



Ohio Revised Code

Section 3313.662 Adjudication order permanently excluding pupil from public schools.

Effective: September 14, 2016

Legislation: House Bill 113 - 131st General Assembly

(A) The superintendent of public instruction, pursuant to this section and the adjudication procedures of section 3301.121 of the Revised Code, may issue an adjudication order that permanently excludes a pupil from attending any of the public schools of this state if the pupil is convicted of, or adjudicated a delinquent child for, committing, when the pupil was sixteen years of age or older, an act that would be a criminal offense if committed by an adult and if the act is any of the following:

(1) A violation of section 2923.122 of the Revised Code;

(2) A violation of section 2923.12 of the Revised Code, of a substantially similar municipal ordinance, or of section 2925.03 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district;

(3) A violation of section 2925.11 of the Revised Code, other than a violation of that section that would be a minor drug possession offense, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of a city, local, exempted village, or joint vocational school district;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 or of former section 2907.12 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district, if the victim at the time of the commission of the act was an employee of that board of education;

(5) Complicity in any violation described in division (A)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (A)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled



by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district.

(B) A pupil may be suspended or expelled in accordance with section 3313.66 of the Revised Code prior to being permanently excluded from public school attendance under this section and section 3301.121 of the Revised Code.

(C)(1) If the superintendent of a city, local, exempted village, or joint vocational school district in which a pupil attends school obtains or receives proof that the pupil has been convicted of committing when the pupil was sixteen years of age or older a violation listed in division (A) of this section or adjudicated a delinquent child for the commission when the pupil was sixteen years of age or older of a violation listed in division (A) of this section, the superintendent may issue to the board of education of the school district a request that the pupil be permanently excluded from public school attendance, if both of the following apply:

(a) After obtaining or receiving proof of the conviction or adjudication, the superintendent or the superintendent's designee determines that the pupil's continued attendance in school may endanger the health and safety of other pupils or school employees and gives the pupil and the pupil's parent, guardian, or custodian written notice that the superintendent intends to recommend to the board of education that the board adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil from public school attendance.

(b) The superintendent or the superintendent's designee forwards to the board of education the superintendent's written recommendation that includes the determinations the superintendent or designee made pursuant to division (C)(1)(a) of this section and a copy of the proof the superintendent received showing that the pupil has been convicted of or adjudicated a delinquent child for a violation listed in division (A) of this section that was committed when the pupil was sixteen years of age or older.

(2) Within fourteen days after receipt of a recommendation from the superintendent pursuant to division (C)(1)(b) of this section that a pupil be permanently excluded from public school attendance, the board of education of a city, local, exempted village, or joint vocational school district, after review and consideration of all of the following available information, may adopt a



resolution requesting the superintendent of public instruction to permanently exclude the pupil who is the subject of the recommendation from public school attendance:

- (a) The academic record of the pupil and a record of any extracurricular activities in which the pupil previously was involved;
 - (b) The disciplinary record of the pupil and any available records of the pupil's prior behavioral problems other than the behavioral problems contained in the disciplinary record;
 - (c) The social history of the pupil;
 - (d) The pupil's response to the imposition of prior discipline and sanctions imposed for behavioral problems;
 - (e) Evidence regarding the seriousness of and any aggravating factors related to the offense that is the basis of the resolution seeking permanent exclusion;
 - (f) Any mitigating circumstances surrounding the offense that gave rise to the request for permanent exclusion;
 - (g) Evidence regarding the probable danger posed to the health and safety of other pupils or of school employees by the continued presence of the pupil in a public school setting;
 - (h) Evidence regarding the probable disruption of the teaching of any school district's graded course of study by the continued presence of the pupil in a public school setting;
 - (i) Evidence regarding the availability of alternative sanctions of a less serious nature than permanent exclusion that would enable the pupil to remain in a public school setting without posing a significant danger to the health and safety of other pupils or of school employees and without posing a threat of the disruption of the teaching of any district's graded course of study.
- (3) If the board does not adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil, it immediately shall send written notice of that fact to the



superintendent who sought the resolution, to the pupil who was the subject of the proposed resolution, and to that pupil's parent, guardian, or custodian.

(D)(1) Upon adoption of a resolution under division (C) of this section, the board of education immediately shall forward to the superintendent of public instruction the written resolution, proof of the conviction or adjudication that is the basis of the resolution, a copy of the pupil's entire school record, and any other relevant information and shall forward a copy of the resolution to the pupil who is the subject of the recommendation and to that pupil's parent, guardian, or custodian.

