

STATE LAW GOVERNING STUDENT SUSPENSIONS AND EXPULSIONS

72-8901. Grounds for suspension or expulsion; who may suspend or expel. The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil guilty of any of the following:

- (a) Willful violation of any published regulation for student conduct adopted or approved by the board of education;
- (b) conduct which substantially disrupts, impedes or interferes with the operation of any public school;
- (c) conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;
- (d) conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;
- (e) conduct at school, on school property, or at a school supervised activity which, if the pupil is an adult, constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or
- (f) disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

72-8902. Duration of suspension or expulsion; notice; hearings, opportunity afforded, waiver, time, who may conduct.

- (a) A suspension may be for a short term not exceeding 10 school days, or for an extended term not exceeding 90 school days. An expulsion may be for a term not exceeding 186 school days. If a suspension or expulsion is for a term exceeding the number of school days remaining in the school year, any remaining part of the term of the suspension or expulsion may be applied to the succeeding school year.
- (b)
 - (1) Except as authorized in provision (2), no suspension for a short term shall be imposed upon a pupil without giving the pupil notice of the charges and affording the pupil an opportunity for a hearing thereon. The notice may be oral or written and the hearing may be held immediately after the notice is given. The hearing may be conducted informally but shall include the following procedural due process requirements: (A) The right of the pupil to be present at the hearing; (B) the right of the pupil to be informed of the charges; (C) the right of the pupil to be informed of the basis for the accusation; and (D) the right of the pupil to make statements in defense or mitigation of the charges or accusations. Refusal of a pupil to be present at the hearing will constitute a waiver of the pupil's opportunity for a hearing.
 - (2) A short-term suspension may be imposed upon a pupil forthwith, and without affording the pupil a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes or interferes with the operation of the school.
- (c) A written notice of any short-term suspension and the reason therefor shall be given to the pupil involved and to the pupil's parent or guardian within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an opportunity for an informal hearing shall be afforded the pupil as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice of the imposition of a short-term suspension that provides an opportunity for an informal hearing after such suspension has been imposed shall state that failure of the pupil to attend the hearing will result in a waiver of the pupil's opportunity for the hearing.
- (d) No suspension for an extended term and no expulsion shall be imposed upon a pupil until an opportunity for a formal hearing thereon is afforded the pupil. A written notice of any proposal to suspend for an extended term or to expel from school, and the charges upon which the proposal is based shall be given to the pupil proposed to be suspended or expelled from school, and to the pupil's parent or guardian. Any notice of a proposal to suspend for an extended term or to expel from school shall state the time, date and place that the pupil will be afforded an opportunity for a formal hearing, and that failure of the pupil and the pupil's parent or guardian to attend the hearing will result in a waiver of the pupil's opportunity for the hearing. The hearing shall be held not later than 10 days after the date of the notice. The notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, and amendments thereto.
- (e) Whenever any written notice is required under this act to be given to a pupil or to a pupil's parent or guardian, it shall be sufficient if the notice is mailed to the address on file in the school records of the pupil. In lieu of mailing the written notice, the notice may be personally delivered.
- (f) A formal hearing on a suspension or expulsion may be conducted by any person or committee of persons authorized by the board of education to conduct the hearing.

72-8903. Procedural due process requirements; record of appeal, costs; report of findings and result of hearing; information regarding behavior improvement programs.

- (a) The formal hearing provided for in K.S.A. 72-8902, and amendments thereto, shall be conducted in accordance with regulations relating thereto adopted by the board of education. Such regulations shall afford procedural due process including, but not limited to, the following:
 - (1) The right of the pupil to have counsel of the pupil's own choice present and to receive the advice of such counsel or other person whom the pupil may select;
 - (2) the right of the parents or guardians of the pupil to be present at the hearing;
 - (3) the right of the pupil and the pupil's counsel or advisor to hear or read a full report of testimony of witnesses against the pupil;
 - (4) the right of the pupil and the pupil's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;
 - (5) the right of the pupil to present the pupil's own witnesses in person or their testimony by affidavit;
 - (6) the right of the pupil to testify in the pupil's own behalf and give reasons for the pupil's conduct;
 - (7) the right of the pupil to have an orderly hearing; and
 - (8) the right of the pupil to a fair and impartial decision based on substantial evidence.
- (b) In all extended-term suspension and expulsion from school cases, there shall be made a record of the hearing of an appeal of the suspension or expulsion, whichever is applicable, by mechanical or electronic recording or by an official court reporter, and the costs thereof shall be paid by the school district.
- (c) At the conclusion of a formal hearing which results in a suspension for an extended term or an expulsion, the person or committee conducting the hearing shall make a written report of the findings and results of the hearing. The report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil who is suspended or expelled and, if the pupil is a juvenile, to the parents or guardians and counsel or other advisor of the pupil. If the pupil is an adult, the report shall be open to the inspection of the parents or guardians and counsel or other advisor of the pupil only upon written consent of the pupil. Whenever a formal hearing results in suspension for an extended term or expulsion, the person or committee conducting the hearing may make a finding that return to school by the pupil, pending appeal or during the period allowed for notice of appeal, is not reasonably anticipated to endanger the safety of others, to cause continuing repeated material disorder, disruption or interference with the operation of school, or to substantially or materially impinge upon or invade the rights of others, in which case the pupil may return to school until the period for filing a notice of appeal has expired with no notice filed, or until the determination of any appeal if a notice of appeal is filed. Whenever the person or committee conducting a hearing fails to make the findings specified above, the report of the hearing shall provide that the suspension or expulsion of the pupil shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever occurs sooner. Any such pupil shall be provided with information concerning services or programs offered by public and private agencies that work toward improving those aspects of the pupil's attitudes and behavior that contributed to the conduct upon which the suspension or expulsion was based. If the pupil is a juvenile, the information shall also be provided to the parents or guardians of the pupil.

