

HOUSE BILL No. 5360

December 13, 2017, Introduced by Rep. Kosowski and referred to the Committee on Education Reform.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1135, 1136, 1148, and 1311 (MCL 380.1135, 380.1136, 380.1148, and 380.1311), section 1135 as added by 1987 PA 84, section 1136 as added by 2016 PA 367, section 1148 as amended by 2009 PA 186, and section 1311 as amended by 2016 PA 364, and by adding section 1149.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1135. (1) ~~Upon~~ **EXCEPT FOR AN INDIVIDUAL ENROLLING A STUDENT WHO IS IN FOSTER CARE, UPON** enrollment of a student for the first time in a ~~local~~ **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY,** or intermediate school district, the district shall notify in writing the ~~person~~ **INDIVIDUAL** enrolling the student that within 30 days he or she shall provide to the ~~local~~ **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY,** or intermediate school district either of the following:

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1 (a) A certified copy of the student's birth certificate.

2 (b) Other reliable proof, as determined by the school
3 district, **PUBLIC SCHOOL ACADEMY, OR INTERMEDIATE SCHOOL DISTRICT** of
4 the student's identity and age, and an affidavit explaining the
5 inability to produce a copy of the birth certificate.

6 (2) ~~If a person~~ **EXCEPT FOR AN INDIVIDUAL ENROLLING A STUDENT**
7 **WHO IS IN FOSTER CARE, IF AN INDIVIDUAL** enrolling a student fails
8 to comply with subsection (1), the ~~local~~ **SCHOOL DISTRICT, PUBLIC**
9 **SCHOOL ACADEMY**, or intermediate school district shall notify the
10 ~~person~~ **INDIVIDUAL** enrolling the student in writing that, unless he
11 or she complies within 30 days after the notification, the case
12 shall be referred to the local law enforcement agency for
13 investigation. If the ~~person~~ **INDIVIDUAL** enrolling the student fails
14 to comply within that 30-day period, the ~~local~~ **SCHOOL DISTRICT,**
15 **PUBLIC SCHOOL ACADEMY**, or intermediate school district shall notify
16 the local law enforcement agency.

17 (3) The ~~local~~ **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY**, or
18 intermediate school district shall immediately report to the local
19 law enforcement agency any affidavit received ~~pursuant to~~ **UNDER**
20 this section that appears inaccurate or suspicious in form or
21 content.

22 (4) Within 14 days after enrolling a transfer student, the
23 school shall request in writing directly from the student's
24 previous school a copy of his or her school record. Any school that
25 compiles records for each student in the school and that is
26 requested to forward a copy of a transferring student's record to
27 the new school shall comply within 30 days after receipt of the

1 request unless the record has been tagged pursuant to ~~UNDER~~ section
2 1134. If a student record has been tagged pursuant to ~~UNDER~~ section
3 1134, a copy of the student record shall not be forwarded, and the
4 requested school shall notify the law enforcement agency that
5 notified the school district, **PUBLIC SCHOOL ACADEMY, OR**
6 **INTERMEDIATE SCHOOL DISTRICT** of the missing student pursuant to
7 ~~section 8 of Act No. 319 of the Public Acts of 1968, being section~~
8 ~~28.258 of the Michigan Compiled Laws, UNDER SECTION 8 OF 1968 PA~~
9 **319, MCL 28.258**, of the request.

10 (5) A ~~local~~ **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY,** or
11 intermediate school district shall not disclose any personally
12 identifiable information contained in a student record to a law
13 enforcement agency, except in compliance with ~~the family~~
14 ~~educational rights and privacy act, 20 U.S.C. 1232g.~~ **20 USC 1232G,**
15 **COMMONLY REFERRED TO AS THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY**
16 **ACT.**

17 (6) **AS USED IN THIS SECTION, "FOSTER CARE" MEANS THAT TERM AS**
18 **DEFINED IN SECTION 2 OF THE FOSTER CARE AND ADOPTION SERVICES ACT,**
19 **1994 PA 203, MCL 722.952.**

20 Sec. 1136. (1) To protect pupil privacy, the superintendent of
21 public instruction shall ensure that the department complies with
22 all of the following and the state budget director shall ensure
23 that CEPI complies with all of the following:

24 (a) The department or CEPI shall not sell any information that
25 is part of a pupil's education records.

