student discipline information is protected under state and federal law, Boards should consult their local attorney to determine specifically how a hearing shall be conducted to protect the privacy rights of the student. Upon conclusion, the Chair will close the hearing.

Is the DHA Decision Subject to Appeal?

Yes. If the appeal is heard by the DHA, a written record of the hearing, including of the summary of the facts and reasons for the decisions, shall be made. The parent/guardian or student then has five (5) days to request review of the decision by the local Board, or the decision becomes final. The Board may, based upon a review of the record, grant or deny the request and may affirm or overturn the DHA decision with or without a hearing, provided that the Board may not impose a more severe penalty without an additional hearing. A disciplinary hearing before the Board is a closed meeting unless an open meeting is requested by the parent/guardian or student.¹⁶

¹⁵Goss v. Lopez, 419 U.S. 565 (1975).

¹⁶T.C.A. § 49-6-3401(c)(6)



What About Zero-Tolerance Offenses?

Zero-tolerance offenses require expulsion for not less than one calendar year unless modified by the Director of Schools on a case-by-case basis. The statutory zero-tolerance offenses are: possession of a firearm or controlled substance on school property and aggravated assault or assault resulting in bodily injury upon an employee of the school district. Expulsion for a zero-tolerance offense does not prevent assignment of such students to an alternative school. Local Boards may include other zero-tolerance offenses in their disciplinary policies and procedures.¹⁷

A student may appeal a zero-tolerance offense in the same manner as other long-term suspensions. However, jurisdiction of the Board on appeal is limited to guilt or innocence and whether due process was followed, and it shall sustain or reverse the DHA on the record. In all other cases on appeal to the Board from the DHA, the Board may grant a hearing or decide it on the record.

Does TN Still Permit Corporal Punishment?

Yes. Any teacher or principal may use corporal punishment in a reasonable manner against any student for good cause in order to maintain discipline and order provided that the local Board had adopted a policy permitting the use of such punishment. If a student has a disability (has an IEP under IDEA), written permission of the parent/guardian is required. The principal shall notify the parent/guardian any time corporal punishment is used.¹⁸

Miscellaneous Provisions

If a suspension occurs during the last ten (10) days of a semester, the student may take final exams and submit required work necessary to complete the course. Students under in-school suspension shall be included in attendance record.¹⁹ If a student is determined to have acted reasonably in self-defense or defense of another under imminent threat of death or serious bodily injury, then the principal may choose not to take any disciplinary action.²⁰

¹⁷T.C.A. § 49-6-3401(g)

¹⁸T.C.A. § 49-6-4103

¹⁹T.C.A. § 49-6-3401(d)

²⁰T.C.A. § 49-6-3401(i)



Determining Whether Behavior Warrants Discipline

T.C.A. § 49-6-3401 provides a non-exhaustive list of good and sufficient reasons for suspensions as follows:

- Willful and persistent violation of the rules of the school;
- Immoral or disreputable conduct or vulgar or profane language;
- Violence or threatened violence against the person of any personnel attending or assigned to any public school;
- Willful or malicious damage to real or personal property of the school or the property of any person attending or assigned to the school;
- Inciting, advising, or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);
- Marking, defacing, or destroying school property;
- Possession of a pistol, gun, or firearm on school property;
- Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;
- Assaulting a principal, teacher, school bus driver, or other school personnel with vulgar, obscene, or threatening language;
- Unlawful use or possession of barbitol or legend drugs, as defined in § 53-10-101;
- One (1) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school or a school activity;
- Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive, or destructive device, including chemical weapons, on school property or at a school sponsored event; and
- Any other conduct prejudicial to good order or discipline in any public school.

The Student and Employee Safe Environment Act of 1996 requires each local Board to adopt a discipline policy to apply to students which shall be posted on its website. Each policy shall address:

- Language used by students;
- Respect for all school employees;
- Fighting, threats, bullying, cyberbullying, and hazing by students;
- Possession of weapons on school property or at school functions;
- Transmission by electronic device of any communication containing a credible threat to cause bodily injury or death to another student or school employee;



- Damage to the property or person of others;
- Misuse or destruction of school property;
- Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia;
- Student conduct on school property, conduct in classes, and conduct on school buses; and
- Other subjects that a local Board of Education chooses to include.²¹

School districts are free to adopt discipline policies and codes of conduct that expand upon these lists so long as the prohibited conduct can fairly be determined to be prejudicial to good order within the school. While the application of many of these statutory reasons to a particular situation may be clear, others are subject to differing interpretations and have resulted in court opinions that provide further explanation.

Can a teacher relocate a student?

A teacher may relocate a student from the student’s present location to another location for the student’s safety or for the safety of others.²² The teacher must use “reasonable” or “justifiable” force if the student is unwilling to cooperate.

Conduct is considered justified if two conditions are met: (1) the teacher reasonably believes the conduct is immediately necessary to avoid imminent harm; and (2) the desirability and urgency of avoiding the harm clearly outweigh the harm sought to be prevented by the law proscribing the conduct, according to ordinary standards of reasonableness.²³ If additional steps are needed to relocate a student, then law enforcement, including School Resource Officers (SROs) should be contacted.

The teacher must file a report with the principal after the student is related. The student could be subject to additional disciplinary action that may include suspension or expulsion.

Can a student be removed from the classroom?

