

AN OVERVIEW OF THE SAFE SCHOOLS ACT POLICY DEVELOPMENT, RESIDENCY, AND ENROLLMENT/ADMISSION/READMISSION;

REPORTING REQUIREMENTS AND RECORD KEEPING;

AND MISCELLANEOUS PROVISIONS

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The Missouri Safe Schools Act, which was passed in 1996, primarily deals with the following areas of a school district's operation: policy development, student admission and enrollment, residency requirements, and reporting and record keeping. Some statutes which were impacted by the Safe Schools Act have been adjusted subsequently.

POLICY DEVELOPMENT

(160.261 RSMo. 1999; 167.161 RSMo. 1999)

Each district must develop a written discipline policy which addresses the use of and procedures for the administration of corporal punishment, defines "acts of school violence" or "violent behavior", and includes a provision regarding weapons. "Acts of violence" or "violent behavior" is defined as "the exertion of physical force by a student with the intent to do serious bodily harm ...to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities." The policy must require that school administrators report acts of school violence to district employees with a "need to know". "Need to know" employees include "school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties."

The policy must provide for the suspension of not less than one year or expulsion for a student who brings a weapon to school. The term "school" includes, but is not limited to, a school playground, school parking lot, school bus, or a school activity on or off school property. The term "weapon" must be defined in the policy and shall mean "firearm" as defined under 18 U.S.C. 921 and must include a blackjack, concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun, and a switchblade knife. The policy may allow an unloaded Civil War weapon to be brought upon school grounds for instructional purposes. The superintendent may modify a weapons suspension on a case-by-case basis, and a district may provide alternative education to a student who violates the weapon provision.

Any student who is suspended for violation of a Safe Schools Act offense shall not be allowed within 1000 feet of any public school property unless residing within that distance or given prior permission by school district officials.

The policy must also require school administrators to report the following acts occurring on school property, on a school bus, or during school activities to law enforcement: first and second degree murder, kidnapping, first and second degree assault, forcible rape, forcible sodomy, first and second degree burglary, first degree robbery, distribution of drugs, distribution of drugs to a minor, arson, voluntary and involuntary manslaughter, sexual assault, felonious restraint, property damage, the possession of a weapon, child molestation in the first degree, deviate sexual assault, sexual misconduct involving a child, or sexual abuse. The policy must require that any portion of a student's IEP that is related to demonstrated or potentially violent behavior be provided to any "need to know" school personnel.

The discipline policy shall be provided to the pupil and his parent/legal guardian at the beginning of each school year. A copy must also be made available to the public at the district office during normal business hours.

A school board may also authorize by general rule the immediate removal of a student upon a finding by the principal, superintendent, or school board that the student's prior conduct indicates the potential for harm to himself or others. Prior disciplinary actions cannot be used as the sole basis for the removal of the student. A hearing shall also be held unless the parent/custodian or student who is 18 years of age waives the hearing.

All district employees must receive annual training regarding the discipline policy along with approved methods of dealing with acts of school violence, the discipline of students with disabilities, and the confidentiality of student information.

RESIDENCY

(167.020 RSMo. 1999)

A student must establish proof of residency in order to register in a school district or request a waiver prior to enrollment. A waiver can be granted for good cause or hardship but cannot be based on athletics. Residency means that "a person both physically resides within a district and is domiciled within the district." The domicile of a minor includes the domicile of a parent, military guardian, or court-appointed legal guardian. A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Residency requirements do not apply to homeless children as defined under the Act, a student who has been placed in a residential care facility, a student paying tuition, a student who is attending school under a contract for alternative education and special education, or a student attending school under the provisions of Missouri law relating to orphans, ownership of farm land, or payment of property taxes. Even if the circumstances do not meet any of these criteria, under an 8th Circuit case, *Horton v. Marshall*, 769 F.2d 1323, a district must admit any child who is living in the district for reasons other than obtaining educational services. A school district may file a civil action to recover from the parent, military guardian, or legal guardian the costs of school attendance if they filed false residency information.

ENROLLMENT/ADMISSION/READMISSION

(167.171 and 167.023 RSMo. 1999)

Prior to readmitting or enrolling a student who has been suspended for more than 10 consecutive days for an act of school violence, a conference must be held to review the conduct which resulted in the suspension regardless of whether or not the act was committed at a public school or private school in the state. Districts cannot, however, readmit or enroll a student who has been charged with, convicted of, had a petition filed in juvenile court, or had a petition sustained alleging first or second degree murder, first degree assault, forcible rape, forcible sodomy, statutory rape, statutory sodomy, first degree robbery, distribution of drugs to a minor, first degree arson, or kidnapping. This section does not apply to a student with a disability if the action was related to the disability.

A district may carry out a suspension or expulsion imposed by another in-state or out-of-state school district, private school, charter school, or parochial school if similar conduct in that district would also have resulted in suspension or expulsion. The parent/legal guardian, surrogate parent, or student may request a conference.