26 (b) Within 30 days after the effective date of this section,
27 the department and CEPI each shall post on its website a notice of

1 the information it collects for a pupil's education records. The
2 notice shall include at least an inventory of all pupil data
3 elements collected by the department or CEPI and a description of
4 each pupil data element.

5 (c) At least 30 days before initiating the collection of any
6 pupil data elements in addition to those already disclosed in the
7 inventory under subdivision (b), the department or CEPI shall post
8 on its website a notice of the additional pupil data elements it is
9 proposing to collect and an explanation of the reasons for the
10 proposal.

11 (d) The department or CEPI shall not disclose any information
12 concerning a pupil that is collected or created by the department
13 or CEPI except in accordance with a policy adopted and made
14 publicly available by the superintendent of public instruction or
15 state budget director, as applicable, that clearly states the
16 criteria for the disclosure of the information.

17 (e) The department or CEPI shall ensure that any contract it
18 has with a vendor that allows the vendor access to education
19 records contains express provisions requiring the vendor to protect
20 the privacy of education records and provides express penalties for
21 noncompliance.

22 (f) If the department or CEPI provides any personally
23 identifiable information concerning a pupil that is collected or
24 created by the department or CEPI as part of the pupil's education
25 records to any person other than the school district, intermediate
26 school district, public school academy, authorizing body,
27 preschool, or postsecondary institution in which the pupil is

1 currently or was formerly enrolled, or the pupil's parent or legal
2 guardian, then the department or CEPI shall, if the pupil is under
3 18 years of age or claimed as a dependent on a parent's or legal
4 guardian's federal income tax return, disclose to the pupil's
5 parent or legal guardian upon his or her written request all of the
6 following:

7 (i) The specific data fields that were disclosed.

8 (ii) The name and contact information of each person, agency,
9 or organization to which the information has been disclosed.

10 (iii) The reason for the disclosure.

11 (g) The department or CEPI shall disclose the information
12 under subdivision (f) within 30 days after receiving the written
13 request and without charge to the parent or legal guardian. If the
14 department or CEPI considers it necessary to make redacted copies
15 of all or part of a pupil's education records in order to protect
16 personally identifiable information of another pupil, the
17 department or CEPI shall not charge the parent or legal guardian
18 for the cost of making those copies.

19 (2) To protect pupil privacy, the board of a school district
20 or intermediate school district or board of directors of a public
21 school academy shall ensure that the school district, intermediate
22 school district, or public school academy complies with all of the
23 following, and the governing board of an authorizing body shall
24 ensure that the authorizing body complies with all of the
25 following:

26 (a) A school district, an intermediate school district, a
27 public school academy, an educational management organization, or

1 an authorizing body shall not sell or otherwise provide to a for-
2 profit business entity any personally identifiable information that
3 is part of a pupil's education records. This subdivision does not
4 apply to any of the following situations:

5 (i) For a pupil enrolled in a public school academy, if the
6 public school academy has a management agreement with an
7 educational management organization, the public school academy
8 providing the information to that educational management
9 organization.

10 (ii) Providing the information as necessary for standardized
11 testing that measures the pupil's academic progress and
12 achievement.

13 (iii) Providing the information as necessary to a person that
14 is providing educational or educational support services to the
15 pupil under a contract with the school district, intermediate
16 school district, public school academy, or educational management
17 organization.

18 (b) Upon written request by a pupil's parent or legal
19 guardian, a school district, an intermediate school district, a
20 public school academy, or an authorizing body shall disclose to the
21 parent or legal guardian any personally identifiable information
22 concerning the pupil that is collected or created by the school
23 district, intermediate school district, public school academy, or
24 authorizing body as part of the pupil's education records.

25 (c) Subject to the exemptions under subsection (3), if a
26 school district, intermediate school district, public school
27 academy, or authorizing body provides any information described in

1 subdivision (b) to any person, agency, or organization, then the
2 school district, intermediate school district, public school
3 academy, or authorizing body shall disclose to the pupil's parent
4 or legal guardian upon his or her written request all of the
5 following:

6 (i) The specific information that was disclosed.