A teacher may refer a student to the principal in for the purpose of managing student behavior, ensuring the safety of all students, and to provide an opportunity to learn in an orderly and disciplined classroom.²⁴ The teacher may submit a written request to the principal asking for the removal of a student who repeatedly or substantially interferes with the teacher’s ability to communicate effectively with the class or with the ability of the student’s classmates to learn, and the behavior violates the district’s student discipline policy or code of conduct.²⁵

²¹[T.C.A. § 49-6-4002](#)

²²[TCA 49-6-2802\(a\)\(1\)](#)

²³[TCA 39-11-609](#)

²⁴[TCA 49-6-2803](#)

²⁵[TCA49-6-2804](#)



The request from the teacher must include documentation showing that the teacher:²⁶

1. Took action to address the student's disruptive behavior;
2. Provided consequences for the student's disruptive behavior;
3. Conducted an oral conference either by a documented telephone conversation or an in-person discussion with the student's parent or guardian regarding the student's disruptive behavior;
4. Provided an opportunity for school counseling or other support services deemed appropriate to address the student's disruptive behavior;
5. Developed and implemented a plan to improve the student's behavior in a conference with the student; and
6. Issued a disciplinary referral to address the student's disruptive behavior.

Once the request is submitted, the principal must give the student notice of the request, and the justification provided by the teacher. If the student denies the conduct, then the principal must gather additional information and make a decision on placement of the student.

Freedom of Speech and Expression

Suspensions often arise in the context of student speech and expression that have First Amendment implications. Students do not shed their constitutional rights under the First Amendment to freedom of speech or expression at the schoolhouse gate.²⁷ However, these rights often conflict with the comprehensive authority of school officials to control conduct in schools. Courts apply different legal standards depending on the circumstances in interpreting censorship or discipline that affect First Amendment rights.

First, school officials cannot censor student speech unless school officials reasonably forecast that the speech will cause material and substantial disruption of school activities or collide with the rights of another. Mere apprehension of disturbance is not enough to justify discipline. In *Tinker v. Des Moines*, students were suspended for refusing to remove black armbands worn in protest of the Vietnam war. The U.S. Supreme Court established the "material and substantial disruption" standard in ruling the suspension unconstitutional because school authorities had no reason to anticipate that wearing armbands would substantially interfere with the work of the school or infringe upon the rights of other students.²⁸

In *Melton v. Young*, the Sixth Circuit Court of Appeals applied the same standard in holding that a suspension resulting from wearing a Confederate flag patch did not violate the student's First Amendment rights when there was clearly a substantial disruption, i.e. the school was in fact closed on two occasions and much controversy had centered around the use of the Confederate flag as a school symbol. Notably, the *Melton* case was decided in 1969 amid heightened racial tensions.²⁹

²⁶[TCA 49-6-2804\(a\)](#)

²⁷[Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 \(1969\)](#)

²⁸[Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 \(1969\)](#)

²⁹[Melton v. Young, 465 F.2d 1332 \(6th Cir. 1972\)](#)



Second, Courts have upheld suspensions for language that is vulgar, lewd, and plainly offensive. In *Bethel Sch. Dist. v. Fraser*, the U.S. Supreme Court held that discipline for language used in a nominating speech at a student assembly did not violate the student's First Amendment rights when the language was offensively lewd and indecent and a disciplinary rule and warnings from teachers gave adequate notice that such speech would be subject to discipline.³⁰

In sum, if a school official is disciplining a student for exercising speech or expression, there should be a factually based determination that the behavior will disrupt school activities, interfere with the rights of others, or contain vulgar, lewd, and plainly offensive language. Discipline policies should include prohibitions of such language and clearly define the resulting disciplinary action.

Students and Tobacco

Vaping has become increasingly common in schools. Students often have the false impression that it is either not harmful or less harmful than smoking tobacco which is not the case. Vaping products often contain substantially more nicotine than traditional tobacco. Many of these products can also be filled with marijuana and other illegal drugs. Administrators have difficulty detecting use of vaping products as they are often vaporless and odorless and come in a variety of disguises, e.g. USB drives, functional pens, etc., making them easy to conceal.

The Prevention of Youth Access to Tobacco and Vapor Products Act makes it unlawful for a minor to possess a tobacco product which includes visible and non-visible vapor products.³¹ The tobacco product shall be seized as contraband at the time of issuance. The issuance of a citation does not impair the authority of the principal to impose other penalties when such possession violates school disciplinary policy or otherwise interferes with the order and discipline in school.³²

Harassment, Intimidation, and Bullying

School districts are required to have a policy prohibiting harassment, intimidation, bullying, and cyber-bullying.³³ Harassment, intimidation, or bullying is defined as any act that substantially interferes with a student's education, and if taken place on school grounds either (1) physically harms a student or their property, (2) places student in reasonable fear of such harm, (3) causes emotional distress, or (4) creates a hostile educational environment.³⁴ Action taken place off school property or outside of school activities may also violate the bullying policy if it is directed specifically at a student and has the effect of creating a hostile environment or disruption to the learning process.³⁵ Cyber-bullying is any bullying undertaken through the use of electronic devices.

³⁰*Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986)

³¹[T.C.A. § 39-17-1501 et. seq.](#)

³²*Tenn. Op. Att'y Gen. No. 00-110* (June 20, 2000)

³³[T.C.A. § 49-6-4503](#)

³⁴[T.C.A. § 49-6-4502](#)

³⁵[T.C.A. § 49-6-4502](#)



The bullying policy shall include the remedial action and procedure for reporting which can include anonymous reporting.³⁶ The principal/designee shall initiate an investigation within forty-eight (48) hours and initiate appropriate intervention within twenty (20) days.³⁷ Annual notice of bullying policies to teachers and students is required. Any harassment, intimidation, and bullying shall be reported to the parent/guardian immediately.

