SB157

QEXV551-1

By Senators Orr, Chesteen, Price, Williams, Waggoner, Hovey, Sessions, Melson, Weaver, Givhan, Allen, Butler

RFD: Education Policy

First Read: 27-Feb-24

SYNOPSIS:

Under existing law, public education employees acting in their official capacity are immune from civil liability. Education employees are also immune from civil liability in their personal capacity when the conduct is relating to the exercise of judgment or discharge of duties imposed by a state agency or by state law.

Also under existing law, each local board of education prescribes policies relating to student discipline.

This bill would authorize a teacher to exclude a student from his or her classroom if the student engages in disorderly conduct; obstructs the teaching or learning process of other students; threatens, abuses, or intimidates an education employee or student; or willfully disobeys or uses profane language directed at an education employee.

This bill would require the school principal, or his or her designee, to determine when a student may be readmitted to the classroom and what disciplinary actions, if any, are appropriate.

This bill would provide procedures relating to an excluded student's return to the classroom.

This bill would provide additional procedures if

a student in grades six through 12 is excluded from the classroom in certain circumstances, and would authorize certain students excluded from the classroom three times in one month to receive suspension or be considered for placement in an alternative school.

This bill would provide additional procedures if a student in grades preK through five commits certain behavior that would result in exclusion from the classroom and would require a conference with the student's parent or guardian.

This bill would require each local board of education to establish an appeal process for when a teacher believes that a principal refuses to allow the exclusion of a student from the classroom or prematurely ends the exclusion of a student from the classroom.

This bill would provide immunity from civil and criminal actions against education employees for actions carried out in conformity with the rules of the State Board of Education or the policies of the local board of education where they are employed, with certain exceptions.

This bill would authorize each local board of education to provide legal services to or reimbursement for reasonable expenses for legal services for an education employee charged with civil or criminal activities arising out of and in the course of the performance of his or her duties.

This bill would require each local board of education to reimburse an education employee who successfully defends himself or herself from charges relating to the performance of his or her duties.

This bill would require an education employee who pleads guilty or nolo contendere or is found guilty of charges relating to the performance of his or her duties to reimburse any expenses incurred by the local board of education where he or she is employed.

This bill would require meetings of the local board of education where funds are expended for the legal defense of an employee to be open meetings.

This bill would create a rebuttable presumption that teachers take necessary action to restore or maintain the safety or educational atmosphere of the classroom.

This bill would also require the State Board of Education to adopt a model policy and local boards of education to adopt that model policy.

A BILL

TO BE ENTITLED

AN ACT

Relating to public education employees; to authorize a teacher to exclude students from the classroom in certain circumstances; to authorize the placement of an excluded student under the control of a principal; to provide

procedures relating to the return of an excluded student to the classroom; to authorize a school principal to suspend or consider for alternative school a student who is excluded from the classroom three times in one month in certain circumstances; to require each local board of education to adopt a process for a teacher to appeal a principal's decision relating to a student's return to the classroom; to provide immunity to education employees for civil and criminal actions related to the performance of their duties; to authorize each local board of education to provide legal services or to reimburse expenses for legal services for education employees charged with certain civil or criminal actions; to require each local board of education to reimburse an education employee who successfully defends himself in certain civil or criminal actions; to require an education employee who pleads guilty or nolo contendere or is found guilty to reimburse any legal expenses incurred by the local board of education; to require meetings where funds are expended for the legal defense of an employee to be open meetings; to create a rebuttable presumption that teachers take necessary actions relating to classroom maintenance; and to require the State Board of Education to adopt a model policy that each local board of education must adopt.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms have the following meanings:

(1) DISORDERLY CONDUCT. Any conduct that intentionally: (i) disrupts, disturbs, or interferes with the teaching of

students; or (ii) disturbs the peace, order, or discipline at any school.

(2) EDUCATION EMPLOYEE. Any of the following individuals:

a. A certified or noncertified employee of the State Department of Education or any local board of education.

b. An employee of the Alabama Institute for Deaf and Blind.

c. An employee of the Alabama School of Fine Arts.

d. An employee of the Department of Youth Services School District.

e. An employee of the Alabama School of Mathematics and Science.

f. An employee of the Alabama School of Cyber Technology and Engineering.

g. An employee of a public charter school.

(3) PRINCIPAL. The principal, assistant principal, vice principal, or administrative head of a school, or his or her designee.

(4) SCHOOL. A public preK-12 school.

(5) TEACHER. A professional educator who has a direct instructional or counseling relationship with students and who spends the majority of his or her time in this capacity.

Section 2. (a) Beginning with the 2025-2026 school year, a teacher may exclude from his or her classroom any student who does any of the following:

(1) Engages in disorderly conduct.

(2) Behaves in a manner that obstructs the teaching or

learning process of others in the classroom.