7 (ii) The name and contact information of each person, agency,
8 or organization to which the information has been disclosed.

9 (iii) The legitimate reason that the person, agency, or
10 organization had in obtaining the information.

11 (d) A school district, an intermediate school district, a
12 public school academy, or an authorizing body shall disclose the
13 information under subdivisions (b) and (c) within 30 days after
14 receiving the written request and without charge to the parent or
15 legal guardian. If the school district, intermediate school
16 district, public school academy, or authorizing body considers it
17 necessary to make redacted copies of all or part of a pupil's
18 education records in order to protect personally identifiable
19 information of another pupil, the school district, intermediate
20 school district, public school academy, or authorizing body shall
21 not charge the parent or legal guardian for the cost of those
22 copies.

23 (3) Subsection (2)(c) does not apply to any of the following
24 situations:

25 (a) A school district, intermediate school district, public
26 school academy, or authorizing body providing the information to
27 the department or CEPI.

1 (b) A school district, intermediate school district, public
2 school academy, or authorizing body providing the information to
3 the pupil's parent or legal guardian.

4 (c) A public school academy providing the information to its
5 authorizing body or to an educational management organization with
6 which it has a management agreement.

7 (d) A school district or public school academy providing the
8 information to its intermediate school district or to another
9 intermediate school district providing services to the school
10 district or public school academy or its pupils pursuant to a
11 written agreement.

12 (e) An intermediate school district providing the information
13 to a school district or public school academy in which the pupil is
14 enrolled or to a school district or public school academy for which
15 the intermediate school district is providing services pursuant to
16 a written agreement.

17 (f) An authorizing body providing the information to a public
18 school academy in which the pupil is enrolled.

19 (g) Providing the information to a person, agency, or
20 organization with written consent from the pupil's parent or legal
21 guardian or, if the pupil is at least age 18, the pupil.

22 (h) Providing the information to a person, agency, or
23 organization seeking or receiving records in accordance with an
24 order, subpoena, or ex parte order issued by a court of competent
25 jurisdiction.

26 (i) Providing the information as necessary for standardized
27 testing that measures the pupil's academic progress and

1 achievement.

2 (j) A school district, intermediate school district, public
3 school academy, or authorizing body providing information that is
4 covered by the opt-out form described in subsection (6), unless the
5 pupil's parent or legal guardian or, if the pupil is at least age
6 18 or is an emancipated minor, the pupil has signed and submitted
7 the opt-out form under subsection (6) (d).

8 **(K) PROVIDING THE INFORMATION UNDER SUBSECTION (8).**

9 (4) If an educational management organization receives
10 information that is part of a pupil's education records from any
11 source as permitted under this section, the educational management
12 organization shall not sell or otherwise provide the information to
13 any other person except as provided under this section.

14 (5) In addition to ensuring compliance with subsection (1),
15 the superintendent of public instruction shall ensure that the
16 department, and the state budget director shall ensure that CEPI,
17 complies with all other applicable privacy law.

18 (6) For the purposes of this section, each school district,
19 intermediate school district, public school academy, or authorizing
20 body shall do all of the following:

21 (a) Develop a list of uses for which the school district,
22 intermediate school district, public school academy, or authorizing
23 body commonly would disclose a pupil's directory information.

24 (b) Develop an opt-out form that lists all of the uses or
25 instances under subdivision (a) and allows a parent or legal
26 guardian to elect not to have his or her child's directory
27 information disclosed for 1 or more of these uses.

1 (c) Present the opt-out form under subdivision (b) to each
2 pupil's parent or legal guardian within the first 30 days of the
3 school year. A school district, intermediate school district,
4 public school academy, or authorizing body also shall make the form
5 available to a parent or legal guardian at other times upon
6 request.

7 (d) If an opt-out form under subdivision (b) is signed and
8 submitted to the school district, intermediate school district,
9 public school academy, or authorizing body by a pupil's parent or
10 legal guardian, the school district, intermediate school district,
11 public school academy, or authorizing body shall not include the
12 pupil's directory information in any of the uses that have been
13 opted out of in the opt-out form.