Preventing bullying is clearly necessary for a healthy educational environment and student learning. Compliance with the bullying policy and procedures are also important to protect the Board. The school district can be held liable for damages resulting from an assault if it is aware of the harassment or bullying and fails to undertake appropriate intervention. In *Moore v. Houston County Bd. of Educ.*, the Court of Appeals found the Board liable when administrators failed to follow the district's bullying policy (insufficient investigation) and the attack was reasonably foreseeable based on the information reported to administrators. In that case, the action was deemed foreseeable even when the bully was not the one that actually inflicted the injury.³⁸ The law does not impose a legal duty upon teachers and school districts to anticipate and foresee the hundreds of unexpected student acts that occur daily in our public schools; however, there is a legal duty of safeguarding students from reasonably foreseeable dangerous conditions including dangerous acts of fellow students.³⁹

Government entities, including Boards, are immune from suit for any injury that may result from its activities.⁴⁰ The immunity is removed for an injury proximately caused by a negligent act of any employee within the scope of employment unless the injury arises out of the performance or failure to perform a discretionary function.⁴¹ Decisions that rise to the level of planning or policy-making are considered discretionary acts requiring judicial restraint and do not give rise to tort liability, while decisions that are merely operational do give rise to tort liability.⁴² Merely implementing preexisting policies and regulations are considered to be operational in nature. Generally, administrators charged with implementing existing policy are not exercising a discretionary function, and thus, a Board can be held liable for damage resulting from failure to properly implement or follow policy.⁴³ Administrators should be aware of the potential liability of the school district and the importance of following all bullying procedures.

³⁶[T.C.A. § 49-6-4503\(b\)\(4-5\)](#)

³⁷[T.C.A. § 49-6-4503](#)

³⁸*Moore v. Houston Cty. Bd. of Educ.*, 358 S.W.3d 612, 616 (Tenn. Ct. App. 2011)

³⁹*Mason v. Metro Gov't of Nashville*, 189 S.W.3d 217 (Tenn.Ct.App.2005)

⁴⁰[T.C.A. § 29-20-201](#)

⁴¹[T.C.A. § 29-20-205](#)

⁴²*Limbaugh v. Coffee Med. Ctr.*, 59 S.W.3d 73 (Tenn. 2001)

⁴³*Moore v. Houston Cty. Bd. of Educ.*, 358 S.W.3d 612, 616 (Tenn. Ct. App. 2011)



Reckless Endangerment

School districts may choose to impose heightened discipline, e.g. suspension for greater than ten (10) days, when behavior amounts to reckless endangerment. Generally, a person can be found to have violated the rule proscribing reckless endangerment if the person is aware of, but consciously disregards, the possibility that his or her conduct may create a substantial risk of death or serious injury to another person. These cases often involve the use of an automobile on school grounds. Districts should be cognizant of situations with an inherent risk of serious injury, particularly student use of vehicles, and include such language in their discipline policies.⁴⁴

Students with Disabilities

Students with a disability and an Individualized Education Program (IEP) are afforded certain procedural protections under the Individuals with Disabilities Education Act (IDEA). An IEP is the primary mechanism for assuring that a disabled student receives a free appropriate public education – the purpose of IDEA. IDEA does not eliminate a school’s ability to discipline disabled students for their misbehavior, but it does create additional procedural safeguards.

Pursuant to IDEA, if a student with a disability is removed from the classroom for longer than ten (10) consecutive days for disciplinary reasons, the school shall conduct a manifestation determination to determine whether the behavior resulted from the disability or whether it resulted from a failure to implement the student’s IEP. Within ten (10) school days of a change of placement due to violation of code of conduct, the school district, parent/guardian, and IEP team shall review all relevant information to determine (1) if there was a direct and substantial relationship between the conduct and disability or (2) if the conduct was the result of the school district’s failure to implement the IEP. If the answer to either of these questions is affirmative, the conduct is determined to be a manifestation of the disability, and the IEP team and the school district shall follow additional procedural requirements in 20 U.S.C.A. § 1451, including conducting a functional behavioral assessment and implementing a behavioral intervention plan. If the conduct is not a manifestation of the disability, then the relevant disciplinary procedures for students without a disability should apply.⁴⁵

Discrimination

The principal of each school shall apply the code of conduct uniformly and fairly to each student at the school without partiality or discrimination.⁴⁶ Each local Board of Education may choose to adopt different but consistent discipline policies or codes of conduct to apply to different classes of schools, such as elementary, middle, junior high, and senior high schools under its jurisdiction. The policies and codes of conduct shall be uniform to the extent of maximum consideration for the safety and well-being of students and employees.⁴⁷

⁴⁴Heyne v. Metro. Nashville Bd. of Pub. Educ., 380 S.W.3d 715, 739–40 (Tenn. 2012)

⁴⁵20 U.S.C. § 1415(k)(1)

⁴⁶T.C.A. § 49-6-4004

⁴⁷T.C.A. § 49-6-4005



Closing

Every teacher is authorized to hold every student accountable for any disorderly conduct which authority extends to all school activities.⁴⁸ A school employee, in exercising lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm to another and enjoys immunity from civil liability in an action resulting from any harm in doing so.⁴⁹ Although decisions of local school officials are afforded a presumption of good faith⁵⁰, teachers and administrators shall closely follow school discipline policies to ensure compliance with the law.

