

Tenn. Code Ann. § 49-6-3401

TENNESSEE CODE ANNOTATED
© 2013 by The State of Tennessee
All rights reserved

*** Current through the 2013 Regular Session ***

Title 49 Education
Chapter 6 Elementary and Secondary Education
Part 34 Suspension of Students

Tenn. Code Ann. § 49-6-3401 (2013)

49-6-3401. Suspension of students -- Expulsion of students -- Exception for self-defense.

(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 a felony and the student's continued presence in school poses a danger to persons or property or

disrupts the educational process.

(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. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. 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) Notwithstanding this section or any other law to the contrary, a pupil determined to have brought to school or to be in unauthorized possession on school property of a firearm, as

defined in 18 U.S.C. § 921, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. In addition to the other provisions of this part, a student committing aggravated assault as defined in § 39-13-102 upon any teacher, principal, administrator, any other employee of an LEA or school resource officer, or unlawfully possessing any drug including any controlled substance, as defined in §§ 39-17-403 -- 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, shall be expelled for a period of not less than one (1) calendar year, except that the director may modify this expulsion on a case-by-case basis. For purposes of this subsection (g), "expelled" means removed from the pupil's regular school program at the location where the violation occurred or removed from school attendance altogether, as determined by the school official. Nothing in this section shall be construed to prohibit the assignment of such students to an alternative school. Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, shall be determined by local board of education policy.

(h) The commissioner of education shall report on a semi-annual basis to the education committees of the senate and the house of representatives regarding disciplinary actions in Tennessee schools. The reports shall include the reason for the disciplinary action, the number of such students suspended or expelled and the number of such students who have been placed in an alternative educational setting. Data shall 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.

HISTORY: Acts 1925, ch. 115, § 8; Shan. Supp., § 1487a52; Code 1932, § 2341; Acts 1959, ch. 94, § 1; 1970, ch. 344, § 1; 1970, ch. 580, § 1; 1974, ch. 654, § 69; 1981, ch. 117, §§ 1-7; 1982, ch. 608, §§ 1, 2; T.C.A. (orig. ed.), § 49-1309; Acts 1986, ch. 671, § 1; 1988, ch. 646, § 1; 1991, ch. 382, §§ 1, 2; 1991, ch. 411, § 1; 1992, ch. 949, § 1; 1993, ch. 383, § 1; 1995, ch. 268, § 1; 1995, ch. 365, § 1; 1998, ch. 830, § 1; 2000, ch. 634, § 3; 2007, ch. 212, § 1; 2007, ch. 402, § 1; 2007, ch. 457, § 1; 2008, ch. 916, § 1; 2011, ch. 410, § 4(v); 2012, ch. 687, § 1; 2012, ch. 848, § 42; 2013, ch. 214, § 4; 2013, ch. 222, §§ 1, 2; 2013, ch. 442, § 1.