14 (7) If a pupil is at least age 18 or is an emancipated minor,
15 the pupil may act on his or her own behalf under subsection (6).

16 **(8) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC**
17 **SCHOOL ACADEMY SHALL PROVIDE THE EDUCATION RECORDS OF A PUPIL IN**
18 **FOSTER CARE TO THE FOLLOWING, UPON REQUEST:**

19 **(A) THE PUPIL, IF THE PUPIL IS AT LEAST 16 YEARS OF AGE.**

20 **(B) THE PUPIL'S FOSTER CARE CASEWORKER.**

21 **(C) THE PUPIL'S PROBATION OFFICER.**

22 **(9) ~~(8)~~—As used in this section:**

23 (a) "Authorizing body" means that term as defined in part 6a,
24 6c, or 6e or section 1311b, as applicable.

25 (b) "CEPI" means the center for educational performance and
26 information created under section 94a of the state school aid act
27 of 1979, MCL 388.1694a.

1 (c) "Directory information" means that term as defined in 34
2 CFR 99.3.

3 (d) "Education records" means that term as defined in 34 CFR
4 99.3.

5 (e) "Educational management organization" means that term as
6 defined in section 503c, 523c, or 553c, as applicable.

7 **(F) "FOSTER CARE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF**
8 **THE FOSTER CARE AND ADOPTION SERVICES ACT, 1994 PA 203, MCL**
9 **722.952.**

10 **(G)** ~~(f)~~ "Management agreement" means that term as defined in
11 section 503c, 523c, or 553c, as applicable.

12 **(H)** ~~(g)~~ "Personally identifiable information" means that term
13 as defined in 34 CFR 99.3.

14 Sec. 1148. (1) Except as provided in section 1711 and
15 ~~subsection (2),~~ **SUBSECTIONS (2) AND (3)**, a child whose parents or
16 legal guardians are unable to provide a home for the child and who
17 is placed in a licensed home or in a home of relatives in the
18 school district for the purpose of securing a suitable home for the
19 child and not for an educational purpose shall be considered a
20 resident for education purposes of the school district where the
21 home in which the child is living is located. The child shall be
22 admitted to the school in the district.

23 (2) If a child who is under court jurisdiction under section
24 2(b) of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
25 712A.2, is placed in foster care, a school district shall allow the
26 child to enroll in and attend the appropriate grade in the school
27 selected by the department of **HEALTH AND** human services or a child

1 placing agency without regard to whether or not the child is
2 residing in that school district. If the selection results in a
3 child transferring to another school, the child's school records
4 shall be transferred as provided under section 1135.

5 (3) IF A CHILD IS IN FOSTER CARE, A SCHOOL DISTRICT SHALL
6 ALLOW THE CHILD TO ENROLL IN AND ATTEND THE APPROPRIATE GRADE IN
7 THE SCHOOL THE CHILD ATTENDED BEFORE THE CHILD'S PLACEMENT IN
8 FOSTER CARE WITHOUT REGARD TO THE RECOMMENDATIONS OF THE DEPARTMENT
9 OF HEALTH AND HUMAN SERVICES OR A CHILD PLACING AGENCY AND WITHOUT
10 REGARD TO WHETHER OR NOT THE CHILD IS RESIDING IN THAT SCHOOL
11 DISTRICT.

12 (4) AS USED IN THIS SECTION:

13 (A) "FOSTER CARE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
14 THE FOSTER CARE AND ADOPTION SERVICES ACT, 1994 PA 203, MCL
15 722.952.

16 (B) "PLACEMENT" MEANS THAT TERM AS DEFINED IN SECTION 115F OF
17 THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.115F.

18 SEC. 1149. (1) IF A HIGH SCHOOL PUPIL IN FOSTER CARE ENROLLS
19 IN A NEW PUBLIC SCHOOL, THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
20 DISTRICT, OR PUBLIC SCHOOL ACADEMY OPERATING THE PUBLIC SCHOOL
21 SHALL MEET ALL OF THE FOLLOWING:

22 (A) GRANT THE PUPIL PARTIAL CREDIT FOR ANY COURSE IN WHICH THE
23 PUPIL WAS PREVIOUSLY ENROLLED AND IN WHICH THE PUPIL WAS EARNING A
24 PASSING GRADE.