Prior to enrolling a student, a district can require that the parent/legal guardian execute a sworn affidavit indicating whether that student has been expelled from any public or private school for violation of a weapons, drug, or alcohol policy or for the willful infliction of injury to another. Executing a false affidavit is a class B misdemeanor.

REPORTING REQUIREMENTS OF JUVENILE OFFICERS UNDER THE SAFE SCHOOLS ACT

(167.115 RSMo. 1999)

The Safe Schools Act requires that a juvenile officer, the sheriff, chief of police, or other appropriate law enforcement authority notify the school superintendent or the superintendent's designee no later than five days after a petition is filed in juvenile court alleging that a student committed one of the following acts: first and second degree murder, kidnapping, first and second degree assault, forcible rape, forcible sodomy, first degree burglary, first degree robbery, distribution of drugs, distribution of drugs to a minor, first degree arson, sexual assault, voluntary and involuntary manslaughter, felonious restraint, first degree property damage, possession of a weapon, child molestation in the first degree, deviate sexual assault, sexual misconduct involving a child, and sexual abuse. In this section, the terms "school" and "school district" include any charter school, private school, parochial school, or school district. Notification cannot include the victims' names, but must include a complete description of the alleged conduct along with dates on which the conduct occurred. Any oral notification must be followed by written notification. The information provided by the juvenile officer must be kept confidential and be used only for the "limited purpose of assuring that good order and discipline is maintained in the school." This information cannot be used as the sole basis for not providing educational services to a student. Upon the disposition of the case, the superintendent should receive written notification, including a brief summary of the relevant finding of facts, no later than five days following disposition of the case.

REPORTING REQUIREMENTS OF SCHOOL ADMINISTRATORS

(167.115 RSMo. 1999; 160.261 RSMo. 1999)

The district superintendent or designee must report any information provided by juvenile officers to school staff with a "need to know" while acting within the scope of their assigned duties, and this information is to remain confidential.

The superintendent must notify the juvenile or family court if a student is suspended for more than 10 days or expelled if the school district has knowledge that the student is under the court's jurisdiction.

Written notification from the juvenile office or law enforcement must be forwarded to the superintendent of all charter school, public schools, private schools, or school districts in which the student subsequently enrolls.

The superintendent or designee must report to law enforcement the following conduct which occurs on school property, including on the school bus or during school activities: first and second degree murder, voluntary and involuntary manslaughter, first and second degree assault, sexual assault, forcible rape, forcible sodomy, first and second degree burglary, first degree robbery, distribution of drugs, distribution of drugs to a minor, first degree arson, felonious restraint, kidnapping, first degree property damage, possession of a weapon, child molestation in the first degree, deviate sexual assault, sexual misconduct involving a child, and sexual abuse. The administrator is not civilly liable for a good faith report to law enforcement. Willful neglect or refusal to report is a misdemeanor.

REPORTING REQUIREMENTS OF PRINCIPALS

(167.117 RSMo. 1999)

School principals must immediately report to law enforcement and the superintendent any of the following incidents occurring on school property, on a school bus, or during a school activity: first, second, or third degree assault, sexual assault, deviate sexual assault against a pupil or school employee. The principal must also immediately report to law enforcement and the superintendent if any pupil has on his person, among his possessions, or placed elsewhere on school premises (including, but not limited to the school playground or parking lot, on a school bus, or at a school activity whether on or off of school property) any controlled substance or weapon. The principal is not civilly liable for a good faith report to law enforcement. Willful neglect or refusal to report subjects the principal to a misdemeanor charge. A 1997 amendment to the Act allowed school districts and law enforcement agencies to enter into an agreement regarding the reporting of third degree assaults.

REPORTING REQUIREMENTS OF TEACHERS

(167.117 RSMo. 1999)

A teacher must report to the principal the following incidents occurring on school property, on a school bus, or at a school activity: first, second, or third degree assault, sexual assault, deviate sexual assault against a pupil or school employee, possession of a controlled substance, or possession of a weapon. Civil liability cannot be imposed on a teacher for a good faith report to the principal. The willful neglect or refusal to report information is a misdemeanor.

RECORDS KEEPING UNDER THE SAFE SCHOOLS ACT

(160.261, 167.020, 167.026 RSMo. 1999)

A school district must request within two business days of enrollment the student's records, including discipline records, from all schools attended within the past twelve months. The district receiving the request must respond within five days. Student records cannot be provided to any person not employed by a school district without court order or pursuant to *160.261.2. In addition, records shall not be provided to any governmental entity other than a school district or family/juvenile court without written permission of the student (if over 18) or a minor student's parent/guardian who shall first receive written notice of the request and provided 3 days to review the records. Failure to comply with confidentiality requirements is a class B misdemeanor and the district may also be subject to civil liability.

Districts must compile and maintain for each student records of any serious violation of the district's discipline policy. These records must be accessible by need to know employees and provided to any district in which that student later enrolls.

School districts may report or disclose education records to law enforcement and juvenile justice if such information is related to their ability to effectively serve the student prior to adjudication. Officials who receive this information must comply with confidentiality requirements under federal law.