(2) The board of education that adopted and forwarded the resolution requesting the permanent exclusion of the pupil to the superintendent of public instruction promptly shall designate a representative of the school district to present the case for permanent exclusion to the superintendent or the referee appointed by the superintendent. The representative of the school district may be an attorney admitted to the practice of law in this state. At the adjudication hearing held pursuant to section 3301.121 of the Revised Code, the representative of the school district shall present evidence in support of the requested permanent exclusion.

(3) Upon receipt of a board of education's resolution requesting the permanent exclusion of a pupil from public school attendance, the superintendent of public instruction, in accordance with the adjudication procedures of section 3301.121 of the Revised Code, promptly shall issue an adjudication order that either permanently excludes the pupil from attending any of the public schools of this state or that rejects the resolution of the board of education.

(E) Notwithstanding any provision of section 3313.64 of the Revised Code or an order of any court of this state that otherwise requires the admission of the pupil to a school, no school official in a city, local, exempted village, or joint vocational school district knowingly shall admit to any school in the school district a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction.

(F)(1)(a) Upon determining that the school attendance of a pupil who has been permanently excluded from public school attendance no longer will endanger the health and safety of other students or school employees, the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school may issue to the board of education of the school



district a recommendation, including the reasons for the recommendation, that the permanent exclusion of a pupil be revoked and the pupil be allowed to return to the public schools of the state.

If any violation which in whole or in part gave rise to the permanent exclusion of any pupil involved the pupil's bringing a firearm to a school operated by the board of education of a school district or onto any other property owned or operated by such a board, no superintendent shall recommend under this division an effective date for the revocation of the pupil's permanent exclusion that is less than one year after the date on which the last such firearm incident occurred. However, on a case-by-case basis, a superintendent may recommend an earlier effective date for such a revocation for any of the reasons for which the superintendent may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code.

(b) Upon receipt of the recommendation of the superintendent that a permanent exclusion of a pupil be revoked, the board of education of a city, local, exempted village, or joint vocational school district may adopt a resolution by a majority vote of its members requesting the superintendent of public instruction to revoke the permanent exclusion of the pupil. Upon adoption of the resolution, the board of education shall forward a copy of the resolution, the reasons for the resolution, and any other relevant information to the superintendent of public instruction.

(c) Upon receipt of a resolution of a board of education requesting the revocation of a permanent exclusion of a pupil, the superintendent of public instruction, in accordance with the adjudication procedures of Chapter 119. of the Revised Code, shall issue an adjudication order that revokes the permanent exclusion of the pupil from public school attendance or that rejects the resolution of the board of education.

(2)(a) A pupil who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code may request the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school to admit the pupil on a probationary basis for a period not to exceed ninety school days. Upon receiving the request, the superintendent may enter into discussions with the pupil and with the pupil's parent, guardian, or custodian or a person designated by the pupil's parent, guardian, or custodian to develop a probationary admission plan designed to assist the pupil's probationary admission to the school. The plan may include a treatment program, a behavioral modification program, or any other program



reasonably designed to meet the educational needs of the child and the disciplinary requirements of the school.

If any violation which in whole or in part gave rise to the permanent exclusion of the pupil involved the pupil's bringing a firearm to a school operated by the board of education of any school district or onto any other property owned or operated by such a board, no plan developed under this division for the pupil shall include an effective date for the probationary admission of the pupil that is less than one year after the date on which the last such firearm incident occurred except that on a case-by-case basis, a plan may include an earlier effective date for such an admission for any of the reasons for which the superintendent of the district may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code.

(b) If the superintendent of a school district, a pupil, and the pupil's parent, guardian, or custodian or a person designated by the pupil's parent, guardian, or custodian agree upon a probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the superintendent of the school district shall issue to the board of education of the school district a recommendation that the pupil be allowed to attend school within the school district under probationary admission, the reasons for the recommendation, and a copy of the agreed upon probationary admission plan. Within fourteen days after the board of education receives the recommendation, reasons, and plan, the board may adopt the recommendation by a majority vote of its members. If the board adopts the recommendation, the pupil may attend school under probationary admission within that school district for a period not to exceed ninety days or any additional probationary period permitted under divisions (F)(2)(d) and (e) of this section in accordance with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section.

(c) If a pupil who is permitted to attend school under probationary admission pursuant to division (F)(2)(b) of this section fails to comply with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the superintendent of the school district immediately may remove the pupil from the school and issue to the board of education of the school district a recommendation that the probationary admission be revoked. Within five days after the board of education receives the recommendation, the board may adopt the recommendation to revoke the pupil's probationary admission by a majority vote of its members. If a majority of the board does not adopt the recommendation to revoke the pupil's probationary admission, the pupil shall continue to attend



school in compliance with the pupil's probationary admission plan.