25 (B) ENROLL THE PUPIL IN CLASSES AND GRADE LEVELS EQUIVALENT TO
26 THE CLASSES AND GRADE LEVELS IN WHICH THE PUPIL WAS PREVIOUSLY
27 ENROLLED, AS APPROPRIATE.

1 (C) THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
2 PUBLIC SCHOOL ACADEMY SHALL NOT REQUIRE THE PUPIL TO RETAKE A CLASS
3 OR PORTION OF A CLASS THE PUPIL HAS ALREADY COMPLETED WITH A
4 PASSING GRADE.

5 (D) THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
6 PUBLIC SCHOOL ACADEMY SHALL NOT LOWER THE PUPIL'S GRADE IF THE
7 PUPIL IS ABSENT FROM SCHOOL FOR A COURT HEARING, PLACEMENT CHANGE,
8 OR COURT-RELATED ACTIVITY.

9 (2) AS USED IN THIS SECTION, "FOSTER CARE" MEANS THAT TERM AS
10 DEFINED IN SECTION 2 OF THE FOSTER CARE AND ADOPTION SERVICES ACT,
11 1994 PA 203, MCL 722.952.

12 Sec. 1311. (1) Subject to ~~subsection (2),~~ **SUBSECTIONS (2),**
13 **(12), AND (13),** the school board, or the school district
14 superintendent, a school building principal, or another school
15 district official if designated by the school board, may authorize
16 or order the suspension or expulsion from school of a pupil guilty
17 of gross misdemeanor or persistent disobedience if, in the judgment
18 of the school board or its designee, as applicable, the interest of
19 the school is served by the authorization or order. If there is
20 reasonable cause to believe that the pupil is a student with a
21 disability, and the school district has not evaluated the pupil in
22 accordance with rules of the superintendent of public instruction
23 to determine if the pupil is a student with a disability, the pupil
24 shall be evaluated immediately by the intermediate school district
25 of which the school district is constituent in accordance with
26 section 1711.

27 (2) Subject to subsection (3) and section 1310d, if a pupil

1 possesses in a weapon free school zone a weapon that constitutes a
2 dangerous weapon, commits arson in a school building or on school
3 grounds, or commits criminal sexual conduct in a school building or
4 on school grounds, the school board, or the designee of the school
5 board as described in subsection (1) on behalf of the school board,
6 shall expel the pupil from the school district permanently, subject
7 to possible reinstatement under subsection (6). However, a school
8 board is not required to expel a pupil for possessing a weapon if
9 the pupil establishes in a clear and convincing manner at least 1
10 of the following:

11 (a) The object or instrument possessed by the pupil was not
12 possessed by the pupil for use as a weapon, or for direct or
13 indirect delivery to another person for use as a weapon.

14 (b) The weapon was not knowingly possessed by the pupil.

15 (c) The pupil did not know or have reason to know that the
16 object or instrument possessed by the pupil constituted a dangerous
17 weapon.

18 (d) The weapon was possessed by the pupil at the suggestion,
19 request, or direction of, or with the express permission of, school
20 or police authorities.

21 (3) There is a rebuttable presumption that expulsion under
22 subsection (2) for possession of a weapon is not justified if both
23 of the following are met:

24 (a) The school board or its designee determines in writing
25 that at least 1 of the factors listed in subsection (2)(a) to (d)
26 has been established in a clear and convincing manner.

27 (b) The pupil has no history of suspension or expulsion.