The State Board of Education shall adopt a policy relating to the expungement of discipline records of those students who have graduated or turned twenty-one years of age. School districts may adopt an expungement policy consistent with the State Board of Education's policy.

CRIME OF MAKING A TERRORISTIC THREAT, 574.150 RSMo. 2000:

A person commits the crime of making a terroristic threat if he communicates a threat to commit a felony, makes a knowingly false report concerning the commission of any felony, or knowingly makes a false report concerning the occurrence of any catastrophe (1) to frighten or disturb ten or more people (Class C felony); (2) to cause the evacuation or closure of any building, inhabitable structure, place of assembly or transportation facility (Class C felony); or (3) with reckless disregard of the risk of causing the evacuation or closure of any building, inhabitable structure, place of assembly, or transportation facility. (Class D felony). The term "threat" means an express or implied threat but does not include a report made in good faith to prevent harm. The term "catastrophe", as defined in *569.070 RSMo., means "death or serious physical injury to ten or more people or substantial damage to five or more buildings or inhabitable structures or substantial damage to a vital public facility which seriously impairs its usefulness or operation."

CRIME OF UNLAWFUL USE OF WEAPONS, 571.030 RSMo. 2000:

A person who knowingly carries a loaded or unloaded firearm or any other lethal weapon into a school, onto a school bus, or onto the premises of any school sponsored function or activity may be charged with the crime of unlawful use of weapons. It is a class A misdemeanor if the firearm is unloaded and a class D felony if loaded. This provision does not apply to (1) a firearm lawfully possessed by a person on school premises for the purposes of transporting a student to/from school; or (2) a firearm possessed by an adult for the purpose of facilitating a school-sanctioned firearm-related event. This statute does not make it unlawful for a student to participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm related events as long as the student does not carry the firearm or other lethal weapon into any school, onto any school bus, or onto the premises of a school sponsored function or activity.

STUDENT SUICIDE PREVENTION PROGRAMS (no cite at time of publication):

Beginning July 1, 2001, the Department of Elementary and Secondary Education (DESE) must provide a four-year competitive grant program to help fund the establishment or expansion of student suicide prevention programs. Grants are renewable for an additional four years based upon the results of the initial grant. The statute provides guidelines for the rules relating to these grants, which must be promulgated by DESE prior to July 1, 2001.

CRIME OF TRESPASS OF A SCHOOL BUS, 569.155 RSMo. 2000:

A person who knowingly and unlawfully enters a school bus or unlawfully operates a school bus commits the crime of trespass of a school bus, which is a class A misdemeanor. "Unlawfully enters" and "unlawfully operates" refers to any entry onto or any operation of a school bus not approved of and established in a written policy on access to school buses or authorized by specific written approval of the school board. Any district, which adopts a written policy pertaining to school bus access, must establish and enforce a behavior policy for students on school buses.

SAFETY COORDINATORS/FUNDS, 160.660 RSMo. 2000:

On or before July 1, 2001, the state board of education must add to MSIP school facilities and safety criteria requirements that each district's safety coordinator have a thorough knowledge of all federal, state, and local school violence prevention programs and available resources and fully use all such programs and resources determined by the local board to be necessary and cost-effective.

MILITARY TRAINING PILOT PROGRAM, 160.700 RSMo 2000:

This statute establishes a four-week residential pilot program for middle school students using military training and motivation methods at a National Guard facility. Students may apply to attend the program based upon the recommendation of school administrators or the local division of family services. A fund is established for this program.

INFORMATION SHARING, 210.865 RSMO 2000:

This provision requires the sharing of information regarding individual children who have received services from the juvenile court and the departments of social services, mental health, elementary and secondary education (DESE), and health. The state courts administrators and the state agencies shall coordinate information systems to allow for information sharing and tracking of children by the juvenile court, the state agencies, and school districts. DESE can only share information on students who have committed an act, which would be a misdemeanor or felony under any state or federal law if committed by an adult. The sharing of information is subject to all existing laws pertaining to the confidentiality of information.

CRIME OF ASSAULT WHILE ON SCHOOL PROPERTY, 565.075 RSMO 1996

A person commits the crime of assault while on school property if the person: (1) knowingly causes physical injury to another person; or (2) with criminal negligence, causes physical injury to another person by means of a deadly weapon; or (3) recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; and the act occurred on school or school district property, or in a vehicle that at the time of the act was in the service of a school or school district, or arose as a result of a school or school district-sponsored activity. (Class D felony)

MISCELLANEOUS:

Information reported by districts shall now include the rates and durations of, and reasons for, expulsions and suspensions of ten days or longer. *160.522.2 RSMo.

A provision pertaining to state aid was added to *161.650 RSMo., which required DESE to identify a violence prevention program. There was a minor addition to *163.031, which pertains to a district's operating levy. **This is only an overview of the Safe Schools Act. Please refer to the statutes for more specific information.

Missouri Statutes Website: <http://www.moga.mo.gov/statutesearch>

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