72-8904. Notice of hearing results; appeal to board of education; hearing officers; procedure. (a) Written notice of the result of any hearing imposing an extended-term suspension or an expulsion from school shall be given to the pupil suspended or expelled from school, and to the parents or guardians of the pupil within 24 hours after determination of such result.

- (b) Any pupil, age 18 or older, who has been suspended for an extended term or expelled, or one of the pupil's parents or guardians of a pupil under age 18, may appeal such suspension or expulsion to the board of education of the school district by filing a written notice of appeal with the clerk of the board of education not later than 10 calendar days after receiving the written notice. Any such appeal shall be heard by the board of education, or by a hearing officer appointed by such board, not later than 20 calendar days after such notice of appeal is filed. The pupil and the pupil's parents or guardians shall be notified in writing of the time and place of the appeal hearing at least five days prior thereto. Such appeal shall be conducted under rules which are consonant with K.S.A. 72-8903, and amendments thereto. Except as provided by subsection (c), the decision on any such appeal shall be rendered not later than five days after the conclusion of the appeal hearing.
- (c) For the purpose of hearing an appeal of an extended-term suspension or an expulsion, the board of education may appoint one or more hearing officers. Any such hearing officer shall be a member of the board of education, a certificated employee of the school district, or an attorney admitted to the practice of law in this state. Any such appointment shall apply to a particular hearing or to a set or class of hearings as specified by the board of education in making the appointment. Whenever a hearing officer appointed under authority of this section hears any appeal, the hearing officer shall prepare a written report thereon to the board of education. After receiving any such report, the board of education shall determine the matter with or without additional hearing. If a hearing officer is appointed to hear an appeal, the board shall render its decision not later than the next regularly-scheduled meeting of the board following the date of the conclusion of the hearing of the appeal by the hearing officer. Any matter determined by the board of education in accordance with this subsection shall be valid to the same extent as if the matter were fully heard by the board of education without a hearing officer.

72-8905. Nonapplication of compulsory attendance law. The provisions of K.S.A. 72-1111, and amendments thereto, shall not apply to any pupil while subject to suspension or expulsion from school pursuant to the provisions of this act.

72-8906. Powers and duties of persons conducting hearings.

- (a) Any person, hearing officer or any member of a committee or the board of education conducting a hearing under this act may:
- (1) Administer oaths for the purpose of taking testimony;
 - (2) call and examine witnesses and receive documentary and other evidence; and
 - (3) take any other action necessary to make the hearing accord with procedural due process.
- (b) Any hearing officer, any member of a committee or the board of education holding a formal hearing or an appeal hearing under this act may and, upon the request of any pupil for whom any such hearing is held or upon the request of the pupil's parents or guardians or counsel, shall petition the chief judge of the judicial district in which the school district is located requesting that the clerk of the district court be authorized to issue subpoenas for the attendance and testimony of the principal witness or witnesses and the production of books, records, reports, papers and documents relating to the proposed suspension or expulsion from school in the same manner as provided for the issuance of subpoenas in civil actions pursuant to K.S.A. 60-245, and amendments thereto.

72-8907. Refusal to admit suspended or expelled pupil authorized. A pupil who has been suspended or expelled from school by any school district may be refused admission to school in any other school district, regardless of residency, until such time as the period of suspension or expulsion has expired.

72-8908. Definitions. As used in this act:

- (a) "Juvenile" means a person who is less than 18 years of age;
- (b) "adult" means a person who is 18 years of age or older;
- (c) "felony" means any crime designated a felony by the laws of Kansas or the United States;
- (d) "misdemeanor" means any crime designated a misdemeanor by the laws of Kansas or the United States;
- (e) "school day" means any day on which school is maintained;
- (f) "school year" has the meaning ascribed thereto in K.S.A. 72-6408, and amendments thereto;
- (g) "counsel" means any person a pupil selects to represent and advise the pupil at all proceedings conducted pursuant to the provisions of this act; and
- (h) "principal witness" means any witness whose testimony is of major importance in support of the charges upon which a proposed suspension or expulsion from school is based, or in determination of material questions of fact.