1 (4) If an individual is expelled ~~pursuant to~~ **UNDER** subsection
2 (2), the expelling school district shall enter on the individual's
3 permanent record that he or she has been expelled ~~pursuant to~~ **UNDER**
4 subsection (2). Except if a school district operates or
5 participates cooperatively in an alternative education program
6 appropriate for individuals expelled ~~pursuant to~~ **UNDER** subsection
7 (2) and in its discretion admits the individual to that program,
8 and except for a strict discipline academy established under
9 sections 1311b to 1311m, an individual expelled ~~pursuant to~~ **UNDER**
10 subsection (2) is expelled from all public schools in this state
11 and the officials of a school district shall not allow the
12 individual to enroll in the school district unless the individual
13 has been reinstated under subsection (6). Except as otherwise
14 provided by law, a program operated for individuals expelled
15 ~~pursuant to~~ **UNDER** subsection (2) shall ensure that those
16 individuals are physically separated at all times during the school
17 day from the general pupil population. If an individual expelled
18 from a school district ~~pursuant to~~ **UNDER** subsection (2) is not
19 placed in an alternative education program or strict discipline
20 academy, the school district may provide, or may arrange for the
21 intermediate school district to provide, appropriate instructional
22 services to the individual at home. The type of services provided
23 shall meet the requirements of section 6(4)(u) of the state school
24 aid act of 1979, MCL 388.1606, and the services may be contracted
25 for in the same manner as services for homebound pupils under
26 section 109 of the state school aid act of 1979, MCL 388.1709. This
27 subsection does not require a school district to expend more money

1 for providing services for a pupil expelled ~~pursuant to~~ **UNDER**
2 subsection (2) than the amount of the foundation allowance the
3 school district receives for the pupil as calculated under section
4 20 of the state school aid act of 1979, MCL 388.1620.

5 (5) If a school board expels an individual ~~pursuant to~~ **UNDER**
6 subsection (2), the school board shall ensure that, within 3 days
7 after the expulsion, an official of the school district refers the
8 individual to the appropriate county department of social services
9 or county community mental health agency and notifies the
10 individual's parent or legal guardian or, if the individual is at
11 least age 18 or is an emancipated minor, notifies the individual of
12 the referral.

13 (6) The parent or legal guardian of an individual expelled
14 ~~pursuant to~~ **UNDER** subsection (2) or, if the individual is at least
15 age 18 or is an emancipated minor, the individual may petition the
16 expelling school board for reinstatement of the individual to
17 public education in the school district. If the expelling school
18 board denies a petition for reinstatement, the parent or legal
19 guardian or, if the individual is at least age 18 or is an
20 emancipated minor, the individual may petition another school board
21 for reinstatement of the individual in that other school district.
22 All of the following apply to reinstatement under this subsection:

23 (a) For an individual who was enrolled in grade 5 or below at
24 the time of the expulsion and who has been expelled for possessing
25 a firearm or threatening another person with a dangerous weapon,
26 the parent or legal guardian or, if the individual is at least age
27 18 or is an emancipated minor, the individual may initiate a

1 petition for reinstatement at any time after the expiration of 60
2 school days after the date of expulsion. For an individual who was
3 enrolled in grade 5 or below at the time of the expulsion and who
4 has been expelled ~~pursuant to~~ **UNDER** subsection (2) for a reason
5 other than possessing a firearm or threatening another person with
6 a dangerous weapon, the parent or legal guardian or, if the
7 individual is at least age 18 or is an emancipated minor, the
8 individual may initiate a petition for reinstatement at any time.
9 For an individual who was in grade 6 or above at the time of
10 expulsion, the parent or legal guardian or, if the individual is at
11 least age 18 or is an emancipated minor, the individual may
12 initiate a petition for reinstatement at any time after the
13 expiration of 150 school days after the date of expulsion.

14 (b) An individual who was in grade 5 or below at the time of
15 the expulsion and who has been expelled for possessing a firearm or
16 threatening another person with a dangerous weapon shall not be
17 reinstated before the expiration of 90 school days after the date
18 of expulsion. An individual who was in grade 5 or below at the time
19 of the expulsion and who has been expelled ~~pursuant to~~ **UNDER**
20 subsection (2) for a reason other than possessing a firearm or
21 threatening another person with a dangerous weapon shall not be
22 reinstated before the expiration of 10 school days after the date
23 of the expulsion. An individual who was in grade 6 or above at the
24 time of the expulsion shall not be reinstated before the expiration
25 of 180 school days after the date of expulsion.

26 (c) It is the responsibility of the parent or legal guardian
27 or, if the individual is at least age 18 or is an emancipated

1 minor, of the individual to prepare and submit the petition. A
2 school board is not required to provide any assistance in preparing
3 the petition. Upon request by a parent or legal guardian or, if the
4 individual is at least age 18 or is an emancipated minor, by the
5 individual, a school board shall make available a form for a
6 petition.

