

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 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.