

TO: Directors of School
FROM: Christy Ballard, Office of General Counsel
DATE: July 24, 2023
SUBJECT: **Reminder of New Zero Tolerance Offense**

Tenn. Code Ann. § 49-6-3401(g) lists the offenses that when committed by a student require a mandatory calendar year expulsion that may only be modified on a case-by-case basis by the director of schools. These offenses are referred to as zero tolerance offenses. Prior to April 28, 2023, there were three zero tolerance offenses outlined in Tenn. Code Ann. § 49-6-3401(g)(2):

- (A) A student brings to school or is in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;
- (B) A student commits aggravated assault as defined in § 39-13-102 or commits an assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; or
- (C) A student is in unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 — 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, on school grounds or at a school-sponsored event.

Effective July 1, 2023, Chapter 299 of the Public Acts of 2023 (PC299) added a fourth offense to the list of zero tolerance offenses. A student has committed a zero tolerance offense if the student, "Threatens mass violence on school property or at a school related activity pursuant to § 39-16-517."

Tenn. Code Ann. § 39-16-517(a) provides the following definitions that are applicable to this new offense:

- (a)
 - (1) "**Mass violence**" means any act which a reasonable person would conclude could lead to the serious bodily injury, as defined in § 39-11-106, or the death of two (2) or more persons;
 - (2) "**Means of communication**" means direct and indirect verbal, written, or electronic communications, including graffiti, pictures, diagrams, telephone calls, voice over internet protocol calls, video messages, voice mails, electronic mail, social media posts, instant messages, chat group posts, text messages, and any other recognized means of conveying information;
 - (3) "**School**" means any public or private elementary school, middle school, high school, college of applied technology, postsecondary vocational or technical school, or two-year or four-year college or university; and
 - (4) "**School property**" means any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any local education agency, private school board of trustees, or directors for the administration of any school.

All local education agencies and public charter schools should work with their local attorneys to ensure policies, procedures, and parent and student handbooks are revised to include this change in the law prior to the beginning of the 2023-24 school year.