7 (d) Not later than 10 school days after receiving a petition
8 for reinstatement under this subsection, a school board shall
9 appoint a committee to review the petition and any supporting
10 information submitted by the parent or legal guardian or, if the
11 individual is at least age 18 or is an emancipated minor, by the
12 individual. The committee shall consist of 2 school board members,
13 1 school administrator, 1 teacher, and 1 parent of a pupil in the
14 school district. During this time the superintendent of the school
15 district may prepare and submit for consideration by the committee
16 information concerning the circumstances of the expulsion and any
17 factors mitigating for or against reinstatement.

18 (e) Not later than 10 school days after all members are
19 appointed, the committee described in subdivision (d) shall review
20 the petition and any supporting information and information
21 provided by the school district and shall submit a recommendation
22 to the school board on the issue of reinstatement. The
23 recommendation shall be for unconditional reinstatement, for
24 conditional reinstatement, or against reinstatement, and shall be
25 accompanied by an explanation of the reasons for the recommendation
26 and of any recommended conditions for reinstatement. The
27 recommendation shall be based on consideration of all of the

1 following factors:

2 (i) The extent to which reinstatement of the individual would
3 create a risk of harm to pupils or school personnel.

4 (ii) The extent to which reinstatement of the individual would
5 create a risk of school district liability or individual liability
6 for the school board or school district personnel.

7 (iii) The age and maturity of the individual.

8 (iv) The individual's school record before the incident that
9 caused the expulsion.

10 (v) The individual's attitude concerning the incident that
11 caused the expulsion.

12 (vi) The individual's behavior since the expulsion and the
13 prospects for remediation of the individual.

14 (vii) If the petition was filed by a parent or legal guardian,
15 the degree of cooperation and support that has been provided by the
16 parent or legal guardian and that can be expected if the individual
17 is reinstated, including, but not limited to, receptiveness toward
18 possible conditions placed on the reinstatement.

19 (f) Not later than the next regularly scheduled board meeting
20 after receiving the recommendation of the committee under
21 subdivision (e), a school board shall make a decision to
22 unconditionally reinstate the individual, conditionally reinstate
23 the individual, or deny reinstatement of the individual. The
24 decision of the school board is final.

25 (g) A school board may require an individual and, if the
26 petition was filed by a parent or legal guardian, his or her parent
27 or legal guardian to agree in writing to specific conditions before

1 reinstating the individual in a conditional reinstatement. The
2 conditions may include, but are not limited to, agreement to a
3 behavior contract, which may involve the individual, parent or
4 legal guardian, and an outside agency; participation in or
5 completion of an anger management program or other appropriate
6 counseling; periodic progress reviews; and specified immediate
7 consequences for failure to abide by a condition. A parent or legal
8 guardian or, if the individual is at least age 18 or is an
9 emancipated minor, the individual may include proposed conditions
10 in a petition for reinstatement submitted under this subsection.

11 (7) A school board or school administrator that complies with
12 subsection (2) is not liable for damages for expelling a pupil
13 ~~pursuant to UNDER~~ subsection (2), and the authorizing body of a
14 public school academy is not liable for damages for expulsion of a
15 pupil by the public school academy ~~pursuant to UNDER~~ subsection
16 (2).

17 (8) The department shall develop and distribute to all school
18 districts a form for a petition for reinstatement to be used under
19 subsection (6).

20 (9) This section does not diminish any rights under federal
21 law of a pupil who has been determined to be eligible for special
22 education programs and services.

23 (10) If a pupil expelled from a public school district
24 ~~pursuant to UNDER~~ subsection (2) is enrolled by a public school
25 district sponsored alternative education program or a public school
26 academy during the period of expulsion, the public school academy
27 or alternative education program shall immediately become eligible

1 for the prorated share of either the public school academy or
2 operating school district's foundation allowance or the expelling
3 school district's foundation allowance, whichever is higher.

