



Ohio Revised Code

Section 3313.668 Removal based on absences; removal from grades pre-k through three; civil immunity, decisions not to provide mental health services.

Effective: April 8, 2019

Legislation: House Bill 477 - 132nd General Assembly

(A) On and after July 1, 2017, no school district or school shall suspend, expel, or remove a student from school under section 3313.66 of the Revised Code solely on the basis of the student's absences from school without legitimate excuse.

(B)(1) Except as described in division (B) of this section, no school district or school shall issue an out-of-school suspension or expulsion to a student in grades pre-kindergarten through three.

(a) A school district or school may issue an out-of-school suspension or expulsion, in accordance with section 3313.66 of the Revised Code, to a student in any of grades pre-kindergarten through three who has engaged in any of the behaviors described in divisions (B)(2) to (5) of section 3313.66 of the Revised Code.

(b) A school district or school may issue an out-of-school suspension not to exceed ten days or an expulsion to a student in any of grades pre-kindergarten through three who has not engaged in any of the behaviors described in divisions (B)(2) to (5) of section 3313.66 of the Revised Code only as necessary to protect the immediate health and safety of the student, the student's fellow classmates, the classroom staff and teachers, or other school employees.

(2) Whenever possible, the principal shall consult with a mental health professional under contract with the district or school prior to suspending or expelling a student in any of grades pre-kindergarten through three. If the events leading up to suspension or expulsion indicate a need for additional mental health services, the student's principal or the district's mental health professional shall, in any manner that does not result in a financial burden to the school district or school, assist the student's parent or guardian with locating providers or obtaining those services, including referral to an independent mental health professional. Nothing in this division shall be construed to limit the responsibilities of a school district or school with respect to the provision of special education and related services under Chapter 3323. of the Revised Code.



(3) A student in any of grades pre-kindergarten through three who is suspended or expelled shall be afforded the same notice and hearing, procedural, and educational opportunities as prescribed for a suspension or expulsion pursuant to section 3313.66 of the Revised Code.

(4) Nothing in division (B) of this section shall be construed to limit the authority of a school district or school to issue an in-school suspension to a student in any of grades pre-kindergarten through three, provided that the in-school suspension is served in a supervised learning environment in accordance with divisions (A)(2) and (K)(2) of section 3313.66 of the Revised Code.

(C) A school district, member of a school district board of education, or school district employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a district employee's decision not to provide or procure mental health services for a suspended or expelled student under division (B)(2) of this section, unless the decision is made with malicious purpose, in bad faith, or in a wanton or reckless manner.

This division does not eliminate, limit, or reduce any other immunity or defense to which a school district, member of a school district board of education, or school district employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.