⁴⁸[T.C.A. § 49-6-4102](#)

⁴⁹[T.C.A. § 49-6-4107](#); [§ 49-6-4006](#)

⁵⁰[Link v. Metro. Nashville Bd. of Pub. Educ., No. M2013-00422-COA-R3CV, 2013 WL 6762393, at *6 \(Tenn. Ct. App. Dec. 19, 2013\)](#)



Appendix A: Statutes

T.C.A. § 49-6-3401. Grounds; procedure; admission requests; zero tolerance policies; annual report of disciplinary actions

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

- (1) Willful and persistent violation of the rules of the school;
- (2) Immoral or disreputable conduct or vulgar or profane language;
- (3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;
- (4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;
- (5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a) (1)-(4);
- (6) Marking, defacing or destroying school property;
- (7) Possession of a pistol, gun or firearm on school property;
- (8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;
- (9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;
- (10) Unlawful use or possession of barbitol or legend drugs, as defined in § 53-10-101;
- (11) One (1) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school or a school activity;
- (12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;
- (13) Any other conduct prejudicial to good order or discipline in any public school; and



(14) Off campus criminal behavior that results in the student being legally charged with an offense that would be classified as a felony if the student was charged as an adult or if adjudicated delinquent for an offense that would be classified as a felony if the student was an adult, or if the student was convicted of a felony, and the student's continued presence in school poses a danger to persons or property or disrupts the educational process. Notwithstanding § 37-1-131 or any other law to the contrary, the principal of the school in which the student is enrolled and the director of schools shall determine the appropriate educational assignment for the student released for readmission.

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

(A) That adversely affects the safety and well-being of other pupils;

(B) That disrupts a class or school sponsored activity; or

(C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.



(4)(A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be



heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension.

(e) Students under in-school suspension shall be recorded as constituting a part of the public school attendance in the same manner as students who attend regular classes.

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA.

(g)(1) It is the legislative intent that if a rule or policy is designated as a zero tolerance policy, then violations of that rule or policy must not be tolerated and violators shall receive certain, swift, and proportionate punishment.

(2) Notwithstanding other provisions of this section or any other law, a student shall be considered in violation of a zero tolerance offense and shall be expelled for a period of not less than one (1) calendar year, except that the director of schools may modify this expulsion on a case-by-case basis for the following:

(A) A student brings to school or is in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;

(B) A student commits aggravated assault as defined in § 39-13-102 or commits an assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; or

(C) A student is in unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, on school grounds or at a school-sponsored event.

(3) Nothing in this section prohibits the assignment of students who are subject to expulsion from school to an alternative school.



(4) Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, must be determined by local board of education policy.

(5) For purposes of this subsection (g):

(A) “Expelled” means removal from the student’s regular school program at the location where the violation occurred or removal from school attendance altogether, as determined by the school official; and

(B) “Zero tolerance offense” means an offense committed by a student requiring the student to be expelled from school for at least one (1) calendar year that can only be modified on a case-by-case basis by the director of schools or the head of a charter school.

(h) The commissioner of education shall report on an annual basis to the education committee of the senate and the education administration committee of the house of representatives regarding disciplinary actions in Tennessee schools. The reports must include the reason for the disciplinary action, the number of students suspended or expelled, the number of students who committed zero tolerance offenses pursuant to subsection (g), the number of students who have been placed in an alternative educational setting, and the number of students suspended, expelled, or otherwise dismissed from an alternative school. Data must be sorted by school as well as by various demographic factors, including grade, race, and sex.

(i) Notwithstanding subsection (a) or (b) or any other law to the contrary, if a pupil is determined, via a fair and thorough investigation made by the principal or the principal’s appointed representative, to have acted in self-defense under a reasonable belief that the student, or another to whom the student was coming to the defense of, may have been facing the threat of imminent danger of death or serious bodily injury, which the student honestly believed to be real at that time, then, at the principal’s recommendation, the student may not face any disciplinary action.

T.C.A. § 49-6-4103. Corporal punishment--when permitted

(a) Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools.

(b)(1) Notwithstanding subsection (a), teachers, school principals, or other school personnel are prohibited from using corporal punishment against any student who has a disability, unless an LEA’s discipline policy permits the use of corporal punishment and a parent of a child who has a disability permits, in writing, the use of corporal punishment against the parent’s child. The written permission must state the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school’s principal must keep the written permission on file at the school. The school’s principal must notify the parent any time corporal punishment is used. The school’s principal must inform the parent, when the written permission for the use of corporal punishment is submitted, that the parent may revoke the permission to use corporal punishment at any time by giving written notice to the school’s principal that corporal punishment may no longer be



used against the parent's child who has a disability.

(2) As used in this subsection (b):

(A) "School personnel" includes all individuals employed on a full-time or part-time basis by a public school; and

(B) "Student who has a disability" means a student who has an individualized education program (IEP) under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), or a Section 504 plan under the Rehabilitation Act (29 U.S.C. § 701 et seq.).

(3) This subsection (b) does not authorize the use of corporal punishment by a person who is not permitted to administer corporal punishment under subsection (a).

T.C.A. § 49-6-4002. Discipline policies; codes of conduct

(a)(1) Each local board of education and charter school governing body shall adopt a discipline policy to apply to the students in each school operated by the LEA or charter school governing body.

(2) A local board of education or charter school governing body may implement, as part of the LEA's or public charter school's discipline policy, holistic programs of positive behavior reinforcement and reward-based behavior modification systems, such as The Ticket Program, that are age-appropriate, encourage parent participation, and encourage students to make good life choices for a better future by reinforcing positive student behavior with rewards and incentives that are tailored to each school's unique student population, and that work with schools, parents, and the community to reinforce positive student behavior at home, at school, and in all aspects of community life. A local board of education or charter school governing body that implements a holistic program of positive behavior reinforcement or a reward-based behavior modification system, such as The Ticket Program, shall ensure that the program complies with state law.

(b) The director of schools or head of the charter school is responsible for overall implementation and supervision, and each school principal is responsible for administration and implementation of a code of conduct within the principal's school.