4 (11) If an individual is expelled ~~pursuant to~~ **UNDER** subsection
5 (2), it is the responsibility of that individual and of his or her
6 parent or legal guardian to locate a suitable alternative
7 educational program and to enroll the individual in such a program
8 during the expulsion. The office of safe schools in the department
9 shall compile information on and catalog existing alternative
10 education programs or schools and nonpublic schools that may be
11 open to enrollment of individuals expelled ~~pursuant to~~ **UNDER**
12 subsection (2) and ~~pursuant to~~ **UNDER** section 1311a, and shall
13 periodically distribute this information to school districts for
14 distribution to expelled individuals. A school board that
15 establishes an alternative education program or school described in
16 this subsection shall notify the office of safe schools about the
17 program or school and the types of pupils it serves. The office of
18 safe schools also shall work with and provide technical assistance
19 to school districts, authorizing bodies for public school
20 academies, and other interested parties in developing these types
21 of alternative education programs or schools in geographic areas
22 that are not being served.

23 **(12) EXCEPT FOR A PUPIL DESCRIBED IN SUBSECTION (2), A SCHOOL**
24 **BOARD, SCHOOL DISTRICT SUPERINTENDENT, SCHOOL BUILDING PRINCIPAL,**
25 **OR ANOTHER SCHOOL DISTRICT OFFICIAL DESIGNATED BY A SCHOOL BOARD**
26 **SHALL NOT SUSPEND A PUPIL IN FOSTER CARE UNLESS ALL OF THE**
27 **FOLLOWING ARE MET:**

1 (A) THE PUPIL IS SUSPENDED FOR NO MORE THAN 5 CONSECUTIVE
2 SCHOOL DAYS OR A TOTAL OF 20 SCHOOL DAYS DURING A SCHOOL YEAR
3 UNLESS BOTH OF THE FOLLOWING ARE MET:

4 (i) THE PUPIL IS BEING CONSIDERED FOR EXPULSION.

5 (ii) THE PUPIL'S FOSTER CARE CASEWORKER AND ATTORNEY, IF ANY,
6 ARE INVITED TO A MEETING TO DISCUSS THE SUSPENSION.

7 (B) THE PUPIL IS INFORMED OF THE REASONS FOR THE SUSPENSION
8 AND AFFORDED AN OPPORTUNITY TO PROVIDE HIS OR HER VERSION OF THE
9 EVENTS LEADING TO THE SUSPENSION.

10 (13) EXCEPT FOR A PUPIL DESCRIBED IN SUBSECTION (2), A SCHOOL
11 BOARD, SCHOOL DISTRICT SUPERINTENDENT, SCHOOL BUILDING PRINCIPAL,
12 OR ANOTHER SCHOOL DISTRICT OFFICIAL DESIGNATED BY A SCHOOL BOARD
13 SHALL NOT EXPEL A PUPIL IN FOSTER CARE UNLESS ALL OF THE FOLLOWING
14 ARE MET:

15 (A) THE PUPIL'S FOSTER CARE CASEWORKER AND ATTORNEY, IF ANY,
16 ARE NOTIFIED OF THE PENDING EXPULSION.

17 (B) THE PUPIL IS AFFORDED A FORMAL HEARING AND AN OPPORTUNITY
18 TO BE REPRESENTED BY AN ATTORNEY AT THE FORMAL HEARING.

19 (14) ~~(12)~~ As used in this section:

20 (a) "Arson" means a felony violation of chapter X of the
21 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

22 (b) "Criminal sexual conduct" means a violation of section
23 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
24 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

25 (c) "Dangerous weapon" means that term as defined in section
26 1313.

27 (d) "Firearm" means that term as defined in section 921 of

1 title 18 of the United States Code, 18 USC 921.

2 (E) "FOSTER CARE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
3 THE FOSTER CARE AND ADOPTION SERVICES ACT, 1994 PA 203, MCL
4 722.952.

5 (F) ~~(e)~~—"School board" means a school board, intermediate
6 school board, or the board of directors of a public school academy.

7 (G) ~~(f)~~—"School district" means a school district,
8 intermediate school district, or public school academy.

9 (H) ~~(g)~~—"Weapon free school zone" means that term as defined
10 in section 237a of the Michigan penal code, 1931 PA 328, MCL
11 750.237a.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.