

hol, and tobacco prevention programs implemented in public elementary schools and secondary schools.

SUBPART 3—GUN POSSESSION

**§ 7151. Gun-free requirements**

**(a) Short title**

This subpart may be cited as the “Gun-Free Schools Act”.

**(b) Requirements**

**(1) In general**

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

**(2) Construction**

Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student’s regular school setting from providing educational services to such student in an alternative setting.

**(3) Definition**

For the purpose of this section, the term “firearm” has the same meaning given such term in section 921(a) of title 18.

**(c) Special rule**

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

**(d) Report to State**

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance—

- (1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and
- (2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including—
  - (A) the name of the school concerned;
  - (B) the number of students expelled from such school; and
  - (C) the type of firearms concerned.

**(e) Reporting**

Each State shall report the information described in subsection (d) of this section to the Secretary on an annual basis.

**(f) Definition**

For the purpose of subsection (d) of this section, the term “school” means any setting that

is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

**(g) Exception**

Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

**(h) Policy regarding criminal justice system referral**

**(1) In general**

No funds shall be made available under any subchapter of this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

**(2) Definition**

For the purpose of this subsection, the term “school” has the same meaning given to such term by section 921(a) of title 18.

(Pub. L. 89–10, title IV, §4141, as added Pub. L. 107–110, title IV, §401, Jan. 8, 2002, 115 Stat. 1762.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

SUBPART 4—GENERAL PROVISIONS

**§ 7161. Definitions**

In this part:

**(1) Controlled substance**

The term “controlled substance” means a drug or other substance identified under Schedule I, II, III, IV, or V in section 812(c) of title 21.

**(2) Drug**

The term “drug” includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

**(3) Drug and violence prevention**

The term “drug and violence prevention” means—

- (A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs;
- (B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation

and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

**(4) Hate crime**

The term “hate crime” means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

**(5) Nonprofit**

The term “nonprofit”, as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

**(6) Protective factor, buffer, or asset**

The terms “protective factor”, “buffer”, and “asset” mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

**(7) Risk factor**

The term “risk factor” means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community.

**(8) School-aged population**

The term “school-aged population” means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

**(9) School based mental health services provider**

The term “school based mental health services provider” includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

**(10) School personnel**

The term “school personnel” includes teachers, principals, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

**(11) School resource officer**

The term “school resource officer” means a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to

work in collaboration with schools and community based organizations to—

(A) educate students in crime and illegal drug use prevention and safety;

(B) develop or expand community justice initiatives for students; and

(C) train students in conflict resolution, restorative justice, and crime and illegal drug use awareness.

(Pub. L. 89–10, title IV, § 4151, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1763.)

REFERENCES IN TEXT

Section 1(b) of the Hate Crime Statistics Act of 1990, referred to in par. (4), is section 1(b) of Pub. L. 101–275, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

**§ 7162. Message and materials**

**(a) “Wrong and harmful” message**

Drug and violence prevention programs supported under this part shall convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

**(b) Curriculum**

The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

(Pub. L. 89–10, title IV, § 4152, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1764.)

**§ 7163. Parental consent**

Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this part. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this part, other than classroom instruction.

(Pub. L. 89–10, title IV, § 4153, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

**§ 7164. Prohibited uses of funds**

No funds under this part may be used for—

(1) construction (except for minor remodeling needed to accomplish the purposes of this part); or

(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs.

(Pub. L. 89–10, title IV, § 4154, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

**§ 7165. Transfer of school disciplinary records**

**(a) Nonapplication of provisions**

This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

**(b) Disciplinary records**

In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g),