(c) In developing a discipline policy, the local board of education or charter school governing body shall seek recommendations from parents, employees of the LEA or charter school, law enforcement personnel, and youth-related agencies in the community.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

(1) Language used by students;



- (2) Respect for all school employees;
 - (3) Fighting, threats, bullying, cyberbullying, and hazing by students;
 - (4) Possession of weapons on school property or at school functions;
 - (5) Transmission by electronic device of any communication containing a credible threat to cause bodily injury or death to another student or school employee;
 - (6) Damage to the property or person of others;
 - (7) Misuse or destruction of school property;
 - (8) Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia;
 - (9) Disobedient, violent, abusive, uncontrollable, or disruptive student conduct on school property, on school buses, and at school-sponsored events;
 - (10) Other subjects that a local board of education or a charter school governing body chooses to include.
- (e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:
- (1) Unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;
 - (2) Aggravated assault as defined in § 39-13-102 upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer;
 - (3) Assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; and
 - (4) Unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101 on school grounds or at a school-sponsored event.
- (f) Each local board of education and charter school governing body may adopt a discipline policy that promotes positive behavior and includes evidence-based practices to respond effectively to misbehavior and minimize a student's time away from school.
- (g) Each discipline policy or code of conduct must state that a teacher, principal, school employee, or school bus driver may use reasonable force in compliance with § 49-6-4107.
- (h) A discipline policy or code of conduct adopted by a local board of education or charter school governing body may authorize a teacher to withhold a student's phone from the student for the



duration of the instructional time if the student's phone is a distraction to the class or student.

T.C.A. § 49-6-2802. School policies on relocating students for safety reasons--scope and implementation; use of force; physical altercations; reporting

(a)(1) Each local board of education and each public charter school governing body shall adopt a policy regarding a teacher's ability to relocate a student from the student's present location to another location for the student's safety or for the safety of others.

(2) The use of reasonable or justifiable force, as defined in §§ 39-11-603, 39-11-609, 39-11-610, 39-11-612, 39-11-613, 39-11-614, 39-11-621, and 39-11-622, if required to accomplish this task due to the unwillingness of the student to cooperate, is allowed. If steps beyond the use of reasonable or justifiable force are required, then the student must be allowed to remain in place until local law enforcement officers or school resource officers can be summoned to relocate the student or take the student into custody until a parent or guardian can retrieve the student.

(3) The policy required under this subsection (a) must authorize teachers to intervene in a physical altercation between two (2) or more students, or between a student and an LEA employee or public charter school employee, as applicable, using reasonable or justifiable force upon a student, if necessary, to end the altercation by relocating the student to another location.

(b) The policy required under subsection (a) must:

(1) Be in effect on school property, as well as at official school-sponsored events, including, but not limited to, sporting events and approved field trips that take place away from school property; and

(2) Cover teachers who are directly responsible for the student's education, and other LEA employees or public charter school employees, as applicable, who interact with students on a professional basis. The LEA employees or public charter school employees described in this subdivision (b)(2) include, but are not limited to, administrators, teachers, school support staff, bus drivers, cafeteria workers, and school resource officers while the employee is acting within the scope of the employee's assigned duties.

(c) The policy required under subsection (a) must require a teacher to file a brief report with the principal detailing the situation that required the relocation of the student. The report must be kept either in a student discipline file, in which case the report does not become a part of the student's permanent record, or it must be filed in the student's permanent record, if the student's behavior violated the applicable zero tolerance policy. After the teacher files the report required under this subsection (c), the student is subject to additional disciplinary action that may include suspension or expulsion from the school. The principal or the principal's designee must notify the teacher involved of the actions taken to address the behavior of the relocated student.

(d) Each principal shall fully support the authority of each teacher in the principal's school to relocate under this section.



(e) Each principal shall implement the policies and procedures of the local board of education or public charter school governing body, as applicable, relating to the authority of each teacher to relocate a student and shall disseminate such policies and procedures to the students, faculty, staff, and parents or guardians of students.

(f) The policy required under subsection (a) must comply with all state and federal laws, including the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), and Section 504 of the Rehabilitation Act (29 U.S.C. § 794).

T.C.A. § 39-11-609. Necessity

- (1) The person reasonably believes the conduct is immediately necessary to avoid imminent harm; and
- (2) The desirability and urgency of avoiding the harm clearly outweigh the harm sought to be prevented by the law proscribing the conduct, according to ordinary standards of reasonableness.

T.C.A. § 49-6-2803. Disciplinary referrals to principal or designee--procedure; annual review of disciplinary policies and practices

In order to manage student behavior, to ensure the safety of all students in the teacher's classroom and school, and to ensure students the opportunity to learn in an orderly and disciplined classroom, a teacher may refer a student to the principal or the principal's designee. When a teacher disciplines a student by issuing a written referral for the student's behavior, the referral must be returned to the teacher with a notation of the action taken. The referral must be kept in a student discipline file, and shall not become a part of the student's permanent record. If an LEA or school has adopted an electronic system of making disciplinary referrals instead of using written referrals, then the teacher making the referral must be notified of the action taken, but the notification may be made either electronically or in writing. The principal or the principal's designee must respond to a teacher's disciplinary referral of a student by employing appropriate discipline management techniques that are consistent with the LEA's or school's policy. The director of schools, or the director's designee, must review the LEA's or school's discipline policies, practices, and data annually and recommend any necessary revisions to discipline policies to the local board of education or the public charter school governing body, as applicable, for adoption.

