

1 SB189
2 204818-2
3 By Senator Smitherman
4 RFD: Education Policy
5 First Read: 13-FEB-20

1 SB189

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to school discipline; to amend Section
12 16-1-14, Code of Alabama 1975; to prohibit a public school
13 from suspending or expelling students in certain
14 circumstances; to require a public school that has expelled or
15 suspended a student for a long period of time to hold a
16 hearing on the expulsion or suspension; to establish hearing
17 procedures; and to require the State Board of Education to
18 adopt rules.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 16-1-14, Code of Alabama 1975, is
21 amended to read as follows:

22 "§16-1-14.

23 "(a) As used in this section, the following terms
24 shall have the following meanings:

25 "(1) EXPULSION. The exclusion of a student for more
26 than 90 days from the student's regular school environment for
27 disciplinary purposes.

1 "(2) LONG-TERM SUSPENSION. The exclusion of a
2 student for more than 10 but no more than 90 school days from
3 the student's regular school environment for disciplinary
4 purposes.

5 ~~"(b) Any city, county, or other local public school~~
6 ~~board shall~~ Each local board of education, consistent with
7 Section 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~
8 with respect to behavior and discipline of ~~pupils~~ students
9 enrolled in the schools under its jurisdiction and, in order
10 to enforce ~~such the~~ rules and regulations, may remove,
11 isolate, or separate pupils who create disciplinary problems
12 in any classroom or other school activity and whose presence
13 in the class may be detrimental to the best interest and
14 welfare of the ~~pupils~~ students of ~~such the~~ class as a whole.
15 Any rules ~~and regulations~~ adopted pursuant to this section
16 shall be approved by the State Board of Education.

17 "(c) Any such removal, isolation, or separation
18 authorized under this section may not deprive ~~such pupils a~~
19 student of ~~their~~ his or her full right to an equal and
20 adequate education.

21 "(d) A student in pre-K through fifth grade may not
22 be suspended or expelled from a public school unless the
23 student's behavior endangers the physical safety of other
24 students or school personnel.

25 "(e) A student in any grade may not be suspended or
26 expelled from a public school solely for truancy or tardiness
27 violations of a code of student conduct or state law.

1 "(f) (1) Each local board of education shall qualify
2 individuals to serve as impartial hearing officers under
3 subdivision (2), pursuant to rules adopted by the State Board
4 of Education, which shall include, but not be limited to,
5 minimum qualifications for serving as a hearing officer and
6 required annual training. Training of hearing officers shall
7 include, but not be limited to, the procedures, duties, and
8 restrictions set forth in this subsection and the short- and
9 long-term effects of exclusionary discipline on students.

10 "(2) Following an alleged violation of a code of
11 student conduct or state law that results in a recommendation
12 for long-term suspension or expulsion of a student, the local
13 board of education shall ensure that, at a minimum, the
14 following procedures are followed:

15 "a. The board shall appoint a qualified impartial
16 hearing officer to hold a disciplinary hearing.

17 "b. The student shall be afforded an opportunity for
18 a disciplinary hearing after reasonable written notice is
19 delivered personally or by mail to the student and to the
20 student's parent or legal guardian. The notice must include
21 the time, place, and nature of the hearing; a short and plain
22 statement of the alleged conduct and of the code of student
23 conduct policy or rule or state law that was allegedly
24 violated; the names of any witnesses who may participate in
25 the hearing; and a statement outlining the student's rights at
26 the hearing.

1 "c. The disciplinary hearing shall take place within
2 10 school days of the initial suspension or expulsion.

3 "d. The student has the opportunity to be
4 represented by legal counsel or another advocate of the
5 student's choice at the hearing.

6 "e. The student, parent or guardian, and the
7 student's representative have the right, before the hearing,
8 to review any audio or video recordings of the incident and,
9 consistent with federal and state student records laws, rules,
10 and regulations, any records, documents, any other information
11 that may be presented as evidence at the hearing, including
12 written statements made by witnesses related to the alleged
13 incident leading to the suspension or expulsion.

14 "f. Prior to the hearing, there shall be an informal
15 conference with the student and the student's parent or legal
16 guardian as follows:

17 "1. During the informal conference, the local
18 superintendent or his or her designee shall provide any
19 physical, electronic or documentary evidence related to the
20 incident or alleged infraction to the student for review.

21 "2. The student shall have the opportunity to defend
22 him or herself verbally or submit any evidence or information
23 which may impact any potential discipline. No information
24 provided by the student during the informal conference may be
25 used against him in any subsequent hearing for the same
26 offense.

1 "g. At the hearing, all parties shall be allowed to
2 present evidence relating to the alleged violation and any
3 evidence demonstrating whether the long-term suspension or
4 expulsion is or is not commensurate with the violation and in
5 the best interest of the education of the student.

6 "h. A party may request an electronic or written
7 record of the hearing.

8 "i. Based on the evidence presented at the hearing,
9 the hearing officer shall make a determination of whether
10 suspension or expulsion is appropriate and provide written
11 notice of the decision to the student and to the parent or
12 guardian not more than five school days after the date of the
13 hearing. The notice shall include all of the following:

14 "1. The basis for the determination, including a
15 reference to the policy, rule, or law that the student
16 allegedly violated and any other evidence relied on by the
17 hearing officer in making the determination.

18 "2. Notice of what information will be included in
19 the student's official record.

20 "3. Notice of the student's right to appeal the
21 decision under the school's code of student conduct and
22 Section 12-15-115 and notice of the procedures for the appeal.

23 "(3) The State Board of Education shall adopt rules
24 addressing all of the following:

25 "a. Restrictions on communications between hearing
26 officers and school personnel, members of boards of education,

1 students, and other individuals in order for hearing officers
2 to maintain impartiality.

3 "b. Except as otherwise provided in Sections
4 16-1-24.1 and 16-1-24.3, what factors a hearing officer must
5 consider when determining whether long-term suspension or
6 expulsion is an appropriate disciplinary measure commensurate
7 with the violation committed.

8 "c. What other information is appropriate to admit
9 as evidence at a hearing, taking into account other
10 considerations relating to whether expulsion or long-term
11 suspension is in the best interest of the education of the
12 student or is violative of the requirements of subsection (c).

13 "d. Any other issue the board deems relevant and
14 necessary to implement this section.

15 "(g) Nothing in this section shall be construed to
16 infringe on any right provided to students pursuant to the
17 federal Individuals with Disabilities Education Act, Section
18 504 of The Rehabilitation Act of 1973, or the Americans with
19 Disability Act of 1990."

20 Section 2. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Education Policy..... 13-FEB-20
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7 Read for the second time and placed on the calen-
8 dar 1 amendment..... 27-FEB-20
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10 Read for the third time and passed as amended 12-MAR-20

11 Yeas 26
12 Nays 4

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15 Patrick Harris,
16 Secretary.
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