

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

SYNOPSIS: This bill would require a board of education to hold a hearing when a student has been expelled or suspended for a period of more than 10 days from school.

This bill would establish procedures for hearings and require the State Board of Education to adopt rules.

This bill would prohibit a student in pre-K through fifth grade from being suspended or expelled from public school unless the physical safety of students or school personnel is endangered.

This bill would also prohibit a student from being suspended or expelled from public school for truancy or tardiness violations.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to school discipline; to amend Section
2 16-1-14, Code of Alabama 1975; to prohibit a public school
3 from suspending or expelling students in certain
4 circumstances; to require a public school that has expelled or
5 suspended a student for a long period of time to hold a
6 hearing on the expulsion or suspension; to establish hearing
7 procedures; and to require the State Board of Education to
8 adopt rules.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§16-1-14.

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

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

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

22 "(b) Any city, county, or other local public school
23 board shall Each local board of education, consistent with
24 Section 16-28-12, ~~prescribe~~ shall adopt rules ~~and regulations~~
25 with respect to behavior and discipline of ~~pupils~~ students
26 enrolled in the schools under its jurisdiction and, in order
27 to enforce ~~such the~~ the rules ~~and regulations~~, may remove,

1 isolate, or separate pupils who create disciplinary problems
2 in any classroom or other school activity and whose presence
3 in the class may be detrimental to the best interest and
4 welfare of the ~~pupils~~ students of ~~such~~ the class as a whole.
5 Any rules ~~and regulations~~ adopted pursuant to this section
6 shall be approved by the State Board of Education.

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

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

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

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

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

6 "a. The board shall appoint a qualified impartial
7 hearing officer to hold a disciplinary hearing.

8 "b. The student shall be afforded an opportunity for
9 a disciplinary hearing after reasonable written notice is
10 delivered personally or by mail to the student and to the
11 student's parent or legal guardian. The notice must include
12 the time, place, and nature of the hearing; a short and plain
13 statement of the alleged conduct and of the code of student
14 conduct policy or rule or state law that was allegedly
15 violated; the names of any witnesses who may participate in
16 the hearing; and a statement outlining the student's rights at
17 the hearing.

18 "c. The disciplinary hearing shall take place within
19 10 school days of the initial suspension or expulsion.

20 "d. The student has the right to be represented by
21 legal counsel or another advocate of the student's choice at
22 the hearing.

23 "e. The student, parent or guardian, and the
24 student's representative have the right, before the hearing,
25 to review any audio or video recordings of the incident and,
26 consistent with federal and state student records laws, rules,
27 and regulations, any records, documents, any other information

1 that may be presented as evidence at the hearing, including
2 written statements made by witnesses related to the alleged
3 incident leading to the suspension or expulsion.

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

9 "g. A party may request an electronic or written
10 record of the hearing.

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

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

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

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

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

1 "a. Restrictions on communications between hearing
2 officers and school personnel, members of boards of education,
3 students, and other individuals in order for hearing officers
4 to maintain impartiality.

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

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

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

17 "(g) Nothing in this section shall be construed to
18 infringe on any right provided to students pursuant to the
19 federal Individuals with Disabilities Education Act, Section
20 504 of The Rehabilitation Act of 1973, or the Americans with
21 Disability Act of 1990."

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