T.C.A. § 49-6-2804. Removal of disruptive students--process; options for responsive action; overuse or abuse of process; annual reports on removal requests

(a) A teacher may submit a written request to the principal, or the principal's designee, to remove a student who repeatedly or substantially interferes with the teacher's ability to communicate effectively with the class or with the ability of the student's classmates to learn, if the student's behavior is in violation of the LEA's or school's student discipline policy or code of conduct. The written request must include documentation that the teacher has previously:



- (1) Taken action to address the student's disruptive behavior;
 - (2) Provided consequences for the student's disruptive behavior;
 - (3) Conducted an oral conference either by a documented telephone conversation or an in-person discussion with the student's parent or guardian regarding the student's disruptive behavior;
 - (4) Provided an opportunity for school counseling or other support services deemed appropriate to address the student's disruptive behavior;
 - (5) Developed and implemented a plan to improve the student's behavior in a conference with the student; and
 - (6) Issued a disciplinary referral under § 49-6-2803 to address the student's disruptive behavior.
- (b) The principal or the principal's designee must give the student oral or written notice of the grounds for the teacher's request to remove the student from the teacher's classroom and, if the student denies engaging in the conduct, then the principal or the principal's designee must explain what caused the teacher to submit a request to the principal or the principal's designee to remove the student from the teacher's classroom, and give the student an opportunity to explain the situation. If the student's account is deemed to be valid, albeit different from the teacher's account, and changes the principal's, or the principal's designee's, perspective of the incident, then the principal or the principal's designee must render a decision regarding the student's placement.
- (c) Principals and their designees shall respect the professional judgment of a teacher requesting to remove a student from the teacher's classroom under subsection (a) and shall take an action consistent with the student discipline policy or code of conduct adopted pursuant to § 49-6-4002 in response to the request, which may include:
- (1) Assigning the student to another appropriate classroom for a specified period of time, or for the remainder of the student's assignment to the class from which the student was removed under subsection (a);
 - (2) Assigning the student to in-school suspension for a specified period of time, in compliance with § 49-6-3401;
 - (3) Remanding the student to an alternative school or to an alternative education program for a specified period of time, in compliance with §§ 49-6-3401 and 49-6-3402;
 - (4) Suspending the student pursuant to § 49-6-3401;
 - (5) Requiring the parents or guardians of a student who is removed from a teacher's classroom and assigned to another appropriate classroom under subdivision (c)(1) to participate in conferences before the student is permitted to return to the classroom from which the student was removed; or



(6) Denying the teacher's request to remove a student from the teacher's classroom and offering appropriate supports for the teacher to address the student's disruptive behavior.

(d) Any action taken in response to a teacher's request to remove a student from the teacher's classroom must comply with all applicable policies of the local board of education or the public charter school governing body, as applicable, the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), Section 504 of the Rehabilitation Act (29 U.S.C. § 794), the constitutions of the United States and Tennessee, and all applicable federal and state civil rights laws.

(e) Principals or their designees must notify law enforcement, as appropriate, when implementing this section, and in compliance with §§ 49-6-4209 and 49-6-4301.

(f)(1) A local board of education or public charter school governing body shall establish an appeal process for a teacher to file an appeal when the teacher's request to remove a student from the teacher's classroom is denied pursuant to subdivision (c)(6). An appeal process established under this subdivision (f)(1) must authorize a teacher to file an appeal with the director of schools, or the director's designee, when the teacher's request to remove a student from the teacher's classroom is denied pursuant to subdivision (c)(6).

(2) A teacher shall not be terminated, demoted, harassed, or otherwise retaliated against for filing a request for a student to be removed from the teacher's classroom, or for appealing a decision to deny the teacher's request to remove a student pursuant to this subsection (f).

(g) If a teacher abuses or overuses the student removal process provided in this section, then the principal or the principal's designee must address the abuse or overuse with the teacher in compliance with the local board's or public charter school governing body's policy, as applicable, and may require the teacher to complete additional professional development to improve the teacher's classroom management skills.

(h) To assist local boards of education and public charter school governing bodies in determining the effectiveness of student discipline policies and classroom supports provided to teachers to help address student behavior, each school shall annually report to the director of schools or to the head of the public charter school, as applicable, by July 1, 2022, and by each July 1 thereafter, the number of requests submitted by the school's teachers during the immediately preceding school year to remove a student from the teacher's classroom pursuant to subsection (a). The report must document the actions taken by the teacher's principal, or the principal's designee, in response to each request for a student's removal. Each director of schools must compile the data provided in each school's report and issue a district-wide report to the local board of education by August 1 immediately following the July 1 deadline for school reports.

(i) The commissioner of education may review the school and district-wide reports required under subsection (h) and provide training and other resources to schools and LEAs to address any needs identified through the commissioner's review.



(j) On or before February 1, 2023, and on or before February 1 of each year thereafter, the commissioner shall report to the governor and the general assembly on the implementation of, and compliance with, this part.

T.C.A. § 39-17-1501. Short title

This part shall be known and may be cited as the “Prevention of Youth Access to Tobacco, Smoking Hemp, and Vapor Products Act.”

T.C.A. § 49-6-4503. School district policies

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

(1) A statement prohibiting harassment, intimidation, bullying or cyber-bullying;

(2) A definition of harassment, intimidation, bullying or cyber-bullying;

(3) A description of the type of behavior expected from each student;

(4) A statement of the consequences and appropriate remedial action for a person who commits an act of harassment, intimidation, bullying or cyber-bullying;

(5) A procedure for reporting an act of harassment, intimidation, bullying or cyber-bullying, including a provision that permits a person to report an act of harassment, intimidation, bullying or cyber-bullying anonymously. Nothing in this section may be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) A procedure for the prompt and immediate investigation when an act of harassment, intimidation, bullying, or cyber-bullying is reported to the principal, the principal’s designee, teacher, or school counselor. The principal or the principal’s designee shall initiate the investigation within forty-eight (48) hours of receipt of the report, unless the need for more time is appropriately documented, and the principal or the principal’s designee shall initiate an appropriate intervention within twenty (20) calendar days of receipt of the report, unless the need for more time is appropriately documented;