(d) If a pupil who is permitted to attend school under probationary admission pursuant to division (F)(2)(b) of this section complies with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the pupil or the pupil's parent, guardian, or custodian, at any time before the expiration of the ninety-day probationary admission period, may request the superintendent of the school district to extend the terms and period of the pupil's probationary admission for a period not to exceed ninety days or to issue a recommendation pursuant to division (F)(1) of this section that the pupil's permanent exclusion be revoked and the pupil be allowed to return to the public schools of this state.

(e) If a pupil is granted an extension of the pupil's probationary admission pursuant to division (F)(2)(d) of this section, the pupil or the pupil's parent, guardian, or custodian, in the manner described in that division, may request, and the superintendent and board, in the manner described in that division, may recommend and grant, subsequent probationary admission periods not to exceed ninety days each. If a pupil who is permitted to attend school under an extension of a probationary admission plan complies with the probationary admission plan prepared pursuant to the extension, the pupil or the pupil's parent, guardian, or custodian may request a revocation of the pupil's permanent exclusion in the manner described in division (F)(2)(d) of this section.

(f) Any extension of a probationary admission requested by a pupil or a pupil's parent, guardian, or custodian pursuant to divisions (F)(2)(d) or (e) of this section shall be subject to the adoption and approval of a probationary admission plan in the manner described in divisions (F)(2)(a) and (b) of this section and may be terminated as provided in division (F)(2)(c) of this section.

(g) If the pupil has complied with any probationary admission plan and the superintendent issues a recommendation that seeks revocation of the pupil's permanent exclusion pursuant to division (F)(1) of this section, the pupil's compliance with any probationary admission plan may be considered along with other relevant factors in any determination or adjudication conducted pursuant to division (F)(1) of this section.

(G)(1) Except as provided in division (G)(2) of this section, any information regarding the permanent exclusion of a pupil shall be included in the pupil's official records and shall be included in any



records sent to any school district that requests the pupil's records.

(2) When a pupil who has been permanently excluded from public school attendance reaches the age of twenty-two or when the permanent exclusion of a pupil has been revoked, all school districts that maintain records regarding the pupil's permanent exclusion shall remove all references to the exclusion from the pupil's file and shall destroy them.

A pupil who has reached the age of twenty-two or whose permanent exclusion has been revoked may send a written notice to the superintendent of any school district maintaining records of the pupil's permanent exclusion requesting the superintendent to ensure that the records are removed from the pupil's file and destroyed. Upon receipt of the request and a determination that the pupil is twenty-two years of age or older or that the pupil's permanent exclusion has been revoked, the superintendent shall ensure that the records are removed from the pupil's file and destroyed.

(H)(1) This section does not apply to any of the following:

(a) An institution that is a residential facility, that receives and cares for children, that is maintained by the department of youth services, and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code;

(b) Any on-premises school operated by an out-of-home care entity, other than a school district, that is chartered by the state board of education under section 3301.16 of the Revised Code;

(c) Any school operated in connection with an out-of-home care entity or a nonresidential youth treatment program that enters into a contract or agreement with a school district for the provision of educational services in a setting other than a setting that is a building or structure owned or controlled by the board of education of the school district during normal school hours.

(2) This section does not prohibit any person who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code from seeking a certificate of high school equivalence. A person who has been permanently excluded may be permitted to participate in a course of study in preparation for a high school equivalency test approved by the department of education pursuant to division (B) of section 3301.80 of the Revised Code, except that the person



shall not participate during normal school hours in that course of study in any building or structure owned or controlled by the board of education of a school district.

(3) This section does not relieve any school district from any requirement under section 2151.362 or 3313.64 of the Revised Code to pay for the cost of educating any child who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code.

(I) As used in this section:

(1) "Permanently exclude" means to forever prohibit an individual from attending any public school in this state that is operated by a city, local, exempted village, or joint vocational school district.

(2) "Permanent exclusion" means the prohibition of a pupil forever from attending any public school in this state that is operated by a city, local, exempted village, or joint vocational school district.

(3) "Out-of-home care" has the same meaning as in section 2151.011 of the Revised Code.

(4) "Certificate of high school equivalence" has the same meaning as in section 4109.06 of the Revised Code.

(5) "Nonresidential youth treatment program" means a program designed to provide services to persons under the age of eighteen in a setting that does not regularly provide long-term overnight care, including settlement houses, diversion and prevention programs, run-away centers, and alternative education programs.

(6) "Firearm" has the same meaning as provided pursuant to the "Gun-Free Schools Act of 1994," 108 Stat. 270, 20 U.S.C. 8001(a)(2).

(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.