(3) Threatens, abuses, intimidates, or attempts to intimidate an education employee or another student.

(4) Willfully disobeys an education employee.

(5) Uses abusive or profane language directed at an education employee.

(b)(1) Any student excluded from the classroom pursuant to subsection (a) shall be placed under the control of the school principal or his or her designee. The excluded student may be readmitted to the classroom only after the principal, or his or her designee, provides written certification to the classroom teacher that the student may be readmitted and specifies the type of disciplinary action, if any, that was taken.

(2) If the principal, or his or her designee, finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the student's parent or guardian.

(c) If a student is excluded from the classroom pursuant to subsection (a) two times in one semester and all other reasonable means of classroom discipline have been exhausted, the student may be readmitted to the classroom only if all of the following are satisfied:

(1) The principal, teacher, and, if possible, the student's parent or guardian have held a conference to discuss the student's disruptive behavior patterns.

(2) The teacher and the principal agree on a course of discipline for the student going forward.

(3) The student's parent or guardian has been informed of the course of discipline.

(d) Following a student's readmiittance to the classroom pursuant to subsection (c), if the student's disruptive behavior persists, upon the teacher's request, the principal, to the extent feasible, may transfer the student to an alternative school.

(e)(1) If the student removed from the classroom pursuant to subsection (a) is in grades six through 12 and is removed for his or her disorderly conduct, interference with an orderly educational process, or obstruction of the teaching or learning process of others in the classroom, the student may not be readmitted to the classroom for at least the remainder of the school day. The principal must communicate with the teacher regarding the student before he or she may be readmitted to the classroom.

(2) A student who is excluded for the remainder of a school day pursuant to this subsection for a total of three times in one month shall receive, as determined by the principal, in-school or out-of-school suspension, or may be considered for placement in an alternative school, if one is available within the school district.

(f) If a student in grades preK through five commits disorderly conduct, interferes with an orderly educational process, or obstructs the teaching or learning process of others in the classroom in a way that would have warranted his or her removal from the classroom, the student may not be removed until his or her parent or guardian have attended a

conference with the student's teacher and principal, or his or her designee. The conference shall occur no later than the third school day following the student's offense. If the student's parent or guardian fails to attend the conference, the student may be removed from the classroom beginning on the fourth school day following the offense and may not return until the parent or guardian attends the conference.

(g) Beginning with the 2024-2025 school year, each local board of education shall adopt a policy establishing an appeal process that allows a teacher to appeal to the local board of education in both of the following scenarios:

(1) If a principal refuses to allow a student to be excluded from the classroom pursuant to Section 1.

(2) If a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom pursuant to Section 1.

Section 3. (a) An education employee may not be held civilly or criminally liable for actions carried out in conformity with rules of the State Board of Education or policies of the local board of education where he or she is employed, except in the following cases:

(1) The education employee engages in excessive force or cruel and unusual punishment.

(2) The education employee acts willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law.

(3) The education employee violates the United States Constitution, the Constitution of Alabama of 2022, or the laws

of this state.

(b)(1) Each local board of education may reimburse reasonable expenses for legal services for an education employee if he or she is charged with civil or criminal actions arising out of and in the course of the performance of his or her assigned duties and responsibilities.

(2) If an education employee charged with civil or criminal actions arising out of and in the course of the performance of his or her assigned duties and responsibilities successfully defends himself or herself, the employing local board of education shall provide for reimbursement of reasonable expenses for his or her legal services.

(c)(1) Each local board of education may provide legal services for officers and employees of the board who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and responsibilities.

(2) In any case in which an employee pleads guilty or nolo contendere or is found guilty, the employee shall reimburse the local board of education for any expenses for legal services that the local board incurred pursuant to this subsection.

(3) Each meeting that a local board of education expends funds for the legal defense of an employee, or for reimbursement pursuant to this section, shall be an open meeting pursuant to Chapter 25A of Title 36, Code of Alabama 1975.

(d) In cases in which a teacher faces litigation or

professional sanctions for an action taken based on his or her classroom management, there is a rebuttable presumption that he or she was taking necessary action to restore or maintain the safety or instructional atmosphere of his or her classroom.

(e) This section shall not be construed to eliminate, alter, or otherwise modify any other immunity regarding officers, employees, or agents of the state established under the Constitution of Alabama of 2022, and the laws of this state.

(f) A teacher may not be reprimanded or otherwise subjected to disciplinary action by his or her principal, a local board of education, or the State Board of Education if his or her actions are found to be legal and in conformance with the policy of the local board of education or the State Board of Education.

Section 4. Beginning with the 2024-2025 school year, the State Board of Education shall adopt a model policy that reflects the requirements of this act. Each local board of education shall adopt and implement the model policy, and each local board of education may adopt additional policies relating to this act, provided that the requirements of this act are met.

Section 5. This act shall become effective on June 1, 2024.