STATE GUN-FREE SCHOOLS ACT

72-89a01. Definitions. As used in this act:

- (a) "Board of education" means the board of education of a unified school district or the governing authority of an accredited nonpublic school.
- (b) "School" means a public school or an accredited nonpublic school.
- (c) "Public school" means a school operated by a unified school district organized under the laws of this state.
- (d) "Accredited nonpublic school" means a nonpublic school participating in the quality performance accreditation system.
- (e) "Chief administrative officer of a school" means, in the case of a public school, the superintendent of schools and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.
- (f) "Federal law" means the individuals with disabilities education act, section 504 of the rehabilitation act, the gun-free schools act of 1994, and regulations adopted pursuant to such acts.
- (g) "Secretary of education" means the secretary of the United States department of education.
- (h) "Weapon" means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than 1/4 ounce, (E) mine, or (F) similar device; (5) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 inch in diameter; (6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (7) any bludgeon, sandclub, metal knuckles or throwing star; (8) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; (9) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun. The term "weapon" does not include within its meaning (1) an antique firearm; (2) any device which is neither designed nor redesigned for use as a weapon; (3) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (4) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (5) class C common fireworks.

72-89a02. Policies requiring expulsion of pupils for possession of weapons, adoption, filing; hearings; modification of requirement authorized; referral procedure; annual report; circumstances when policy not applicable.

- (a) Notwithstanding the provisions of subsection (a) of K.S.A. 72-8902, and amendments thereto, and subject to the other provisions of this section, each board of education in this state shall adopt a written policy requiring the expulsion from school for a period of not less than one year any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity. The policy shall be filed with the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.
- (b) To the extent that the provisions contained in article 89 of chapter 72 of Kansas Statutes Annotated do not conflict with the requirements of this act, such provisions shall apply to and be incorporated in the policy required to be adopted under subsection (a).
- (c) If a pupil required to be expelled pursuant to a policy adopted under subsection (a) is confined in the custody of the secretary of social and rehabilitation services, the commissioner of juvenile justice or the secretary of corrections as a result of the violation upon which the expulsion is to be based, the hearing required under the provisions of article 89 of chapter 72 of Kansas Statutes Annotated shall be delayed until the pupil is released from custody.
- (d) A hearing afforded a pupil required to be expelled pursuant to a policy adopted under subsection (a) shall be conducted by the chief administrative officer or other certificated employee of the school in which the pupil is enrolled, by any committee of certificated employees of the school in which the pupil is enrolled, or by a hearing officer appointed by the board of education of the school in which the pupil is enrolled.
- (e) The chief administrative officer of the school in which a pupil required to be expelled pursuant to a policy adopted under subsection (a) is enrolled may modify the expulsion requirement in a manner which is consistent with the requirements of federal law. Nothing in this subsection shall be applied or construed in any manner so as to require the chief administrative officer of a school to modify the expulsion requirement of a policy adopted by a board of education pursuant to the provisions of subsection (a).
- (f) The policy adopted by a board of education under subsection (a) shall contain a procedure for the referral of any pupil determined to be in possession of a weapon at school, on school property, or at a school supervised activity to the appropriate state and local law enforcement agencies and, if the pupil is a juvenile, to the secretary of social and rehabilitation services or the commissioner of juvenile justice.
- (g) Each board of education shall prepare an annual report on a form prescribed and furnished by the state board of education that contains a description of the circumstances surrounding any expulsions imposed on pupils pursuant to a policy adopted under subsection (a), including the name of the school or schools concerned, the number of pupils expelled, and the type of weapons concerned. The report shall be submitted to the state board of education in such manner as the state board shall require and at a time to be determined and specified by the state board.
- (h) The provisions of this section do not apply to the possession by pupils of weapons at school, on school property, or at a school supervised activity if the possession of weapons by pupils is connected with a weapons safety course of instruction or a weapons education course approved and authorized by the school or if the possession of weapons by pupils is specifically authorized in writing by the chief administrative officer of the school.

72-89a03. Duties of state board of education; failure of boards to adopt and file policies, penalties.

- (a) The state board of education shall compile the reports required of boards of education under subsection (f) of K.S.A. 72-89a02, and amendments thereto, and shall submit the compilation to the secretary of education on an annual basis as specified by the secretary.
- (b) The state board of education shall provide boards of education with assistance in the preparation of policies required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto. If any board of education fails to adopt and file a policy required to be adopted under subsection (a) of K.S.A. 72-89a02, and amendments thereto, the state board of education shall withhold funds made available under the elementary and secondary education act of 1965, as amended, and shall exclude pupils enrolled in any accredited nonpublic school under the jurisdiction of any such board of education from participation in any federal program provided for under such act.