(7) A statement of the manner in which a school district shall respond after an act of harassment, intimidation, bullying or cyber-bullying is reported, investigated and confirmed;

(8) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation, bullying or cyber-bullying;



- (9) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation, bullying or cyber-bullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation;
- (10) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation, bullying or cyber-bullying as a means of reprisal or retaliation or as a means of harassment, intimidation, bullying or cyber-bullying;
- (11) A statement of how the policy is to be publicized within the district, including a notice that the policy applies to behavior at school-sponsored activities;
- (12) The identification by job title of school officials responsible for ensuring that the policy is implemented;
- (13) A procedure for discouraging and reporting conduct aimed at defaming a student in a sexual manner or conduct impugning the character of a student based on allegations of sexual promiscuity; and
- (14) A procedure for a referral for appropriate counseling and support services for students involved in an act of harassment, intimidation, bullying, or cyber-bullying, when deemed necessary by the principal. The counseling and support services may be conducted by school counseling personnel who are appropriately trained, such as psychologists, social workers, school counselors, or any other personnel or resources available.
- (c)(1) Each LEA shall, at the beginning of each school year, provide teachers and school counselors a copy of the policy along with information on the policy's implementation, bullying prevention and strategies to address bullying and harassment when it happens. In addition, each LEA shall provide training to teachers and counselors regarding the policy and appropriate procedures relative to implementation of the policy. The department of education shall provide guidelines for such training and provide recommendations of appropriate, available and free bullying and harassment prevention resources.
- (2) Each LEA shall also:
- (A) At the beginning of the school year, make available to students and parents information relative to bullying prevention programs to promote awareness of the harmful effects of bullying and to permit discussion with respect to prevention policies and strategies;
- (B) Beginning August 1, 2016, and annually thereafter, complete and submit a report to the department of education. The report shall be in a format provided by the department and shall include:
- (i) The number of harassment, intimidation, bullying, or cyber-bullying cases brought to the attention of school officials during the preceding year;



(ii) The number of harassment, intimidation, bullying, or cyber-bullying cases where the investigation supported a finding that bullying had taken place;

(iii) The number of harassment, intimidation, bullying, or cyber-bullying case investigations not initiated within forty-eight (48) hours of the receipt of the report and the reason the investigation was not initiated within forty-eight (48) hours;

(iv) The number of harassment, intimidation, bullying, or cyber-bullying cases where an appropriate intervention was not initiated within twenty (20) calendar days of receipt of the report and the reason the intervention took longer than twenty (20) calendar days to initiate; and

(v) The type of harassment, intimidation, bullying, or cyber-bullying identified and manner in which the harassment, intimidation, bullying, or cyber-bullying cases were resolved, including any disciplinary action against the student who was harassing, intimidating, bullying, or cyber-bullying.

(3) The department shall annually submit a report to the education committees of the house of representatives and the education committee of the senate updating membership on the number of harassment, intimidation, bullying, or cyber-bullying cases reported statewide, the number of LEAs implementing this part, the status of any investigations, including disciplinary actions against students, and any other information relating to the subjects of harassment, intimidation, bullying, or cyber-bullying as will be helpful to the committees in establishing policy in this area.

(d)(1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

(2) The principal, or the principal's designee, shall immediately inform the parent or legal guardian of a student involved in an act of harassment, intimidation, bullying, or cyber-bullying. The principal or the principal's designee shall inform the parents or legal guardians of the students of the availability of counseling and support services that may be necessary.

(3) Following any investigation required by this part, the principal or such principal's designee shall report the findings, along with any disciplinary action taken, to the director of schools and the chair of the local board of education.

[T.C.A. § 49-6-4502. Definitions](#)

As used in this part:

(1) "Cyber-bullying" means bullying undertaken through the use of electronic devices;

(2) "Electronic devices" include, but are not limited to, telephones, cellular phones or other wireless



telecommunication devices, personal digital assistants (PDAs), computers, electronic mail, instant messaging, text messaging, and websites;

(3) “Harassment, intimidation or bullying” means any act that substantially interferes with a student’s educational benefits, opportunities or performance; and:

(A) If the act takes place on school grounds, at any school-sponsored activity, on school-provided equipment or transportation or at any official school bus stop, the act has the effect of:

(i) Physically harming a student or damaging a student’s property;

(ii) Knowingly placing a student or students in reasonable fear of physical harm to the student or damage to the student’s property;

(iii) Causing emotional distress to a student or students; or

(iv) Creating a hostile educational environment; or

(B) If the act takes place off school property or outside of a school-sponsored activity, it is directed specifically at a student or students and has the effect of creating a hostile educational environment or otherwise creating a substantial disruption to the education environment or learning process.

T.C.A. § 29-20-201. Sovereign immunity; legislative findings exceptions; flooded road warning sign or barricade

(a) Except as may be otherwise provided in this chapter, all governmental entities shall be immune from suit for any injury which may result from the activities of such governmental entities wherein such governmental entities are engaged in the exercise and discharge of any of their functions, governmental or proprietary.

(b)(1) The general assembly finds and declares that the services of governmental entity boards, commissions, authorities and other governing agencies are critical to the efficient conduct and management of the public affairs of the citizens of this state. Complete and absolute immunity is required for the free exercise and discharge of the duties of such boards, commissions, authorities and other governing agencies. Members of boards, commissions, authorities, and other governing agencies must be permitted to operate without concern for the possibility of litigation arising from the faithful discharge of their duties.

(2) All members of boards, commissions, agencies, authorities, and other governing bodies of any governmental entity, created by public or private act, whether compensated or not, shall be immune from suit arising from the conduct of the affairs of such board, commission, agency, authority, or other governing body. Such immunity from suit shall be removed when such conduct amounts to willful, wanton, or gross negligence.



