HB188

GR4N626-1

By Representative Collins

RFD: Education Policy

First Read: 15-Feb-24

SYNOPSIS:

Under existing law, each local board of education is required to annually adopt and distribute a code of student conduct that details specific grounds and procedures for addressing student disciplinary actions.

This bill would provide a uniform statewide system of procedural due process protections relating to the suspension and expulsion of public school students for violating the student code of conduct or state law.

This bill would also provide for the adoption of any necessary rules to implement this act by the State Board of Education.

A BILL

TO BE ENTITLED

AN ACT

Relating to K-12 public education; to amend Section 16-1-14, Code of Alabama 1975; to provide a uniform system of procedural due process protections for students facing suspension or expulsion for violating the student code of conduct or state law; and to require the State Board of

Education to adopt rules to implement this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-1-14

(a) As used in this section, the following terms have the following meanings:

(1) EXPULSION. The exclusion of a student from his or her regular school environment for more than 90, and less than 180, school days for disciplinary purposes.

(2) LONG-TERM SUSPENSION. The exclusion of a student from his or her regular school environment for more than 10, and less than 90, school days for disciplinary purposes.

(3) SUBSTANTIAL CLASSROOM DISRUPTION. Conduct that is so disruptive that a reasonable teacher's ability to teach or a reasonable student's ability to learn is impeded.

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

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

(d)(1) A student under 12 years of age may not be disciplined with a long-term suspension nor expelled from a public school, unless the behavior of the student endangers the physical safety of the student, other students, or school personnel or causes a substantial classroom disruption, or unless the student intentionally causes damage to school property in excess of one thousand dollars ($1,000), and only as a last resort when other disciplinary measures have been exhausted.

(2) A student in any grade may not be suspended or expelled from a public school for truancy, tardiness, a violation of the code of student conduct, or a violation of state law.

(e) Following an alleged student disciplinary incident or infraction, the principal, or his or her designee, shall consider all of the following factors before recommending or initiating disciplinary action against a student:

(1) The age of the student.

(2) The disciplinary history of the student.

(3) The seriousness of the violation or behavior.

(4) Whether a lesser intervention would appropriately address the behavior of the student.

(f) Following an alleged violation of the code of student conduct or an alleged violation of state law that

results in a recommendation for the long-term suspension or expulsion of a student, the local board of education, at a minimum, shall ensure that all of the following procedures are followed:

(1) The student is afforded an opportunity for a disciplinary hearing before the local board of education, or a designee of the local board of education, to determine whether the alleged violation has occurred.

(2) The student, and his or her parent or guardian, receive reasonable written notice of the disciplinary hearing, delivered to them personally or by mail. If the written notice is not responded to by a parent or guardian, the hearing shall be waived. The notice shall include:

a. A statement of the time, place, and nature of the hearing;

b. A short and plain statement detailing the alleged conduct, the provision of the code of student conduct or state law allegedly violated, and any recommended discipline;

c. A statement outlining the rights of the student at the hearing; and

d. An optional waiver of the disciplinary hearing indicating the parent or guardian's assent to the alleged violation or violations and to the recommended discipline.

(3) If the notice has been responded to by a parent or guardian, the disciplinary hearing shall occur within 10 school days after the initial suspension from school, unless good cause is otherwise shown or upon agreement of the parties.

(4) The student may be represented at the hearing by legal counsel or another advocate of the student's choice at the student's expense.

(5) At least five days before the hearing, the student, parent or guardian, and legal counsel or advocate of the student may review any audio or video recording of the incident and, consistent with federal and state student records laws and regulations, any records, documents, or other information that may be presented as evidence at the hearing, including written statements made by witnesses related to the alleged incident leading to the suspension or expulsion.

(6) Representatives from the school seeking the proposed disciplinary action shall offer evidence at the hearing that the student violated the code of student conduct or state law. Evidence of the student's intent at the time of the incident underlying the alleged violation may be used, if necessary, solely for determining an appropriate and proportionate disciplinary response.

(7) The student, parent or guardian, or legal counsel or advocate may present a defense, question adverse witnesses who are present at the hearing and offering testimony, excluding students under 14 years of age, and offer evidence, including oral testimony from supporting witnesses, written statements, and other documentary evidence and audio or video recordings at the hearing.

(8) Each party to the hearing, upon request, shall receive an electronic or written record of the hearing from the local board of education.

(9) The student and parent or guardian of the student shall receive a written decision from the local board of education, or its designee, within five school days after the hearing. The written decision shall include, but not be limited to, all of the following information:

a. The basis for the decision, including a reference to the provision of the code of student conduct or state law that the student is accused of violating.

b. A statement detailing the information that shall be included in the official record of the student.

c. A statement detailing the right of the student to appeal the decision pursuant to the code of student conduct of the local board of education and Section 12-15-115, and notice of the procedures necessary to file an appeal.

(g) The State Board of Education shall adopt rules addressing all of the following:

(1) The factors a local board of education, or its designee, shall consider when determining whether long-term suspension or expulsion is an appropriate disciplinary measure commensurate with the disciplinary incident or infraction committed, except as otherwise provided in Sections 16-1-24.1 and 16-1-24.3. These factors may include, but are not limited to, the intent of the student, the culpability of the student, any relevant extenuating circumstances, and the impact of the alleged behavior on the school environment.

(2) Any other issue the board deems relevant and necessary to implement this section.

(h) Nothing in this section shall be construed to

infringe on any right provided to a student pursuant to the federal Individuals with Disabilities Education Act, Family Educational Rights and Privacy Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990."

Section 2. This act shall become effective on October 1, 2024.