

School District Employee Legal Requirements to Report Crime

HB 91 – Employees Required Report to Principal

- All school district employees who
 - Know or have reasonable cause to believe –
 - A student has been the victim of a felony offense committed by another student while under the jurisdiction of a school district shall immediately report the incident to principal of school victim attends.

Type of Offenses HB 91 Requires to be reported to the Principal and then by the Principal to Law Enforcement Agency in Writing

- Intentional, wanton, or reckless student conduct directed toward another student which:
 - Causes physical injury with a deadly weapon or dangerous instrument;
 - Causes serious physical injury;
 - Under circumstances manifesting extreme indifference to human life, creates substantial danger of serious physical injury; or
 - Threatens to commit an act likely to cause serious physical injury.

- The district and district employees may face liability exposure in civil litigation
 - for failing to address misbehavior, whether or not the behavior was felony.
- Simply because an incident doesn't have to be reported:
 - doesn't mean the behavior doesn't need to be addressed by the district or staff.

FERPA

- Unless you have a parent or eligible student consent, a subpoena or court order, or are dealing with an imminent health or safety emergency
 - You may release personal information derived from education records, such as the name, address and age of the student only if it is releasable in your district for this particular student under FERPA as directory information.
- The Federal law and your local school board determine what qualifies as directory information in your district.

Principal Required Report to Law Enforcement Agency & to Board of Education

HB 91 (KRS 158.156)

- Principal receiving a report of a felony offense specified in KRS Chapter 508 shall file with:
 - The local school board, and
 - The local law enforcement agency, or
 - The Kentucky State Police, or

- The County Attorney:
 - Within forty-eight (48) hours of receiving such a report a written report containing:
 - a) The names and addresses of the student who was harassed and his/her parents, legal guardians, or other persons exercising custodial control or supervision (but note FERPA requirements above and below);
 - b) The student's age (but note FERPA requirements);
 - c) The name and extent of the violation (from someone's observation, do not get it from the education records);
 - d) The name and address of the student allegedly responsible for the violation (but note FERPA requirements); (The police can ask the student for the information in a through d above); and
 - e) Any other information the principal making the report believes may be helpful, (but remember federal FERPA restrictions on information derived from education records).

- Principals do not have to complete an investigation before making this report.
- Just determine there is reasonable cause to believe it occurred.
- Without parent or eligible student consent, subpoena or court order, or an imminent health or safety emergency
 - The principal may release personal information derived from education records, such as the name, address and age of the student only -

Principal's Duty to Report to Local Law Enforcement Agency Under KRS 158.154

- Principal having reasonable belief act occurred on school property or at a school-sponsored function involving:
 - Assault resulting in serious physical injury;
 - A sexual offense;
 - Kidnapping;
 - Assault involving the use of a weapon;
 - Possession of a firearm in violation of the law;
 - Possession of a controlled substance in violation of the law; or
 - Damage to property:
 - Shall immediately report the act to appropriate local law enforcement agency.

Definition of School Property Under KRS 158.154

- For purposes of KRS 158.154, “school property” means any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.