(c) When immunity is removed by this chapter any claim for damages must be brought in strict compliance with the terms of this chapter.

(d) Notwithstanding this chapter or any other law to the contrary, a governmental entity that places and properly maintains a clearly visible and adequate flood warning sign or barricade at a flooded road area shall be immune from suit for any injury resulting from a violation of § 55-10-205(c). The immunity from suit shall be removed when the governmental entity's conduct amounts to willful, wanton, or gross negligence. It shall be deemed gross negligence if an authorized government employee signaled the motor vehicle operator that it was safe to drive past the sign or barricade and the operator or any passengers in the operator's motor vehicle were injured or killed in the flooded road area due to the employee's signaling the motor vehicle to drive past the sign or barricade.

T.C.A. § 29-20-205. Public officers and employees; negligent acts or omissions

Immunity from suit of all governmental entities is removed for injury proximately caused by a negligent act or omission of any employee within the scope of his employment except if the injury arises out of:

- (1) The exercise or performance or the failure to exercise or perform a discretionary function, whether or not the discretion is abused;
- (2) False imprisonment pursuant to a mittimus from a court, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, invasion of right of privacy, or civil rights;
- (3) The issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization;
- (4) A failure to make an inspection, or by reason of making an inadequate or negligent inspection of any property;
- (5) The institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;
- (6) Misrepresentation by an employee whether or not such is negligent or intentional;
- (7) Or results from riots, unlawful assemblies, public demonstrations, mob violence and civil disturbances;
- (8) Or in connection with the assessment, levy or collection of taxes;
- (9) Or in connection with any failure occurring before January 1, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if, and only if, the failure or malfunction causing the loss was unforeseeable or if the failure or malfunction



causing the loss was foreseeable but a reasonable plan or design or both for identifying and preventing the failure or malfunction was adopted and reasonably implemented complying with generally accepted computer and information system design standards. Notwithstanding any other law, nothing in this subdivision (9) shall in any way limit the liability of a third party, direct or indirect, who is negligent. Further, a person who is injured by the negligence of a third party contractor, direct or indirect, shall have a cause of action against the contractor; or

(10) Or in connection with any loss, damage, injury, or death arising from COVID-19, as defined in § 14-1-101, unless the claimant proves by clear and convincing evidence that the loss, damage, injury, or death was proximately caused by an act or omission by the entity or its employees constituting gross negligence. The requirements of title 14, chapter 5 apply to any such cause of action when applicable. This subdivision (10) terminates on July 1, 2023, but continues to apply to any loss, illness, injury, or death occurring before July 1, 2023, to which none of the exceptions listed in § 14-5-101(d) apply.

T.C.A. § 49-6-4004. Code of conduct to be applied uniformly and fairly

The principal of each school shall apply the code of conduct uniformly and fairly to each student at the school without partiality or discrimination.

T.C.A. § 49-6-4005. Disciplinary policies or codes of conduct applicable to different classes-- consistency or uniformity

Each local board of education or charter school governing body may choose to adopt different but consistent discipline policies or codes of conduct to apply to different classes of schools, such as elementary, middle, junior high, and senior high schools, under its jurisdiction. The policies and codes of conduct must be uniform to the extent of maximum consideration for the safety and well-being of students and employees.

T.C.A. § 49-6-4102. Student accountability

(a) Deleted by 2021 Pub.Acts, c. 77, § 3, eff. Jan. 1, 2022.

(b) Every school bus driver is authorized to hold every pupil strictly accountable for any disorderly conduct on any school bus going to or returning from school or a school activity.

T.C.A. § 49-6-4107. Reasonable force; use; immunity from civil liability

(a) A teacher, principal, school employee or school bus driver, in exercising the person's lawful authority, may use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person.

(b) Subsection (a) does not authorize use of corporal punishment by a person not permitted to administer corporal punishment under § 49-6-4103 or chapter 6, part 44 of this title.



(c) Subsection (a) does not authorize restraint or isolation of students for whom restraint or isolation is prohibited under chapter 10, part 13 of this title.

(d) A teacher, principal, school employee, or school bus driver using reasonable force in exercising the person's lawful authority in accordance with this section is immune from civil liability arising from the person's action pursuant to § 39-11-622, unless the teacher's, principal's, school employee's, or school bus driver's conduct is grossly negligent, reckless, or intentional misconduct. A person who is immune under this section is not the proximate cause of any resulting injuries.

T.C.A. § 49-6-4006. Civil Liability

(a) In addition to criminal penalties provided by law, there is created a civil cause of action for an intentional assault, personal injury or injury to the personal property of students or school employees when the assault occurs during school hours, on school property or during school functions, including travel to and from school on school buses. A person who commits such an assault or injury shall be liable to the victim for all damages resulting from the assault, including compensatory and punitive damages. Upon prevailing, the victim shall be entitled to treble damages and reasonable attorney fees and costs.

(b) It is a defense against a civil action for damages under this section that a teacher, principal, school employee or school bus driver in the exercise of the person's lawful authority used reasonable force under 49-6-4107 that was necessary to restrain the student or to prevent bodily harm or death to another person.



TSBA

Tennessee School Boards Association

About TSBA

A statewide non-profit organization, the Tennessee School Boards Association is a federation of all the state's school boards. It serves as an advocate for the interests of Tennessee's public school students and school districts and provides in-service training and technical assistance for more than 950 Board of Education members.

TSBA was founded in 1939, and in 1953, the Tennessee General Assembly officially recognized TSBA as the "organization and representative agency of the members of school boards in Tennessee."



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